



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 17-00338  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: Alison V. Edmunds, Esq.

05/09/2018

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant did not provide sufficient evidence of his inability to make payments to any of the creditors on his statement of reasons (SOR). He did not intentionally omit negative financial information on his Questionnaire for National Security Positions (SF 86) or security clearance application (SCA) with intent to deceive. Personal conduct security concerns are mitigated; however, financial considerations security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On May 6, 2016, Applicant signed an SCA. Government Exhibit (GE) 1. On March 10, 2017, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, effective on September 1, 2006. Hearing Exhibit (HE) 2. The SOR set forth security concerns arising under the financial considerations and personal conduct guidelines. HE 2.

On April 18, 2017, Applicant provided a response to the SOR, and initially waived his right to a hearing. He subsequently requested a hearing. On July 14, 2017,

Department Counsel was ready to proceed. On December 5, 2017, the case was assigned to me. On January 23, 2018, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for February 14, 2018. HE 1. Applicant's hearing was held as scheduled.

During the hearing, Department Counsel offered 5 exhibits; Applicant offered 12 exhibits; and the only objection was to GE 5. Transcript (Tr.) 13-17; GE 1-5; Applicant Exhibit (AE) A-AE L. Applicant's counsel objected to consideration of GE 5 because it was not signed, and it lacks foundation and authentication. Tr. 14. I deferred ruling on the admissibility of GE 5 and admitted all of the other exhibits. Tr. 15-17. Applicant admitted all of the financial information in GE 5, and I did not admit GE 5 into evidence. Tr. 53. On February 22, 2018, DOHA received the hearing transcript. On April 16, 2018, Applicant provided three additional exhibits, which were admitted without objection. Tr. 56, 59; AE M-AE O.

The Director of National Intelligence (DNI) issued Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), which he made applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position on or after June 8, 2017. The new AGs supersede the previous AGs. Accordingly, I have evaluated Applicant's security clearance eligibility under the new AGs.<sup>1</sup>

### **Findings of Fact<sup>2</sup>**

In Applicant's SOR response, he discussed his financial situation and efforts to resolve several delinquent debts. He denied that he intentionally made a false statement when he completed his SCA. He provided additional mitigating information. HE 3. His admissions are accepted as findings of fact.

Applicant is a 45-year-old employee of a defense contractor, who works overseas in security. Tr. 18, 20; GE 1. In 1991, Applicant graduated from high school. Tr. 25; AE D. He served on active duty in the Army from 1992 to 2016, for a total of more than 23 years of active service. Tr. 19; AE D; AE N. He honorably retired as a sergeant first class (E-7). Tr. 19. His military occupational specialty was medic. Tr. 54. He completed numerous training courses while in the Army. AE A; AE N. He is receiving military retired pay and disability pay at an 80 percent rate from the Department of Veterans Affairs (VA). Tr. 19-20. In 1996, Applicant married, and his spouse does not work outside of their home. Tr. 26; AE D. His children are ages 5, 9, and 23. Tr. 18. In 2010, he earned an associate's degree with a 3.8 grade point average. AE D. There is no evidence of security violations, abuse of alcohol, or use of illegal drugs.

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<sup>1</sup> Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case. The new AGs are available at [http://ogc.osd.mil/doha/SEAD4\\_20170608.pdf](http://ogc.osd.mil/doha/SEAD4_20170608.pdf).

<sup>2</sup> Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

## Financial Considerations

In 2009, Applicant had two jobs, and that same year, the Army transferred him to a new location. Without the second job, his income decreased from about \$7,000 monthly to about \$4,000 monthly because his only employment was as a Soldier. Tr. 28, 30. In March and April 2009, Applicant said he was part of a government furlough, and he lost \$12,000 income. Tr. 32. He conceded he ultimately received pay during the furlough period. Tr. 50. In 2010, his spouse had an ectopic pregnancy, and they lost the baby in November 2011. Tr. 25, 30. Before her medical issue, her monthly earnings were about \$2,500. Tr. 26. After her surgery, she was on bedrest for about two months, and then she resumed employment outside their home about one year later. Tr. 26. While his wife was unable to work outside their home due to illness, he had financial problems and defaulted on some debts. Tr. 29.

