



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



In the matter of:)	
)	
REDACTED)	ISCR Case No. 17-03576
)	
Applicant for Security Clearance)	

Appearances

For Government: Rhett E. Petcher, Esq., Department Counsel
For Applicant: *Pro se*

09/24/2018

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant’s spouse stopped paying on some of his credit card accounts without his knowledge. After he was notified by the IRS that he owed taxes for 2012, he ran a credit check in 2016 and learned that some of his credit accounts were seriously delinquent. He has been repaying most of his delinquent consumer credit debts since 2016 and has taken steps to address federal and state income tax issues from tax year 2012. Clearance is granted.

Statement of the Case

On November 9, 2017, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F, financial considerations. The SOR explained why the DOD CAF 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 (EO) 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 *National Security Adjudicative*

Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position (AG) effective within the DOD on June 8, 2017.

Applicant responded to the SOR on December 5, 2017, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 18, 2018, 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 Applicant. On April 24, 2018, I scheduled a hearing for May 17, 2018.

At the hearing, four Government exhibits (GEs 1-4) were admitted. A December 20, 2017 letter forwarding the proposed GEs to Applicant and a list of the GEs were marked as hearing exhibits (HEs I-II) for the record but not admitted in evidence. Twelve Applicant exhibits (AEs A-L) were admitted in evidence, and Applicant testified, as reflected in a transcript (Tr.) received on June 6, 2018.

I held the record open for one month for post-hearing submissions from Applicant. No documents were received by the deadline, so the record closed on June 16, 2018.

Summary of SOR Allegations

The SOR alleges under Guideline F that, as of November 9, 2017, Applicant owed delinquent federal income taxes of \$20,575 (SOR ¶ 1.a) and state income taxes of \$3,934 (SOR ¶ 1.b) for tax year 2012, and that he failed to timely file his state income tax return for tax year 2012 (SOR ¶ 1.c). Additionally, Applicant allegedly owed past-due debt totaling \$4,898 on six accounts (SOR ¶¶ 1.d-1.i).

When Applicant responded to the SOR, Applicant denied the tax debts and failure to timely file his state income tax return for 2012. He admitted the debts in SOR ¶¶ 1.d (\$1,894), 1.e (\$1,069), 1.g (\$626), 1.h (\$235), and 1.i (\$210), but indicated that he was making payments on the debts and, in the case of the debt in SOR ¶ 1.i, had fully satisfied it. Applicant explained that the delinquencies resulted from lower income following his job layoff in 2011. His spouse handled the bills, and she hid their financial situation from him. (Answer.)

Findings of Fact

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

Applicant is 51 years old and a college graduate. He and his spouse married in May 1991, and they have two sons, now ages 21 and 24. For most of their marriage, Applicant's spouse did not work outside the home. Applicant has worked as a staff scientist with his current employer since May 2011. He holds a secret clearance that was granted to him in September 2011. (GEs 1-2; AE L; Tr. 44-48.)

Applicant worked as a reliability engineer and scientist for a company from July 2000 to April 2011, when he was laid off. (GE 1; AE L.) He was given severance pay of \$20,000, but he lost a job paying him \$105,000 a year, and his spouse was unemployed. In May 2011, Applicant began working for his current employer at an annual salary of \$79,000. (GE 2; Tr. 40, 48.)

Applicant cashed in his retirement account of \$50,000 in 2012, and he used those funds to pay for his older son's college expenses. That premature withdrawal of retirement assets had income tax implications. (GE 2; Tr. 67.)

Applicant's spouse handled the family's finances, including filing their income tax returns. Applicant and his spouse prepared their tax returns, using tax software purchased online. (GE 2; Tr. 32, 52.) In 2015 or 2016, they were notified by the IRS that they owed delinquent income taxes for tax year 2012.¹ Applicant checked his computer and could find no record of their 2012 tax returns. He assumed that the returns had been filed, and that he was a victim of computer hacking or a scam. (GE 2; Tr. 56-57.) He later learned that neither the IRS nor the state had any record of them filing a return for 2012. Substitute returns were filed by the IRS and state, and tax liabilities were assessed.² (Tr. 36, 57.) Applicant does not now know for certain whether their tax return for 2012 was filed as required by law. (Tr. 52.)

