



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



In the matter of:

-----

Applicant for Security Clearance

)  
)  
)  
)  
)

ISCR Case No. 11-07487

**Appearances**

For Government: John Bayard Glendon, Esquire, Department Counsel  
For Applicant: Greg F. Greiner, Esquire

04/27/2018

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

**Statement of the Case**

On March 11, 2015, the Department of Defense (DOD) Consolidated Adjudication Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline E (Personal Conduct) and Guideline F (Financial Considerations).<sup>1</sup> In a June 23, 2015, response, Applicant answered the allegations and requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. The government amended the SOR twice, on February 24, 2016, and on November 28, 2016, respectively. In the interim, I was assigned the case on June 29, 2016.

---

<sup>1</sup> The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on or after September 1, 2006. Subsequently amended, the AG applied here are applicable for any adjudication on or after June 8, 2017.

A hearing originally scheduled for December 6, 2016, was cancelled to give Applicant more time to consider the latest amendments to the SOR. A January 11, 2017, notice setting the hearing for February 7, 2017, was cancelled at the request of Applicant. The matter was again rescheduled on January 23, 2017, with a hearing date of February 14, 2017. The hearing was convened as scheduled.

The Government offered 16 documents, accepted into the record without objection as exhibits (Exs.) 1-16. Applicant offered testimony and offered 18 exhibits, accepted without objection as Exs. A-R. Upon request by Applicant, the record was held open through February 28, 2017, so that additional materials could be submitted along prescribed guidelines. The transcript (Tr.) was received on February 23, 2017. On March 8, 2017, Department counsel forwarded six additional exhibits,<sup>2</sup> accepted as Exs. S-Y, and the record was closed. Based on the testimony, materials, and record as a whole, I find Applicant failed to mitigate security concerns.

### **Findings of Fact**

Applicant is the 42-year-old Chief Executive Officer and Chairman of his own company. He has served in those capacities since 1993, when he was a teen. In the interim, he was homeschooled and finished his education early in his youth. He was then recruited by a company, where he completed its executive management program. At age 22, he joined the United States Marine Corps, where he served for four years, and then was an inactive reservist for another four years. (Tr. 28) After being honorably discharged, he devoted his efforts to his fledgling company, which is now a multimillion dollar venture. (Tr. 32) Applicant is presently enrolled in two doctoral programs. (Tr. 15) He is divorced and has four children, ranging in age from 15 to seven.

On or about November 19, 2008, Applicant completed a security clearance application (SCA). It was not the first SCA he had completed. (Tr. 35) He addressed "Section 11: Your Employment Activities - Provide a detailed entry for each of your employment activities for the past 7 years. You should list all full-time work, part-time work, military service, temporary military duty locations over 90 days, self-employment, other paid work, and all periods of unemployment. The entire 7-year period must be accounted for without breaks, but you need not list employments before your 16th birthday." [SOR allegation 1.a] In answering this question, Applicant did not disclose a position with a defense contractor held from November 19, 2004, through December 20, 2005. When asked whether he purposefully excluded this information, he conceded he did so out

of "insecurity and fear." (Tr. 38-39) He also noted that he "thought it was a waste of time to fill out the paperwork." (Tr. 38-39)

On that same 2008 SCA, Applicant answered "no" in response to "Section 22: Your Employment Record - Answer the following question: Has any of the following happened to you in the past 7 years? 1. Fired from a job. 2. Quit a job after being told

---

<sup>2</sup> The exhibits were pre-marked Exs. S-V and Exs. X-Y. No Ex. W was offered.

you would be fired. 3. Left a job by mutual agreement following allegations of misconduct. 4. Left a job by mutual agreement following allegations of unsatisfactory performance. 5. Left a job for other reasons under unfavorable circumstances." By answering "no," Applicant failed to disclose that he left the job noted above by mutual agreement following an involuntary termination, which he contested, and allegations of conflict of interest. (SOR allegation 1.b)

When asked specifically whether an involuntary termination was involved in his departure, Applicant stated: "there was for a time a way of looking at it that way, but it was unwound, like pro tunc. . . . should never have happened. . . . And the official record [now] states that it didn't happen." (Tr. 43) He showed a positive letter of recommendation from that company's vice-president giving the impression that he departed on good terms. (Tr. 43-44; Ex. N) However, it is clear that his departure was initiated under a cloud, which should have resulted in a "no" to this SCA query.

