



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 15-02478

**Appearances**

For Government: Eric H. Borgstrom, Esq., Department Counsel  
For Applicant: *Pro se*

07/27/2016

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant and his ex-wife stopped paying their second mortgage and defaulted on a car loan when her unemployment and his inability to work full time compromised their finances. They successfully modified their mortgage, and Applicant has been making the payments since he was granted exclusive use of the home in their divorce. He has settled the car loan and is committed to resolving his remaining debts, including a past-due utility debt incurred by his ex-wife. Clearance is granted.

**Statement of the Case**

On October 10, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, Financial Considerations, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DOD CAF took the action 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 September 1, 2006.

On November 3, 2015, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On January 15, 2016, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for him. On January 18, 2016, I scheduled a hearing for February 9, 2016.

I convened the hearing as scheduled. Six Government exhibits (GEs 1-6) and 11 Applicant exhibits (AEs A-K) were admitted into evidence without objection. A chart prepared by Department Counsel as a supplement to his oral closing argument was marked as a hearing exhibit (HE 1) for the record but not entered into evidence. Applicant and two witnesses testified on his behalf, as reflected in a transcript (Tr.) received on February 18, 2016.

I held the record open, initially until March 31, 2016, for post-hearing documentary submissions from Applicant. On March 28, 2016, Applicant mailed a personal statement to the hearing location, which I did not receive until May 17, 2016. Since the document was mailed timely, I accepted it for consideration subject to any objections or comment from the Government. Department Counsel filed no objection by the May 31, 2016 deadline, so the document was accepted into evidence as AE L.

Given Applicant indicated in AE L that he was awaiting documentation noting settlement of a delinquent car loan (SOR ¶ 1.a), I re-opened the record on July 5, 2016, to allow both parties to update the evidentiary record. On July 19, 2016, Applicant submitted AEs M and N, which were entered into the record without objection from the Government. The record closed on July 22, 2016, the deadline for final submissions. Applicant confirmed that he had no further documents to offer.

### **Summary of SOR Allegations**

The SOR alleges under Guideline F that Applicant owed delinquent balances on four accounts as of October 10, 2015: \$7,978 on a defaulted car loan following repossession (SOR ¶ 1.a); \$22,271 in past-due debt on a mortgage loan (SOR ¶ 1.b); \$95 in medical collection debt (SOR ¶ 1.c); and \$1,312 in wireless phone debt in collection (SOR ¶ 1.d). When he answered the SOR, Applicant admitted only the defaulted car loan. He explained that on his divorce in 2015, he took responsibility for repaying all financial expenses incurred without his knowledge and for the mortgage on their home, which he was given in their divorce. About the wireless phone debt in SOR ¶ 1.d, he indicated that it was for equipment that he had returned, so he disputed the balance.

### **Findings of Fact**

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 52-year-old high school graduate who served in the military from June 1984 to February 1988. (GEs 1, 2; Tr. 80.) He held a DOD security clearance for his duties in the military. (Tr. 17.) Applicant first worked for his current employer, a defense contractor, from 1988 to 1993. He then worked as a maintenance supervisor for a property management company until March 2001, when he returned to the defense contractor. He has held a DOD Secret clearance since March 2003 for his duties as a technician. (GEs 1, 6; Tr. 80-81.)

Applicant and his ex-wife married in May 1987. (GEs 1, 2, 6; AE E; Tr. 22, 82.) They had two children of the marriage, a daughter now 27 and a son now 22. (GE 6; AE E.) In June 2006, Applicant and his ex-wife bought their marital home, obtaining a first mortgage of \$193,734 and a second mortgage of \$44,419 (SOR ¶ 1.b). (GEs 3-6.)

Around 2005, Applicant was diagnosed with a chronic medical condition that was not well controlled for several years. (AEs A, C; Tr. 40-43.) Surgeries following an accident and seizures related to his chronic medical issue caused him intermittent pain and some anxiety, which made it difficult for him to cope with all his job duties. (AE C; Tr. 43.) Applicant lost time at work. Eventually, in June 2010, Applicant was certified by his physician for leave up to one day per week under the Family and Medical Leave Act (FMLA) for expected episodic flare-ups of his medical condition. (AE C.)