Concerned that he might be the victim of identity theft, Applicant obtained a copy of his credit report in 2016, which revealed that some of his consumer credit accounts were seriously delinquent. His spouse had used his credit cards and hidden from him that she was not making payments. (GEs 1, 3.)

On July 15, 2016, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86). In response to the financial record inquiries, Applicant responded affirmatively to the following question: "**In the past seven (7) years** have you failed to file or pay Federal, state, or other taxes when required by law or ordinance?" Applicant indicated that he had recently discovered that he owed \$23,000 in federal and state income taxes from 2012, which he believed to be inaccurate. He added that he had retained a lawyer to investigate the error,³ and expressed his concern that

¹ The evidentiary record contains discrepant debts about when and how Applicant was notified of his tax problems for 2012. He told an investigator for the Office of Personnel Management (OPM) in June 2017 that he received notification from the IRS in June 2015 that he owed \$3,851 to the IRS for tax year 2012. (GE 2.) At his hearing, he testified that he learned he had a potential tax issue in 2016 when he obtained his credit report that listed his tax liabilities. (Tr. 53-54.)

² As of April 30, 2018, the IRS was reporting an outstanding tax liability of \$18,865 for tax year 2012. There is no record in evidence showing the state tax liability. SOR ¶ 1.b alleges a state tax debt of \$3,934 for 2012. Applicant disputed the debt in November 2017. (GE 2.) His tax return prepared in March 2018 showed a state underpayment for 2012 of \$2,174. (AE J.)

³ Applicant named the attorney and provided her contact information on his SF 86, and he indicated during a June 2017 interview with an OPM investigator that he immediately contacted the tax attorneys, to whom he paid \$500 upfront to resolve the issue. (GE 2.) At his hearing, he submitted an email (GE G) of October 27, 2016, from an attorney with a tax relief firm of a different name and contact information. The attorney indicated

“someone has stolen [his] information and claiming [sic] extra income in an attempt to get money.” In response to questions involving delinquency involving routine accounts, Applicant listed three credit card debts, of \$2,944 (SOR ¶ 1.d), \$1,486 (SOR ¶ 1.e), and \$585 (SOR ¶ 1.1.h), and added that he was making monthly payments to resolve them. He provided the following reason for the credit card debts:

When the tax discrepancy surfaced I ran a credit report and discovered several unresolved credit card problems. Since my wife manages our home finances I spoke with her regarding the credit card issues. She acknowledged that they were legitimate and had attempted to conceal them from me.

Applicant listed two other debts on his SF 86: a \$14,000 car loan debt that was paid off with funds borrowed from his parents, and a \$10,000 student loan obtained for his older son’s education. The loan came out of deferment when his son had to suspend his studies for medical reasons. (GE 1.) Neither of those debts was alleged in the SOR. Available credit information shows that the student loan was delinquent in February 2015, October 2015, and November 2015. (GE 4.) The issue was resolved by the loan again being deferred. (GE 1.) The car loan was obtained in October 2011 for \$26,759. Payments were current until the spring of 2014, and the loan was charged off in the fall of 2014 for \$14,244. Applicant borrowed funds from his parents and paid off the loan.⁴ (GE 3.)

Available credit reports (GEs 3-4) and payment records reflect the following consumer credit delinquencies and some payments toward the debts.

Charged-off credit card for \$1,894 (SOR ¶ 1.d)

Applicant’s credit card account, which he opened in July 2006, was charged off and closed in 2014 for nonpayment. In approximately October 2016, Applicant began repaying the debt at \$75 per month. As of November 2016, the past-due balance was \$2,644. He

that he had just received Applicant’s inquiry and been assigned to his case. At his hearing, Applicant testified that the attorney he listed on his SF 86 was not accurate, and he found out that he had retained the services of the company in AE G. (Tr. 54-55.) Applicant provided no evidence linking the two attorneys or tax firms. Given his history of switching tax relief firms, he may have retained a new tax firm. He presented no documentation of payment to the attorney listed on his SF 86 or to the tax firm identified in AE G. He testified that the tax firm in AE G was the only tax relief company that had contacted the IRS and state tax authority on his behalf. (Tr. 60.)