In addition, "Section 17: Your Foreign Activities - Answer the following question . . . c. Have you ever had any contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S., other than on official U.S. Government business? (Does not include routine visa applications and border crossing contacts)" was posed. In response, Applicant answered "No." As a result, he failed to disclose that during a trip to Pakistan in or about August 2004, he had contact with Pakistani government and/or provincial or local officials for the purpose of soliciting business from such officials. [SOR allegation 1.c] Applicant explained that he answered in the negative because he did not specifically remember any of the foreign individuals and did not have any on-going contact with them. (Tr. 45) Therefore, he concluded he had "nothing significant to report." (Tr. 45)

This failure was followed by his answer to "Section 18: Foreign Countries You Have Visited - List foreigni (sic) countries you have visited, except on travel under official Government orders, working back 7 years. . . . 1. Indicate the purpose of your visit . . . . Additional Comments." There, Applicant disclosed a business trip to Bahrain and the UAE in the January 2007 to May 2007 period. He then added under "Additional Comments": "Was asked by an [entity] based out of [the United States] to provide IT services to their branch offices in Bahrain and UAE." The Government asserts that Applicant knew this response was untrue because he knew that the [entity] had sent him on a five-month business trip to Bahrain to bid on a proposal to the Bahrain government to provide integrated cyber security services to the government. [SOR allegation 1.d] Applicant responded by noting that his answer was correct because the foreign-owned business was located in the United States. (Tr. 47) Therefore, his answer was technically correct. (Tr. 48)

In addition, Applicant again answered "no" to a question in that 2008 SCA. Specifically, in response to "Section 29: Public Record Civil Court Actions - Answer the following question. In the last 7 years, have you been a party to any public record civil court actions not listed elsewhere on this form?" In truth, however, he was a defendant in a lawsuit brought by a company in a state county circuit court in or about 2006. [SOR

allegation 1.e] Applicant denies his answer was false, however, because the suit, brought by a former friend and colleague, never went to trial. (Tr. 49-50) He now argues that because the action did not go to trial, he had no need to disclose the matter. (Tr. 51) The question, however, does not ask whether an applicant has gone to trial, but whether he had been a party to a public record civil court action. Applicant's answer obscured the truth.

Later, in about August 2011, Applicant submitted a proposed Decree of Annulment to a state district court in which he certified that there were no minor children born of his union with his then-wife. In so doing, he neglected to note his three pre-teen children. In that same proposed decree, he listed an in-state address of residence, rather than the residence at which he had continuously lived for over six years. [SOR allegations 1.f-1.g] Applicant denied having children with his then-wife, a former "drinky girl" from Asia. He believed this at the time because she had told him that, although they had been sexually active, she had conducted affairs in his absence. (Tr. 53-54) Later, after DNA testing, he accepts them as his own.

As for the address Applicant noted as in-state for purposes of the annulment petition, it was the address of residency he established in order to proceed with an annulment in that state. In that particular state, residency for divorce and annulment can be established in minimal time. Indeed, the period of time is so short it does not adversely affect maintaining permanent residency elsewhere. Consequently, for the purposes of the petition, the address given was not incorrect. (Tr. 55-58)

On March 26, 2014, Applicant signed a copy of his responses to interrogatories proposed by DOHA. In so doing, he answered "no" in response to interrogatory Number 3, as to whether a particular female employee had worked for salary for a specific employer. [SOR allegation 1.h] The employee at issue is the mother of Applicant's youngest child. (Tr. 58) Applicant denies that she was ever an employee, issued any Internal Revenue Service (IRS) forms as an employee, or drew a salary as an employee. (Tr. 58-59) He conceded, however, that she may have received funds from one of the accounts where his personal and business funds are comingled, giving the impression she was paid by his business. (Tr. 59) He provided a letter from her stipulating she only received child support funds from Applicant, not wages from his company. (Tr. 59-60; Ex. I)

Moreover, Applicant addressed interrogatory Number 10, which noted "(a)available information reflects that you were engaged in approximately 28 cash transactions with a total value of about \$1,500,000 during the period September 1996 through May 1997. Provide an explanation of the source(s) of the cash and the reason you were depositing or withdrawing cash into/from a bank account in such amounts."