Applicant's ex-wife was unemployed for at least six months after she lost her job around May 2009. (Tr. 83-84.) The record evidence does not show Applicant's income for 2009. His gross wages totaled \$60,691 in 2010. (AE J.) During her unemployment, Applicant and his ex-wife stopped paying their second mortgage in the fall of 2009 (SOR ¶ 1.b), and the account was placed for collection around April 2010. After January 2010, they made no payments for her car, which they had jointly financed for \$22,502 in March 2006 (SOR ¶ 1.a). (GEs 5-6.)

Applicant's wages totaled \$50,683 in 2011 because of his inability to work full time due to medical issues. (AE J.) While he was struggling to stabilize his medical condition, his ex-wife became involved in an extramarital relationship. After Applicant and his ex-wife separated around July 2012<sup>1</sup> (GE 6; Tr. 31, 34), Applicant rented a trailer that lacked running water or heat. (AE A.) Applicant's ex-wife and daughter stayed in the marital home with their respective boyfriends. The primary mortgage on the home had been brought current, but the second mortgage was \$18,800 past due (SOR ¶ 1.b) as of September 2012. Applicant and his ex-wife were also jointly liable for a deficiency balance of \$13,164 for her vehicle (SOR ¶ 1.a), which had been repossessed. (GE 5.) Around October 2014, their account was charged off for \$7,978. (GE 3.)

To renew his security clearance eligibility, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86) on October 24, 2012. In response to financial record inquiries concerning any delinquencies involving routine

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<sup>1</sup> Applicant's daughter testified that her parents separated in 2011 (Tr. 34), and Applicant later confirmed that her recollection was accurate. (Tr. 83.) However, Applicant previously gave a date of July 2012 for his marital separation. (GEs 1, 6.)

accounts, Applicant indicated that he owed approximately \$21,000 on the car loan in SOR ¶ 1.a. He admitted that he had no intent to repay the debt because the lender had taken possession of the vehicle. Applicant disclosed that he and his ex-wife, from whom he was separated, were trying to obtain a modification of their \$240,000 in total mortgage debt. (GE 1.)

A check of Applicant's credit on November 7, 2012, revealed that he also owed collection debts of \$1,312 from August 2012 to a telecommunications company (SOR ¶ 1.d) and \$95 from September 2009 to a medical provider (SOR ¶ 1.c). (GE 5.) At his hearing, Applicant explained that he had cancelled his service with the telecommunications company after only two months. He prepared the equipment for shipping, but lost track of the package while his ex-wife resided in the home with her boyfriend. (Tr. 89-90.)

Around December 2012, Applicant's ex-wife moved out of the house, leaving Applicant's daughter to handle the bills, including an electric utility delinquency of almost \$2,000. (Tr. 34-35, 45-46.) Applicant's ex-wife was apparently unemployed at the time and could not assist with the payments. (Tr. 48.)

On January 10, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM) about his finances. Applicant did not dispute that he and his ex-wife owed about \$13,164 for her car when the vehicle was repossessed or that their mortgages were seriously delinquent. He made some payments on their first mortgage when he could, but his ex-wife refused to help him. Applicant was confronted about the \$1,312 and \$95 collection debts on his credit record, which he did not recognize. (GE 6.)

At his daughter's request, Applicant moved back into the family home in January 2013 to help her and her boyfriend with the bills. In October 2013, Applicant's daughter and her boyfriend moved into their own apartment. Applicant's credit report shows that Applicant fell behind 30 days on his primary mortgage a few times. (GEs 3, 4.) Applicant's physician recertified him for the FMLA in May 2013 and again in May 2015 based on his average lost time of 120 hours per year. (AE C.) Applicant estimates that he had non-covered medical costs of \$1,000 to \$2,000 per year before 2015. (Tr. 101.)