⁴ Applicant indicated on his SF 86 that he and his spouse had difficulty with the car manufacturer’s financing and their online electronic payment tools. (GE 1.) During his subject interview (GE 2) and at his hearing (Tr. 65), he explained that he had traded in a hybrid vehicle in October 2011 for his current car. In the fall of 2014, he received a call indicating that he was behind four months on his payments for the loan for the hybrid vehicle that he had not owned for two years. Available credit reports show that Applicant obtained a vehicle loan for \$24,554 that was paid off and closed in November 2011. (GE 3.) That loan was likely for the hybrid. The evidence suggests a problem with Applicant’s payments for his current vehicle. Although the delinquency was not alleged, it is relevant to assessing Applicant’s understanding of his finances and whether he can be counted on to pay his debt obligations going forward.

continued to make the payments to reduce the balance to \$1,894 as of September 2017. After his May 2018 payment, the balance was \$1,369. (GEs 1-4; AE D; Tr. 28.)

Collection debt for \$1,069 (SOR ¶ 1.e)

Applicant opened a credit card account with a retail clothing company in November 2008. In February 2015, a past-due balance of \$1,486 was placed with a collection entity after no payments since November 2013. In July 2016, Applicant contacted the creditor and began repaying the debt under terms acceptable to his creditor. During a June 2017 interview with an Office of Personnel Management (OPM) investigator, Applicant indicated that he had arranged to make 50 payments of \$29.71 each starting in July 2016. As of September 2017, the balance was \$1,069. After a \$30 payment in April 2018, he owed \$856 on the account. (GEs 2-4; AE B; Tr. 25.)

Past-due utility debt for \$864 (SOR ¶ 1.f)

In March 2017, Applicant's power supplier placed an \$864 debt for collection. Applicant arranged to make an extra payment each month toward the delinquency with his regular bill payment. As of late March 2018, the balance under the repayment agreement was \$955. (GE 4; AE F; Tr. 29.)

Collection debt for \$626 (SOR ¶ 1.g)

In September 2012, Applicant opened a credit card account with a retailer. As of April 2014, his account was charged off and in collection for \$626 due to no payments since September 2013. Applicant asserts that the \$75 monthly payment to the entity collecting the debt in SOR ¶ 1.d also covers the debt in SOR ¶ 1.g. (GE 2; Tr. 28.) However, AE D shows that the full \$75 payment is being credited toward the account in SOR ¶ 1.a. Applicant presented no documentation showing progress toward resolving the debt in SOR ¶ 1.g, which had been charged off to profit and loss by the creditor. (GE 3.)

Collection debt for \$235 (SOR ¶ 1.h)

In September 2015, a delinquent credit card balance of \$585 for a computer was placed for collection after inactivity since September 2014. Applicant began repaying the debt at \$25 a month in July 2016. He made extra payments when he could, and as of September 2017, the balance was \$235. As of late April 2018, the outstanding balance was \$34. (GEs 1-4; AE C.)

Collection debt for \$210 (SOR ¶ 1.i)

Applicant obtained a retail charge card in November 2008. His account was charged off and placed for collection for \$420 due to nonpayment since September 2013. As of September 2017, the account had a past-due balance of \$210. The debt was fully satisfied with a final payment of \$70 received by the creditor on December 1, 2017. (GEs 3-4; AE A; Tr. 24.)