Creditors repossessed two of Applicant's vehicles. Tr. 29. In 2011, his spouse became pregnant, and she was on bedrest during most of the pregnancy. Tr. 29. When his son was born in 2012, his son had medical problems, and needed to receive care in a hospital about 90 miles from Applicant's home. Tr. 29-30. Applicant was unable to estimate his medical expenses. Tr. 31. His spouse did not work outside his home after 2012. Tr. 48. Applicant was the victim of identity theft when someone charged a dental bill to him. Tr. 33. Applicant occasionally receives information about his father's charges and debts affecting Applicant's financial records. Tr. 33.

Applicant was unemployed for 90 days after retiring from the Army starting in January 2016. Tr. 46. Recently he was receiving \$6,500 monthly as a security guard overseas. Tr. 21. His W-2 shows annual income of \$86,322 with no federal taxes withheld because he was working overseas; however, the year is not indicated on the W-2. AE F. He currently receives \$2,000 monthly in retired pay, and \$1,880 monthly from the VA for his disability. Tr. 37; AE G. He is currently unemployed, and his monthly income is \$3,880. Tr. 37. He said he received credit counseling, and he would provide proof of credit counseling after his hearing. Tr. 23. However, proof of financial counseling was not received after his hearing.

The SOR alleges six delinquent debts totaling \$40,210. The record establishes the status of Applicant's six SOR accounts is as follows:

SOR ¶¶ 1.a, 1.b, 1.d, and 1.e allege four credit union debts placed for collection for \$11,464, \$9,280; \$6,011; and \$5,029 owed to the same creditor. At some point, Applicant said the creditor offered to bring his loans to current status with a lump-sum \$3,500 payment. Tr. 32. Applicant said he made the \$3,500 payment; nevertheless, the creditor repossessed two vehicles from Applicant around May or June 2009. Tr. 32, 41; GE 2. On August 5, 2017, Applicant wrote the collection agency and creditor seeking verification or validation of the accounts, and August 15, 2017, the collection agency responded and provided verification. Tr. 21; AE C. Applicant did not provide a copy of the verification documentation he received from the collection agent. On August 15, 2017, the original creditor wrote Applicant suggesting he raise his concerns with the credit reporting companies. AE J. Applicant said he had only two debts from this creditor: a

vehicle loan and a personal loan from the creditor. Tr. 24. He believed one of the repossessed vehicles sold for more than the amount he owed on it. Tr. 42. He disputed his debt with the creditor because he believed there were only two debts, and the amounts were too high. Tr. 39. He acknowledged that he owed about \$9,200 on one debt, and he said he “wrote a counter-letter to it . . . . So hopefully they’d be willing to do half, and I would pay whatever they decided to [agreed upon].” Tr. 43. Then Applicant said he had not offered to settle the debt because of his current unemployment status. Tr. 44. He said he may owe about \$5,000 for the personal loan. Tr. 44-45. He did not have the funds to pay the two debts; however, if he received employment, he said he would pay the two debts. Tr. 51, 54. On February 18, 2018, he wrote the creditor and offered to pay \$200 monthly with the first \$200 payment to be paid on April 1, 2018, until the balance of \$5,029 is paid. AE M. Applicant did not provide proof that the creditor agreed to the payment plan or that he made the first payment to the creditor. I find SOR ¶¶ 1.b (\$9,280) and 1.e (\$5,029) are unresolved. SOR ¶¶ 1.a (\$11,464) and 1.d (\$6,011) are mitigated as duplications.

SOR ¶ 1.c alleges a delinquent debt placed for collection for \$7,093. Applicant disputed his responsibility for the debt. Tr. 22; AE B. On August 5, 2017, he sent a letter to the creditor seeking to verify or validate the debt. AE B. According to Applicant’s July 6, 2016 credit report the collection agent for this debt is the same collection agent that is pursuing Applicant for payment of the debt in SOR ¶ 1.b. GE 3. This debt does not appear on Applicant’s January 4, 2017 credit report. GE 2. I conclude the debt in SOR ¶ 1.c (\$7,093) is a duplication of the debt in SOR ¶ 1.b.

SOR ¶ 1.f alleges a delinquent debt placed for collection for \$1,333. Applicant disputed his responsibility for the debt. Tr. 22. He did not know the original creditor for this debt. Tr. 50. Applicant said he paid this debt. Tr. 22, 34, 45. He said he would have proof of payment the day after his hearing. Tr. 23. The record was held open to enable him to provide proof of payment. Tr. 23. He did not provide payment. The debt is unresolved.