In April 2014, Applicant's ex-wife moved back into the house. Applicant moved into an apartment with his fiancée and fiancée's daughter. (Tr. 35-38, 62.) Applicant met his fiancée through an online dating service in 2013. (Tr. 62.) Applicant obtained an \$8,000 loan against his 401(k) for his moving costs, to repair his truck, and to pay off a \$3,000 loan from his brother-in-law. (Tr. 105-106.) Applicant has two or three years left on repaying the loan from his 401(k). (Tr. 106.)

In June 2014, Applicant and his ex-wife obtained a loan modification from the servicer of their first and second mortgages. Applicant maintains that their first and second mortgages were consolidated into a new loan of \$213,049, to be repaid with a first payment of \$1,093 due by August 1, 2014, followed by monthly payments of \$736 plus payments

toward the escrow with a final balloon payment of \$87,223 due in July 2036.<sup>2</sup> As of January 2016, his monthly payment was \$1,102. (AE H.) The account number for the loan shown on the proposed modification agreement matches only that of the primary mortgage, although the balance of the modified loan tends to substantiate Applicant's assertion of a consolidated loan. As of September 2012, the balances of the first (\$172,247) and second (\$44,419) totaled \$216,666. Subsequent payments were made on the first mortgage before the modification, albeit not always on time. Credit information shows a history of late payments on the first mortgage since 2013, with the most serious delinquency in the spring of 2013, but the account was current from May 2013 to September 2013. Applicant, who was occupying the home, fell behind 30 days several times, including in March 2014, before he moved out in April 2014. Just before the modification, the loan was 60 days past due. (GEs 3, 4.)

In April 2015, Applicant, his fiancée, her daughter, and her married son with his wife moved back into the home when his ex-wife vacated the residence yet again. (Tr. 58-59, 62.) On his divorce in May 2015, Applicant was granted exclusive use of the house, which remains under both his and his ex-wife's names. Applicant assumed responsibility for payment of all expenses related to the home, and he paid the mortgage on time through at least September 2015. (GE 3.) There was some discussion in court about selling the marital home, but it had declined in value to approximately \$140,000. (Tr. 105.) Applicant's ex-wife was given half of his 401(k) account as valued at the time of the divorce. According to Applicant, his ex-wife received \$18,000. (Tr. 105.) He and his ex-wife shared responsibility for repaying a debt to their accountant, which under the divorce decree was \$1,400, but which Applicant claims was \$700 and payable at \$350 each. (Tr. 109.) Applicant also assumed responsibility for paying \$3,100 in electric utility debt incurred by his ex-wife. (AE E; Tr. 107.)

In April 2015, Applicant obtained a \$28,010 car loan for a vehicle for his fiancée, who had filed for bankruptcy after a nasty divorce and had poor credit. (60, 62.) Applicant's fiancée pays the household's trash and electric bills and her cell phone bill. She pays half of the \$624 monthly payment for her vehicle. (GE 3; Tr. 59-61, 65-66.) Applicant's fiancée was not employed as of February 2016, but she receives \$900 per month in child support for her daughter. (Tr. 64-65.) A nurse, she has been very helpful in bringing about a stabilization of Applicant's chronic medical condition to where Applicant has been able to work full time "more often than not" in the last couple of years. (Tr. 54-57, 62.) Available wage and tax statements for Applicant for 2012 through 2015 show that his wage earnings increased each year from a low of \$48,508 in 2012 to \$78,022 in 2015.<sup>3</sup> (AE J.) Applicant's

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<sup>2</sup> Applicant testified to his belief that the new modified loan with a loan servicer was "all-inclusive with a balloon payment at the end." (Tr. 70, 96.) Available credit reports show a high credit of \$236,528 on the modified loan, but the modification documents signed by Applicant and his ex-wife indicate the amount of the loan was \$213,049. The second mortgage is still listed separately on his credit report as of September 2015, but the information showing a balance of \$44,419 (\$22,721 past due) was from May 31, 2013 (GE 3), which was before the modification. The same loan servicer was handling the first and second mortgages.