On June 23, 2017, Applicant was interviewed by an OPM investigator about the delinquent accounts on his credit report and about his tax issues for 2012. He explained that he did not realize he had any financial problems until he received a letter from the IRS in June 2015 stating that he owed \$3,851 after an audit of his 2012 income tax return.⁵ He did not understand why he owed taxes, and so he paid a \$500 fee to a tax attorney to resolve the issue with the IRS and also any state tax issue for tax year 2012. He denied receiving any notification from the state of a tax liability for 2012. After receiving notice of the federal taxes, he obtained his credit report in 2016 and learned that several of his accounts were past-due. He allowed his spouse to use his credit cards, and she failed to adjust her spending in line with his lower salary. He did not dispute the debts with the exception of the debt in SOR ¶ 1.i, which he did not recognize at the time. He indicated that he immediately contacted his creditors and made repayment arrangements. Applicant added that he and his spouse had taken several steps to resolve cash-flow issues and obtain the funds to pay off his past-due debts. They reduced their rent from \$1,878 to \$1,500 a month and lowered their utility costs by moving to a smaller apartment in June 2016. With a change in cable television and Internet plans, they lowered that monthly expense by \$100 to \$248. Additionally, his spouse obtained employment at an arcade that netted income of \$1,000 a month. They had \$5,940 in monthly net household income to pay expenses totaling \$4,925, which did not include any payments to the IRS or on the student loan obtained by Applicant for their older son's education. (GE 2.)

After about a year, the tax firm wanted another \$800 from Applicant to resolve his tax issues. Dissatisfied with the firm because of a lack of communication from the firm, Applicant retained a local tax resolution entity that he found by a Google search. (Tr. 61.) He paid the company's \$2,500 retainer fee over time. He made a \$625 payment in November 2017 to the company. (AE H; Tr. 33-34, 61.)

On November 1, 2017, Applicant responded to DOHA interrogatories. He denied that he had failed to file his federal and state income tax returns for 2012 on time, and he denied the balances claimed by the IRS (\$20,575) and the state (\$3,934). Applicant provided a document showing that he had purchased online tax software in 2013 to prepare his 2012 tax returns and explained in part:

Since I started working I have always claimed zero dependents in my tax paperwork so that I would always receive tax money back. Typically this was in the three thousand dollar range with the Federal and state combined. When I learned in 2016 that there was some sort of issue I went to my home computer to obtain the 2012 tax information and it was the only year missing from my computer. I obtained a tax specialist online to rectify the situation. I paid the specialist their fee and they never seem to communicate what they were doing or had done for the money I provided. I ended up changing to a local law firm who deals with these issues. . . . (GE 2.)

⁵ The amount of federal tax liability is discrepant with what he reported on his SF 86, and with his testimony at his hearing. When asked how he came up with the \$23,000, he responded that he could not recall exactly the source, although it was possibly the credit report, and that he "just added state and federal together." (Tr. 55.) He could not recall the source of the \$3,851 figure provided during his interview. (Tr. 60.)

For several months, the tax resolution firm claimed that it could clear up Applicant's tax issues in weeks. In approximately early March 2018, the state filed a lien against Applicant's bank account for past-due state taxes for 2012 (allegedly \$3,934 as of August 2017). It became clear to Applicant that the tax resolution company had made little progress on his behalf. On the suggestion of one of his co-workers, Applicant and his spouse then had their joint federal and state income tax returns for 2012 prepared by a professional tax service. Three days later, and after paying a fee of \$275, their tax returns for 2012 were completed and filed on March 16, 2018. They owed \$949 to the IRS and \$2,174 to the state for tax year 2012. (AE J; Tr. 34-38, 58, 61-64.)

After reviewing the return submitted in March 2018, the IRS recalculated their federal income taxes for 2012, and instead of owing a balance of \$18,865 Applicant and his spouse were entitled to a refund of \$1,361. (AE I.) The state suspended the levy against his bank account on receiving their state tax return but seized their federal refund for \$1,361. As of Applicant's hearing in May 2018, the state was still assessing their tax liability for tax year 2012. (Tr. 35-38, 72.)

Applicant has been handling the household finances since mid-2016, when he learned of his consumer credit delinquencies. (Tr. 40-41.) Applicant's two sons currently live at home. His younger son was attending college as of May 2018. The other son had temporarily withdrawn from school to pursue an entrepreneurial venture involving purchasing items on sale from retailers and sending them to Amazon for online resale. Applicant gave his son approximately \$1,000 over time to facilitate this business venture. (Tr. 68-69.) As of late April 2018, Applicant was making monthly payments of \$167 toward the student loan obtained for his older son's education. The loan had a balance of \$12,690. (AE E; Tr. 29, 73.) His sons have student loans of their own for which Applicant has no contractual liability. (Tr. 73.)