## **Personal Conduct**

Applicant’s May 6, 2017 SCA asked whether he had any children. GE 1. He did not list any children even though he has three. GE 1. His May 6, 2017 SCA asked whether he had any foreign travel in the previous seven years. He answered no even though he was overseas when he filled out his SCA. These obvious errors show he was careless in the preparation of his SCA.

Applicant’s May 6, 2017 SCA asked whether he had any vehicles repossessed in the previous seven years, and whether he had any debts turned over to a collection agency in the previous seven years. GE 1. He responded no to both questions about the repossession and debts in collections. GE 1. He admitted that he had two vehicles repossessed and debts in collections during the previous seven years. Applicant had six hours to complete his SCA. Tr. 35. He was overseas, and he telephoned relatives in the United States to collect biographical information. Tr. 36. He went through the SCA too

quickly and made mistakes on the financial questions. Tr. 36. He did not omit financial information with intent to deceive the government. Tr. 36; SOR response.

## **Character Evidence**

Applicant provided supporting character letters from three retired first sergeants, a former battalion executive officer, a retired sergeant first class, a retired sergeant major, a first sergeant, a captain, an industrial hygienist, a site security officer, a warrant officer, and a site security coordinator. AE A; AE H. The general sense of his character letters is that Applicant is diligent, patriotic, loyal, honest, reliable, and trustworthy. AE A; AE H.

Applicant received one Bronze Star Medal (BSM), eight Army Commendation Medals (ARCOM), seven Army Good Conduct Medals (AGCM), four Army Achievement Medals (AAM), two Iraqi Campaign Medals (ICM) with four Campaign Stars (CS), and six Overseas Service Ribbons (OSR). AE D; AE N. He earned the Expert Field Medical Badge (EFMB) in 2000. AE D; AE N. In 2005 and 2008, he completed two tours in Iraq for a total of 27 months in Iraq. AE D; AE K; AE N. In November 2017, he was employee of the month. AE L. He received numerous other awards and certificates of commendation. AE O.

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance

decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and DNI have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sept. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Financial Considerations**

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the

totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes three disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts"; "(b) unwillingness to satisfy debts regardless of the ability to do so"; and "(c) a history of not meeting financial obligations." In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). The record establishes the disqualifying conditions in AG ¶¶ 19(a), 19(b), and 19(c) requiring additional inquiry about the possible applicability of mitigating conditions.

Five financial considerations mitigating conditions under AG ¶ 20 are potentially applicable in this case:

(a) the behavior happened so long ago,<sup>3</sup> was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

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<sup>3</sup> A debt that became delinquent several years ago is still considered recent because "an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sept. 13, 2016)).

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

The SOR alleges six delinquent debts totaling \$40,210. Applicant did not provide any evidence of any payments to address the SOR debts. Applicant is credited with mitigating the debts in SOR ¶¶ 1.a (\$11,464), ¶ 1.c (\$7,093), and 1.d (\$6,011) because there is insufficient evidence to refute his claim that they are duplications of the debts in SOR ¶¶ 1.b (\$9,280) and 1.e (\$5,029).

Circumstances beyond Applicant's control adversely affected his finances. He had periods of unemployment, his spouse and son had medical problems, he was the victim of identity theft, and his spouse was unemployed. Applicant did not provide sufficient details about how these circumstances affected his finances. For example, he did not provide his tax returns or IRS tax transcripts over the last five years to show changes in his income.

Applicant offered to start a \$200 monthly payment plan on one of his debts beginning on April 1, 2018.<sup>4</sup> He failed to show that this offer was acceptable to the creditor, and he did not provide proof of any payments. He said he paid the debt in SOR ¶ 1.f (\$1,333), and he promised to provide proof of payment after his hearing. He did not provide proof of payment.

Applicant did not provide enough details about what he did to address his SOR debts in ¶¶ 1.b (\$9,280), 1.e (\$5,029), and 1.f (\$1,333). When he was working as a

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<sup>4</sup> The Appeal Board has indicated that promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. ISCR Case No. 07-13041 at 4 (App. Bd. Sept. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)). A promise to pay debts is given greater weight when there is a track record of paying other debts.

security guard overseas and receiving military retired pay and VA disability pay, he was receiving a substantial income. He did not provide proof of payments, such as checking account statements, photocopies of checks, or a letter from the creditor proving that he paid or made any payments to address these three debts. He provided minimal correspondence to or from the creditors to establish maintenance of contact.<sup>5</sup> He did not provide enough evidence of attempts to negotiate payment plans, such as settlement offers or agreements to show that he was making good faith attempts to resolve these three debts.