<sup>3</sup> Applicant presented W-2 forms in evidence for 2010 through 2015 which reflect the following in earned compensation: \$60,691 in 2010, \$50,683 in 2011, \$48,608 in 2012, \$56,052 in 2013, \$64,387 in 2014, and \$78,022 in 2015. (AE J.)

out-of-pocket medical costs increased to \$6,000 in 2015 because he had changed his insurance plan, so he enrolled in his previous medical insurance plan for 2016. (Tr. 101.)

In July 2015, Applicant co-signed a \$39,501 truck loan for his son, who had yet to establish his own credit. (GE 3; Tr. 60.) Applicant's son paid \$3,500 as a down payment on the truck and makes the \$809 monthly payments from his own checking account. (AE I.) Applicant does not have a car loan for his own vehicle. He drives a 1997 model-year truck. (Tr. 61-62.)

As of September 2015, Applicant was making timely payments on his and his ex-wife's modified mortgage, although a more recent billing statement from the loan servicer (AE H) shows that a \$36.83 late fee was assessed in January 2016 because he made his January 2016 mortgage payment six days late. (AE H.) Applicant has been late in paying the modified mortgage on occasion, but no more than ten days. (Tr. 99.) As of September 2015, Applicant had made no payments on the \$7,978 charged-off balance for his ex-wife's vehicle that was repossessed. The only delinquent accounts on his credit record were that car loan and dated information about his second mortgage (\$22,721 past due as of May 2013 on a balance of \$44,419). (GE 3.)

On October 10, 2015, the DOD CAF issued an SOR to Applicant alleging four debts. In addition to the \$7,978 charged-off balance on the loan for the repossessed vehicle (SOR ¶ 1.a) and the second mortgage (SOR ¶ 1.b), the DOD CAF alleged two debts that were no longer on his credit record: the \$95 medical debt from 2009 in collection (SOR ¶ 1.c) and the \$1,312 telecommunications debt from 2012 (SOR ¶ 1.d). In response to the SOR, Applicant explained that the telecommunications debt was related to equipment his ex-wife rented in his name, but that he returned the equipment in May 2015. (Answer; See Tr. 70, 90-92.) Applicant indicated that he was enrolled in a financial assistance program to resolve the car loan on which his ex-wife was supposed to make the payments. (Answer.)

In January 2016, Applicant disputed the telecommunications debt (SOR ¶ 1.d) with the company that holds the debts from the original creditor. He received no response to his dispute by his February 2016 security clearance hearing. (GE G; Tr. 70.) He satisfied the medical debt in SOR ¶ 1.d in mid-January 2016. (AE K.) He contacted the holder of the note for his ex-wife's repossessed car, and the creditor agreed on January 29, 2016, to settle the account on three payments of \$500. (AE F; Tr. 69.) Applicant testified that he made the first \$500 payment on February 5, 2016. (Tr. 85.) Applicant admitted at his hearing that he was delinquent more than 30 days on his electric utility bill and his trash bill because of the \$500 payment toward settlement of the car loan. (Tr. 99.)

Recent correspondence from the creditor confirms that the car loan deficiency has been settled in full, although it does not reflect the date of settlement or the amount. (AE M.) As for the telecommunications debt in SOR ¶ 1.d, Applicant indicated in March 2016 that the company holding the debt would not issue a letter confirming that it would reduce the balance by \$300 to account for the returned equipment because the account was not in his name. (AE K.) The debt was not on Applicant's September 2015 (GE 4) or September 2015 (GE 3) Equifax credit reports. Concerning his and his ex-wife's debt to their

accountant for their taxes, he indicated that he had arranged to settle his half of the debt for \$350. (AE L.) On July 15, 2016, the accountant confirmed that Applicant had satisfied his debt. (AE N.) Applicant presented no evidence of any payments toward the approximately \$3,100 in old electric utility debt that he had assumed in his divorce, although he plans to resolve the debt. In March 2016, Applicant indicated that he was in no immediate danger of losing his home, but also that he was considering a new loan modification for his mortgage because addressing his old debts was causing financial strain. He expressed his commitment to “stay the course,” with respect to addressing all the Government’s concerns. (AE L.)