Applicant is paying his parents \$300 a month toward the personal loan to pay off his vehicle. The remaining balance is approximately \$6,000. Applicant and his spouse have no other vehicles. (Tr. 38, 65-66.) He intends to fully satisfy his outstanding debts. (Tr. 40.) Applicant's annual salary is currently \$92,000. He has \$1,200 in the bank, but no retirement funds. (Tr. 48, 66.) Applicant is currently disputing a \$27 PayPal debt in collections that he did not authorize. He is working with his insurance company to resolve an outstanding \$199 medical debt. He maintains an Excel spreadsheet to track the household income and expenditures. (Tr. 48-51.)

At his annual performance review for the period from June 2017 through May 2017, Applicant was given excellent to outstanding ratings. He consistently displayed a positive attitude and willingness to do whatever was required by his team. (AE K.)

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(a), 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 national security eligibility 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 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 EO 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 articulated in AG ¶ 18:

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. Financial distress can also be caused or exacerbated

by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. 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.

In 2015 or 2016, the IRS notified Applicant and his spouse that they owed back taxes for tax year 2012. Applicant was unable to confirm that he had filed federal and state income tax returns for 2012, and the IRS and state tax authority filed substitute returns for 2012. As of August 2017, Applicant had been assessed tax liabilities of apparently \$20,575 by the IRS and of \$3,934 by the state for tax year 2012. Applicant denied the debts when he responded to DOHA interrogatories in November 2017 and when he responded to the SOR in December 2017. Under ¶ E3.1.14 of the Directive, the government has the burden of presenting evidence to establish controverted facts. In that regard, the total tax debt was approximately equivalent to the \$23,000 tax liability Applicant listed on his SF 86 and was attempting to resolve. The IRS record from April 2018 indicated an account balance of \$18,865 before the assessment of his return filed in mid-March 2018. There is no documentation from the state that reflects the balance alleged in SOR 1.b, but Applicant admitted at his hearing that the state filed a lien against his bank account in approximately early March 2018 for back taxes for 2012. There is sufficient evidence of failure to file a timely state tax return and of past-due federal and state income taxes for 2012 to shift the burden to Applicant to demonstrate either that he is not responsible or that matters in mitigation apply.

Moreover, available credit reports establish that Applicant defaulted on the six consumer accounts alleged in SOR ¶¶ 1.d-1.i. To his credit, after he learned about the debts in 2016, he made repayment arrangements. By the time the SOR was issued in November 2017, he had reduced the delinquency balances from \$6,625 to approximately \$4,898. Even so, debts that have been charged off or placed for collection raise financial considerations security concerns. Applicant is not required to be debt free, but he is required to manage his finances in a way to exhibit sound judgment and responsibility. Disqualifying conditions AG ¶¶ 19(a), "inability to satisfy debts," 19(c), "a history of not

meeting financial obligations,” and 19(f), “failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required,” apply in this case.

The burden is on Applicant to mitigate the evidence of financial delinquency and noncompliance with tax filing and payment obligations. One or more of the following conditions under AG ¶ 20 may apply:

(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;

(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 person has received or is receiving 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;

(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; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶ 20(a) has some applicability in that Applicant’s tax problems were infrequent. Whether he failed to file or filed his return and it went missing, his tax filing problem involved only a single tax year. Most of his consumer credit accounts became delinquent in 2013 and 2014 and so were not incurred recently. However, AG ¶ 20(a) does not fully apply because some of his debts, including his state tax liability for 2012, have not been completely resolved. The Appeal Board recently affirmed that unresolved debts are a continuing course of conduct. See ISCR Case No. 17-03146 at 2 (App. Bd. Jul. 31, 2018) (citing ISCR Case No. 15-08799 at 3 (App. Bd. Nov. 3, 2017)).