In response, Applicant wrote: "This information is wrong, all earnings during that period were shown on my IRS filings and schedule 'C.' It is likely that you pulled the information for my Grandfather or Father and both share the same name." [SOR

allegation 1.i] Applicant noted that there are numerous family members with his first and last name, although his examples noted individuals with distinctly different middle names. (Tr. 62) When asked if any of these family members would be likely to have handled this amount of money between 1996 and 1997, his explanation was that “the folks that came out of the World War II/Great Depression Era, they’re all millionaires, deca-millionaires, centa-millionaires . . . [but] their kids . . . were cash poor.” (Tr. 62)

In the original March 2015 SOR, under paragraph 2, the Government set forth four delinquent debts, attributed to Applicant in his credit reports. Those accounts are:

2.a – Collection account (\$10,149) – *Settled for less than full balance*. This debt is related to a window purchase for Applicant and his former spouse’s home. (Tr. 63, 116) The account was opened in 2012. Applicant stated that he paid the principal owed on this account over several years, but ceased making additional payments because he did not agree with the interest terms applied. (Tr. 117-118) His reason, in part, was that he disagreed with how the entity calculated its interest and fees. The account eventually went into default and was put into collection. It was ultimately settled for less than the full balance in about 2015, and is no longer reflected as owed in his credit report. (Tr. 64, 121; Ex. A, Ex. T, Ex. Y)

2.b – Telecommunication collection account (\$568) – *Paid*. Applicant doubted he owed some or all of the debt assessed by this entity, claiming he did not have service for some of the time billed. He stopped making payments on this account in 2014, but ultimately satisfied the debt in December 2016, shortly before the first scheduled hearing date. (Tr. 66-67, 123-124; Ex. B)

2.c – 2.d Student loan collection account (\$3,425) and (\$2,884) – *Status unclear*. Applicant believed these accounts, from over a dozen years ago, had been placed into forbearance or deferment. (Tr. 127) These two student loans are from a different lender than any other student loans at issue. They were formerly in default, but Applicant asserted that they have since been deferred again with Applicant’s return to college. (Tr. 68, 131-135; Ex. C) After the hearing, however, Applicant wrote an email in which he claimed the accounts were being paid via auto-debit and were now timely. As evidence, he offered various telephonic contacts for verification. However, it is his burden to offer documentary evidence regarding such matter. The burden is not on Department Counsel or the tribunal to verify such matters telephonically on his behalf.<sup>3</sup>

In an amendment to the SOR, dated on or about April 1, 2016, the Government added the following accounts to the SOR issued in 2015:

---

<sup>3</sup> Applicant offered a letter from a university reflecting he registered for a program and paid a sum in December 2016. (Ex. U) No reference is made to student loans or the number of credits carried.

2.e – Cable television collection account (\$102) – *Paid*. This debt became delinquent in 2016. Applicant noted that his former spouse was ordered to pay all utilities. (Tr. 138-140) She failed to pay this bill, so Applicant paid it. (Tr. 139-141; Ex. E).

2.f – 2.n - Approximate past-due (180+ days) student loan account balance (\$199), (\$174), (\$36), (\$430), (\$51), (\$170), (\$209), (\$77), (\$133) – *Status unclear*. These student loans date from 2005. (Tr. 70) They were initially in deferral, then, in about 2008, in “rehabilitation.” (Tr. 73-74) Since that time, Applicant has been in and out of college. He claimed these loans are now in deferment because he is in school. (Tr. 74) There is no documentary evidence indicating he was then in school, only documentary evidence reflecting he had registered for upcoming coursework. (Exs. U-V)

2.o – 2.p - Student loan collection balance (balance unknown), (balance unknown) – *Status unclear*. Applicant argued that these debts were consolidated with the above student loan accounts. (Tr. 70-78) No documentary evidence reflects their status.