## **Character references**

Applicant has shared some information about his financial hardships, divorce, and medical issues with a longtime friend, with whom he served in the military, and with his former supervisor at work. Applicant’s friend, a retired chief petty officer, attests that Applicant made “great personal sacrifices” to keep his children safe and sheltered after his ex-wife “ejected” him from the family home. He wholeheartedly vouches for Applicant’s good character. (AE B.)

Applicant’s former and current supervisors likewise recommend Applicant for his trustworthiness. They have known Applicant for approximately 13 years. In their experience, Applicant has been very respectful of privacy issues and protecting classified information. Applicant’s former supervisor is aware that Applicant’s separation and divorce caused some financial issues due to the cost of housing, but there had been no collection calls to the workplace. (AE B.)

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified

information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that 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. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concerns about financial considerations are set forth in AG ¶ 18:

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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

Applicant has had difficulty paying some of his debts since 2009. He and his ex-wife fell behind 60 to 90 days at times on their primary mortgage. They made a last payment on their second mortgage in the fall of 2009 (SOR ¶ 1.b), and their account was placed for collection around April 2010. It was \$22,721 past due as of May 2013. In October 2009, they began to fall behind in their payments for a car registered in her name, which they had purchased in March 2006. The vehicle was later repossessed, and a \$7,978 balance was charged off (SOR ¶ 1.a). A \$95 medical debt from 2009 was apparently overlooked by Applicant (SOR ¶ 1.c). In August 2012, a telecommunications company placed a \$1,312 debt for collection (SOR ¶ 1.d). Guideline F disqualifying conditions AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” are established.



Mitigating condition 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,” applies in that the delinquencies were incurred during a few years of financial strain for Applicant. He battled several medical issues that led to lost time at work. His ex-wife was unemployed for at least six months in 2009, which compromised their finances to where they stopped paying their second mortgage. Applicant had extra costs to rent a trailer after his marital separation around July 2012, when his income was at its lowest in recent years because of his medical problems. His marital separation and divorce were not routine circumstances.

Applicant’s daughter credibly testified that her mother “kicked” Applicant out of the house after she found a boyfriend and wanted out of her marriage. The dissolution of Applicant’s marriage and his lost time at work due to medical issues are circumstances contemplated within mitigating condition AG 20(b), which provides:

(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, or a death, divorce or separation), and the individual acted responsibly under the circumstances.

While both AG ¶ 20(a) or AG ¶ 20(b) have some applicability, Applicant has not always acted responsibly toward his creditors. Applicant’s fiancée testified, and the increase in Applicant’s income attests to, the stabilization of Applicant’s medical condition and ability to work full time for the most part over the past few years. He earned \$64,387 in 2014 and \$78,022 in 2015. Applicant knew about the delinquent car loan and mortgage when he completed his SF 86 in October 2012. He candidly admitted at that time that he did not intend to pay the deficiency balance for his ex-wife’s car because the lender had repossessed the vehicle. In January 2013, he was informed about the telecommunications and medical debts in collection. He and his ex-wife successfully modified their mortgage in June 2014, but Applicant did little to address his other old debts in 2014 or 2015, apart from returning some equipment to the telecommunications company (SOR ¶ 1.d) in May 2015. Applicant co-signed a truck loan of \$39,051 in April 2015 for his son, and he opened a car loan of \$28,010 for his fiancée in July 2015. His son has been making the payments for the truck. However, Applicant has been covering half of the \$624 car payment for his fiancée when some debts of his own are not being paid, including \$3,100 in past-due utility debt incurred by his ex-wife (not alleged in SOR), for which he assumed responsibility in his divorce.

After the SOR was issued, Applicant paid the medical debt in SOR ¶ 1.c. He also made payments to settle in full the car loan deficiency in SOR ¶ 1.a and a debt owed to his accountant (not alleged in SOR). AG ¶ 20(c), “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control,” and AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” applies to those debts, even though it appears that the SOR was a large factor in motivating him to resolve the debts.