Applicant has a credible case for mitigation under AG ¶ 20(b) in that the loss of his job in April 2011 was outside of his control. He secured his current employment within a

month and was paid \$20,000 in severance from his previous employer. However, his household income was adversely impacted because his new job paid him \$26,000 less a year. Applicant cashed in his retirement fund, and although it had tax implications for tax year 2012, it went toward his older son's college expenses and was not spent frivolously. Unbeknownst to Applicant at the time, his spouse failed to adjust her spending to account for the decrease in his income. AG ¶ 20(b) requires that an individual act responsibly, and some concern arises in that regard because of Applicant's lack of oversight over his spouse's handling of their finances. However, when he learned about the debts, he acted responsibly by entering into repayment plans with most of his creditors and making the promised payments. Applicant exercised questionable judgment by continuing to pay a succession of tax resolution companies that failed to show proof of progress toward addressing his tax matters. Yet, when it became obvious that little had been accomplished on his behalf, he and his spouse filed their federal and state income tax returns with the assistance of a professional tax service in March 2018.

AGs ¶¶ 20(c), 20(d), and 20(g) also have some applicability. Applicant and his spouse's federal income tax liability has been largely resolved with the filing of their return in March 2018, and the IRS' reassessment of their federal return resulting in a positive outcome for them. Instead of owing \$18,865 in federal income taxes, they were entitled to a \$1,360 refund for tax year 2012. Regarding his consumer credit delinquency, Applicant had satisfied the debt in SOR ¶ 1.i, and through a track record of payments since July 2016 reduced his credit delinquency on other accounts to \$3,840 as of May 2018.

Applicant did not provide any evidence of payments toward the charged-off \$626 debt in SOR ¶ 1.g. The \$955 that remains on his installment plan with the power company exceeds the delinquency listed on his credit report as of September 2017, but his repayment is acceptable to the creditor. Applicant's and his spouse's state tax liability has not been resolved, but assuming the alleged balance of \$3,934 and the state's interception of his \$1,360 federal income tax refund for 2012, their remaining tax liability is approximately \$2,575. It could be more or less depending on assets taken by the state from his bank account before Applicant and his spouse filed their tax return in mid-March 2018 and on any penalties assessed by the state since August 2017. They also may owe nothing, especially if the state applies credits similar to the IRS.

Applicant is not required to pay off every debt in the SOR to be granted security clearance eligibility. All that is required is that he has established a plan to resolve his financial problems and taken significant actions to implement that plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). When asked about new debts, Applicant volunteered that he was disputing a \$27 collection debt and \$199 in medical debt. Even if it is determined that he is responsible for those debts, his overall debt burden is not likely to be a source of financial pressure for him. He has been handling his family's finances since mid-2016, and has made the payments promised to his creditors on terms acceptable to them. He is likely to continue to make those payments, provided he has the income to do so. The financial considerations security concerns are mitigated.

Whole-Person Concept

In assessing the whole person, 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(d). The analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

The security clearance adjudication involves an evaluation of an applicant's judgment, reliability, and trustworthiness in light of the security guidelines in the Directive. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). It is not a proceeding designed to collect debts. Applicant admits that he did not pay enough attention to his household finances when his spouse was paying the bills. He still exhibits some lack of knowledge about his car loan that he paid off with the funds borrowed from his mother in that he claims that the debt was related to car that he traded in. He probably should have been more proactive about pressing the tax resolution firms for some positive results on his tax issues. In his favor, Applicant has been reliable and trustworthy on the job, as evidenced by his ratings as an excellent, and, in some aspects, outstanding performer during the annual appraisal period that ended in May 2017. He took steps to ensure financial stability going forward by moving his family to a smaller apartment at lower rent and by changing their cable plan to save \$100 a month in cable and Internet costs. His spouse gained employment that brings in household income of \$25,000 annually. While he and his spouse are not debt free, they are living within their means while continuing to address his delinquent debts. After considering all the facts and circumstances, it is clearly consistent with the national interest to continue Applicant's security clearance eligibility.

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
Subparagraphs 1.a-1.i:	For Applicant

Conclusion

In light of all of the circumstances, it is clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Elizabeth M. Matchinski
Administrative Judge