2.q – Second mortgage charged-off account balance (\$100,324) – *Status unclear*. This loan is related to the home in which Applicant’s ex-wife currently lives. (Tr. 147) Applicant opened this account in 2005. The lender went out of business in about 2008. The loan was then transferred. The last payment on this account was in May 2012. Due to financial issues at work, he was unable to continue making timely payments. (Tr. 143-144) From 2012 until February 2017, Applicant made no payments on the loan. (Tr. 146-147) Applicant is now in negotiations to settle the matter. (Tr. 80-82; see, e.g., Ex. D)) Applicant showed that he has emailed his attorney about the situation, but he offered no documentary evidence from the lender or any associated banks regarding the account’s current status. (Ex. Y)

2.r – Home improvement charged-off bank credit card (\$10,046) – *Settled for less than full balance*. Despite a lack of documentary evidence to that effect, Applicant believes this debt is related to the window installation noted at 2.a. (Tr. 82-83, 154) These windows were purchased from a door-to-door salesman, Applicant was unhappy with the quality of the work and the interest terms in the contract. (Tr. 150-151) The circumstantial evidence appears to corroborate Applicant’s assertion that this is the same debt as noted above at 2.a.

In its next amendment to the SOR, dated on or about November 28, 2016, the Government added the following accounts to the original 2015 SOR:

2.s – State tax lien (\$34,520) – *Unpaid*. This lien was filed in November 2016. (Tr. 155) It is against both Applicant and his company. Applicant and his company have the ability to honor this debt but have not done so as a business strategy. (Tr. 158)

2.t – Cable television collection account (\$120)<sup>4</sup> – see above. (Tr. 88, 91, 139-141; Ex. E, Ex. B).

2.u – Cable television collection account (\$175) – *Paid*. (Ex. F)

2.v – Child support collection balance (\$850) – *In arrears*. Applicant showed he has a total arrearage as of the date of the document submitted of \$1,710. (Ex. X)

2.w – 2.x - Approximate past-due (120+ days) student loan account balances (\$205) and (\$173) – *Status unclear*. Applicant argued that these debts are deferred. As proof, he offered a letter noting that he had paid for and registered in a doctoral level program to begin at an unspecified time. He relied on this letter to confirm that he has been “in college full time with Administrative Forbearance on or prior to December 1, 2016. The administrative forbearance will convert to an in-school deferment as soon as the college and the student loan companies synchronize their systems.” (Ex. V) The letter does not support this contention.

2.y – State tax lien (\$42,954) – *Unpaid*. This lien was filed in March 2014 regarding tax years 2013-2015. (Tr. 155-156) It is against both Applicant and his company. Applicant claims they are related to his business. It was unable to pay this debt at the time due to unforeseen business financial difficulties after a client allegedly stole from the company. (Tr. 156) Applicant and his company now have the ability to honor this debt but have not done so as a business strategy. (Tr. 158, 160)

2.z – Adverse judgments for \$15,000 (attorney’s fees), \$5,579 (child support), and \$15,000 (temporary ex-spousal support) – *On appeal*. These debts are related to Applicant’s separation and divorce proceedings. He has requested a second reconsideration regarding these sums unsuccessfully. (Tr. 165; Ex. 8) Another hearing for reconsideration has been set by the court. (Ex. X)

## **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to the AG,

---

<sup>4</sup> This is with regard to the same entity reflected in SOR allegation 1.e.

the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept, each of which must be fully considered in making a decision.

The protection of the national security is the paramount consideration. Any doubt concerning personnel being considered for national security eligibility and will be resolved in favor of the national security. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the record evidence. Under the Directive, the Government must present evidence to establish controverted facts alleged in the SOR. Under the Directive, an applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.

A person seeking access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. This relationship transcends normal duty hours. The Government reposes a high degree of trust and confidence in those to whom it grants access to classified information. Decisions include consideration of the possible risk an applicant may deliberately or inadvertently fail to safeguard classified information. Decisions are in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant.