The second mortgage (SOR ¶ 1.b) is of greater concern in that it was past due \$22,721 as of May 2013. Applicant recalls that the second mortgage was included in the calculation of the modified mortgage. The paperwork for the loan modification in June 2014 does not mention the second mortgage in calculating the new principal balance at \$213,049.<sup>4</sup> However, the evidence does not show that Applicant's first mortgage was seriously delinquent as of the modification to account for the approximately \$40,000 difference between what he owed in September 2012 and the principal balance of the modified loan. The first mortgage was current with a balance of \$172,247 as of September 2012. Available credit information shows a history of subsequent late payments on the first mortgage, especially during the spring of 2013, but the loan was rated as current from May 2013 to September 2013. Applicant then fell behind 30 days several times in paying the mortgage before he moved out of the home in April 2014. The loan was only 60 days past due in May 2014, just prior to the modification. There is no evidence that Applicant and his ex-wife took out a large amount of cash when they modified their home loan. The same mortgage servicer handled the first and second mortgages, which would make consolidation more likely. The information reporting a delinquent balance on the second mortgage was from May 2013, before the modification. The evidence tends to substantiate that Applicant has addressed the second mortgage (SOR ¶ 1.b) in the modification.

Applicant has made no payments toward the telecommunications debt in SOR ¶ 1.d. His uncorroborated testimony is that the creditor now holding the debt has agreed to accept \$300 to settle the account, but also that the creditor would not issue a letter of confirmation because his name is not in its records. (AE L; Tr. 92.) As of November 2012, Experian was reporting the debt on Applicant's credit record as an individual account. The debt does not appear on the more recent Equifax reports in evidence. The DOHA Appeal Board has held that the fact that a debt no longer appears on a credit report does not establish any meaningful, independent evidence as to the disposition of the debt. See, e.g., ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015). Applicant disputes the reported \$1,312 balance, but not that he had an account with the telecommunications company. The evidence falls short of establishing AG ¶ 20(c) or AG ¶ 20(d) with regard to that debt. Yet, it is unclear whether he owes the \$1,312 placed for collection or a lesser amount, given he returned the equipment. I conclude under AG ¶ 20 that the financial considerations security concerns are mitigated.

## **Whole-Person Concept**

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).<sup>5</sup> The analysis under Guideline F is incorporated in my whole-

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<sup>4</sup> Available credit reports discrepantly indicate a high credit on the account of \$236,528. (GEs 3, 4.) The discrepancy between the \$213,049 principal balance in the loan modification agreement (AE H) and the reported high credit was not explained. The principal balance on the modified mortgage was \$206,460 as of late January 2016. (AE H.)

<sup>5</sup> The factors under AG ¶ 2(a) are as follows:

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the

person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

In evaluating Applicant's overall financial stability, I note that he indicated in March 2016 that he was in no immediate danger of losing his home, but also that he was considering a new loan modification for his mortgage because addressing his old debts was causing financial strain. He is currently providing housing not only for his fiancée, but also for her daughter, a minor, and her married son and wife. His fiancée receives child support for her daughter, but the household expenses are primarily Applicant's responsibility, given his fiancée is unemployed. He did not provide a detailed budget of his income and expenses. He admitted that he was behind on his electric bill as of February 2016, although he provided no specifics as to the amount. He has yet to resolve \$3,100 in past-due utility debt incurred by his ex-wife.

The DOHA Appeal Board has held that an applicant is not required to establish that he has paid each debt in the SOR, or even that the first debts paid be those in the SOR. See ISCR 07-06482 (App. Bd. May 21, 2008). In Applicant's favor, there is no evidence that he is incurring consumer credit debt that could further compromise his financial situation going forward. He and his fiancée are making timely payments on her car loan. Work references attest to his contributions to the defense contractor. He expressed a credible commitment to continue to work on resolving the financial issues of concern to the Government. The balance of the modified loan, which has a sizeable balloon provision, lends credence to Applicant's claim that he addressed the second mortgage in the modification. He is not likely to jeopardize the employment that he needs to support himself and his fiancée for the funds to address his remaining delinquent debt. After considering all the facts and circumstances, it is clearly consistent with the national interest to continue his security clearance eligibility at this time.

### **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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant

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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.

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

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Elizabeth M. Matchinski  
Administrative Judge