There is insufficient evidence about why Applicant was unable to make greater progress resolving the debts in SOR ¶¶ 1.b (\$9,280), 1.e (\$5,029), and 1.f (\$1,333). There is insufficient assurance that these three debts are being resolved. Under all the circumstances, he failed to establish that financial considerations security concerns are mitigated.

## Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

AG ¶ 16 describes one condition that could raise a security concern and may be disqualifying in this case, "(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire . . . used to conduct investigations, . . . determine security clearance eligibility or trustworthiness. . . ."<sup>6</sup>

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<sup>5</sup> "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

<sup>6</sup> The Appeal Board has cogently explained the process for analyzing falsification cases, stating:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant's intent or state of mind at the time the omission occurred. [Moreover], it was legally permissible for the Judge to conclude Department Counsel had established a prima facie case under Guideline E and the burden of persuasion had shifted to the applicant to present evidence to explain the omission.

ISCR Case No. 03-10380 at 5 (App. Bd. Jan. 6, 2006) (citing ISCR Case No. 02-23133 (App. Bd. June 9, 2004)).

Applicant's May 6, 2017 SCA asked whether he had any vehicles repossessed in the previous seven years, and whether he had any debts turned over to a collection agency in the previous seven years. Applicant responded no to both questions. He admitted that he had two vehicles repossessed and debts in collections during the previous seven years. He said he went through the SCA too quickly and missed the financial questions. He did not omit financial information with intent to deceive the government.

I accept Applicant's statement that he hurried through his SCA and did not carefully read several questions. He mistakenly answered no to several questions including visiting a foreign country, and failed to disclose that he had children. He was living overseas when he completed the SCA, and he has three children. He did not intend to deceive the government about his finances. He has refuted the allegation that he intentionally failed to disclose negative financial information on his SCA. Personal conduct security concerns are mitigated.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guidelines F and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 45-year-old employee of a defense contractor who works overseas in security. He honorably served in the Army from 1992 to 2016. He retired as a sergeant first class. He completed numerous training courses while in the Army. In 2010, he earned an associate's degree with a 3.8 grade point average. He is receiving military retired pay and disability pay at an 80 percent rate from the VA. There is no evidence of security violations, abuse of alcohol, or use of illegal drugs.

Applicant provided 12 supporting character letters. The general sense of his character letters is that he is diligent, patriotic, loyal, honest, reliable, and trustworthy. He

received one BSM, eight ARCOMs, seven AGCMs, four AAMs, two ICMs with four CS, six OSRs, and the EFMB. He served a total of 27 months in Iraq. In November 2017, he was employee of the month. He received numerous other awards and certificates of commendation.

The SOR alleges six delinquent debts totaling \$40,210. Applicant is credited with mitigating all of the SOR debts, except for the debts in SOR ¶¶ 1.b, 1.e, and 1.f. Applicant provided insufficient corroborating or substantiating documentary evidence of payments and established payment plans for the debts in SOR ¶¶ 1.b, 1.e, and 1.f. The SOR was issued on March 10, 2017. He did not provide proof of any payments to any SOR creditors. He did not establish he had insufficient income to address these three SOR debts, after he received the SOR. His actions show lack of financial responsibility and judgment and raise unmitigated questions about Applicant's reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18. More information about inability to pay debts, financial history, or documented financial progress is necessary to mitigate security concerns.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont*, 913 F. 2d at 1401. Unmitigated financial considerations concerns lead me to conclude that grant of a security clearance to Applicant is not warranted at this time. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards documented resolution of his past-due debts, and a track record of behavior consistent with his obligations, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude that financial consideration concerns are not mitigated, and it is not clearly consistent with the national interest to grant Applicant security clearance eligibility at this time. Personal conduct security concerns are mitigated; however, financial considerations concerns are not mitigated.

### **Formal Findings**

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a, 1.c, and 1.d:	For Applicant
Subparagraphs 1.b, 1.e, and 1.f:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or reinstate Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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MARK HARVEY  
Administrative Judge