## **Analysis**

### **Guideline E, Personal Conduct**

The security concern for personal conduct is set out in AG ¶ 15:

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.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

AG ¶ 16(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities, and

AG ¶ 16(b) deliberately providing false or misleading information or concealing or omitting information concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a



national security eligibility determination, or other official government representative.

Here, Applicant inaccurately answered “no” on five sections of his 2008 SCA, and provided seemingly inaccurate answers on two questions related to an annulment decree and to 2014 DOHA interrogatories. Purposefully inaccurate or false answers on any of these documents would raise AG ¶ 16(a) and AG ¶ 16(b).

According to SOR allegation 1.a, Applicant failed to disclose on his SCA a former position with a defense contractor held between November 2004 and December 2005. He admitted that he obfuscated the truth out of his own “insecurity and fear,” and because he “thought it was a waste of time to fill out the paperwork.” Consequently, his omission was not only intentional, but exercised with a somewhat cavalier attitude toward the importance of the SCA process.

As for SOR allegation 1.b, it appears that Applicant’s reason for obscuring this position was because he was initially let go under a cloud. While he may have later ameliorated any tensions or issues between the company and himself, that does not change the fact that his departure was initiated by the entity because of some disagreement or issue. Indeed, he admits that before the situation was later remedied and the parties resumed friendlier relations, “there was for a time a way of looking at [his departure involuntarily], but it was unwound.” While the truth here may have been inconvenient or embarrassing, candor regarding such situations is essential in the SCA process so that investigators can examine the circumstances independently. Had Applicant felt the need to provide an explanation, the SCA has sufficient space to provide an explanation. Here, the answer was patently false.

When, in response to SOR allegation 1.c, Applicant was asked under SCA Section 17 about foreign contacts made on a business trip, Applicant denied having had foreign contacts abroad. In fact, he had significant foreign contacts on that trip. His failure to remember specific names does not excuse his failure to note that such contacts were made, a concession that would have made for a more candid and truthful answer. The obligation was on him to provide sufficient information to put investigators on notice of the situation. As it stands, however, his answer was not candid. However, as a matter of semantics, Applicant was correct with regard to his SCA answer at Section 18 (SOR allegation 1.d), when he noted that the company described as foreign was, in fact, physically based in the United States.

With regard to SCA Section 29 (SOR allegation 1.e), Applicant was simply and directly asked whether he had been a party to any public record civil court action in the preceding seven years. Whether the matter went to trial or whether he lost or won does not enter into that specific query. Applicant is a well-educated and intelligent man. The question is not confusing. He answered “no” to the question, however, despite the plain evidence that he was a party to such an action. Given the totality of the circumstances, this omission appears to be intentional.

Two questions arise from Applicant's proposed decree of annulment, as noted at SOR allegations 1.f-1.g. While both answers were technically incorrect, they were, as far as Applicant knew at the time, correct under the circumstances. Applicant went to a distant state for a brief period to establish residency to expedite the annulment process. Consequently, on the annulment petition, he listed his local address. In addition, believing that the children born to his wife during their marriage were the result of her extramarital affairs, he earnestly answered that their marriage had yielded no children.

Applicant's answer regarding SOR allegation 1.h, that no salary was paid to the mother of his youngest child as an employee of one of his business entities, is credible because of the circumstances and the intermingling of his personal and corporate monies. With regard to SOR allegation 1.i, Applicant denies the transactions at issue were his and posits they may have come from transactions conducted by one of the several members of his family with the same first and last name. Under these particular circumstances and the limited documentation offered, his answer is plausible.

I have considered these facts in light of the AG ¶ 17 mitigating conditions:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

AG ¶ 17(b): the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by the advice of legal counsel or a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

AG ¶ 17(c): the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

AG ¶ 17(d): the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

AG ¶ 17(e): the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Under these facts, no mitigating conditions apply to SOR allegations 1.a, 1.b, 1.c, and 1.e, where Applicant's lack of candor sustains security concerns.

## **Guideline F, Financial Considerations**

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that failure or inability 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.

The Government offered documentary evidence reflecting that Applicant has many delinquent debts. This raises financial considerations disqualifying conditions:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the inability to do so; and

AG ¶ 19(c): a history of not meeting financial obligations.

Four conditions could mitigate the finance-related security concerns posed here:

AG ¶ 20(a) the behavior happened so long ago, 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;

AG ¶ 20(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;

AG ¶ 20(c) the person has received or is receiving counseling for the problem from a legitimate and credible source, such as a non-profit counseling service, and there are clear indications that the problem is being resolved or is under control; and

AG ¶ 20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

There are multiple delinquent debts at issue, some dating back to 2005. Applicant only points to occasional business difficulties as adversely affecting his finances, specifically, his second mortgage and state tax lien. Although he failed to fully describe his efforts to manage those difficulties or to resolve his financial problems at that time, this fact is sufficient to raise AG ¶ 20(b) in part.

Applicant did provide evidence of progress on some of his debts. The debts at SOR allegations 2.a and 2.r have been settled, while the debts at 1.b and 1.u have

been paid. The marital and child support balances owed, as noted at SOR allegation 1.z, is currently under reconsideration for its second time. Meanwhile, the status of the debts at SOR allegations 2.c, 2.d, 2.f-2.q, 2.s, 2.v, 2.w, and 2.y remain unpaid or unclear. Facing the future, his strategy is unclear. He continues to keep multiple past-due student loan balances, such as those noted at 1.f-1.n and amounting to about \$1,500, unpaid and deferred. Meanwhile, he claims to have the present ability to honor a debt of nearly \$43,000, but has made the business decision not to do so. While some progress has been made, it is difficult to discern what his strategy going forward is.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the her conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d). Here, I have considered those factors. Under AG ¶ 2(a), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based on careful consideration of the guidelines and the whole-person concept.

Applicant is a 42-year-old Chief Executive Officer and Chairman of a company he established in his teens. Highly analytical and a child prodigy, he matriculated through secondary and post-secondary education at an accelerated pace. He joined the United States Marine Corps, where he served for four years, starting at age 22. Since that time, he has devoted his energies to his company, which is a multimillion dollar venture. He is presently enrolled in two doctoral programs. He had three children with his first wife, and a fourth child with a former girlfriend.

Applicant was initially alleged to have offered false answers on multiple questions relevant to investigative or judicial processes. His explanations revealed that, at times, his unique perspective or his misunderstanding of an otherwise direct question confused him. However, his explanations also revealed that, in at least some of the cases, his answers were either false or self-serving. Inasmuch as candor is at the heart of this process, anything less than complete truthfulness is inadequate.

Further, Applicant has numerous delinquent debts, including a state tax lien, that remain outstanding. While he has made some progress on some of the debts at issue and appears to have the resources to make additional progress at this time, some obligations remain unaddressed or deferred as a strategy. While such strategies are within an applicant's rights, they do little to demonstrate either financial responsibility or good judgment in an applicant for a security clearance. This is particularly true when an applicant has failed to explain what, if any, reasonable plan he has for addressing his remaining debts going forward. Under these facts, and given the documentary evidence provided, it is difficult to assess Applicant's present financial situation in general, and in terms of the delinquent debts at issue. In light of the above, I find personal conduct and financial considerations security concerns remain unmitigated.

## 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 E:	AGAINST APPLICANT
---------------------------	-------------------

Subparagraphs 1.a-1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	Against Applicant
Subparagraphs 1.f-1.i:	For Applicant

Paragraph 2, Guideline F:	AGAINST APPLICANT
---------------------------	-------------------

Subparagraphs 2.a-2.b:	For Applicant
Subparagraphs 2.c-2.q:	Against Applicant
Subparagraph 2.r:	For Applicant
Subparagraphs 2.s-2.t:	Against Applicant
Subparagraph 2.u:	For Applicant
Subparagraphs 2.v-2.y:	Against Applicant
Subparagraph 2.z:	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 Applicant a security clearance. Eligibility for access to classified information is denied.

---

Arthur E. Marshall, Jr.  
Administrative Judge