



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



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| In the matter of: |) | |
| |) | |
| REDACTED |) | ISCR Case No. 17-04354 |
| |) | |
| Applicant for Security Clearance |) | |

Appearances

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

09/28/2018

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant has made no progress toward resolving a home-equity credit line that was charged off for \$37,193 in February 2015 or on a line of credit that was charged off for \$4,482 in October 2014. As of May 2018, he had made some payments toward a collection debt, but more progress is needed in addressing his delinquencies. Clearance is denied.

Statement of the Case

On January 9, 2018, 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 January 29, 2018, 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 18, 2018. With the agreement of the parties, I changed the start time of the hearing and issued an Amended Notice of Hearing on May 10, 2018.

At the hearing, four Government exhibits (GEs 1-4) were admitted. A March 7, 2018 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. Applicant testified at the hearing, as reflected in a hearing transcript (Tr.) received on June 6, 2018.

I held the record open for one month for evidentiary documents from Applicant. On May 25, 2018, Applicant submitted AEs A-F, which were accepted into the record without any objection from the Government but with some concern over the weight to be afforded extracts of credit reports because they do not fully reflect Applicant's financial status.

Summary of SOR Allegations and Answer

The SOR alleges under Guideline F that, as of January 9, 2018, Applicant owed charged-off debts of \$37, 193 (SOR ¶ 1.a) and \$4,482 (SOR ¶ 1.b); a \$786 collection debt (SOR ¶ 1.c); a \$262 wireless telephone debt in collection (SOR ¶ 1.d); and three medical collection debts totaling \$419 (SOR ¶ 1.g). When Applicant answered the SOR allegations, he admitted the debts.¹ He indicated that he was currently enrolled in repayment plans for the collection debts. Concerning the charged-off debts held by a bank, he explained that he and his spouse recalled obtaining a ten-year home-equity loan with a corresponding line of credit (SOR ¶ 1.a) but the bank now holding the debt has indicated that the account "had turned into a 30 year loan," which became six months in arrears pending his fraud claim. The bank demanded that he pay the arrearage in full or obtain a restructuring of the loan. After his application for a loan modification was denied, the bank indicated it would proceed with foreclosure to close the account. Advised by a credit counseling service that a second mortgage would not cause him to lose his home, Applicant reapplied for a modification that was denied. He denied receiving any correspondence about the debt since April 2015 but indicated that he would pay off the debt on the sale of his home in which he has equity exceeding \$120,000. (Answer.)

Findings of Fact

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

Applicant is 60 years old and a high school graduate. He has worked for his current employer, a defense contractor, since March 2008. He has been at his present duty

¹ Applicant addressed each of the debts in his answer, but his paragraph designations do not match those of the SOR of record.

location since September 2011 and provides program management support. He previously worked for another defense contractor from 1983 to February 2008 and has held a clearance since September 1983. He was granted sensitive compartmented information (SCI) eligibility in 2003. (GEs 1, 2; Tr. 29-30.) He currently holds a secret clearance. (Tr. 36.)

Applicant and his spouse married in January 1985. They have one child, a son now age 33. Applicant has a 35-year-old daughter from a previous relationship while his spouse has a 39-year-old daughter from her previous marriage. (GE 1; Tr. 34.) Applicant's spouse worked during their marriage until 2002, when Applicant became legal guardian to his grandson, then an infant. (Tr. 34-35.) Applicant's spouse manages the finances in their household. (Tr. 58.)

In September 2004, Applicant purchased a new home for his family. (GEs 1-2.) He obtained a 30-year mortgage for \$219,900, to be repaid at \$1,831 per month. Within a year or so, Applicant opened a secured line of credit (SOR ¶ 1.a) to finish the basement.² (GEs 3-4; Tr. 22, 50.) Over the course of the next five years, he borrowed approximately \$32,000. (Tr. 51, 68.)

Applicant and his spouse's son was wounded while serving in Iraq in September 2007. He was medically evacuated to a hospital in Europe before returning to his home in another state. In February 2008, Applicant and his spouse relocated to their son's area to help him with his recovery. In March 2008, Applicant began working as a contractor for his present employer on a U.S. military base at \$83,000 a year, about \$2,000 less than his previous salary. His household expenses increased significantly. He and his spouse rented a house at \$1,200 a month in their new area while continuing to pay the mortgage on their previous residence, which was occupied by Applicant's daughter and her two children. Applicant's daughter, who was a waitress, contributed "roughly \$800" a month, about half of the monthly mortgage payment on the home. (Tr. 20-21, 30-32.) Applicant's spouse made the mortgage payments on time through July 2009. Applicant's loan was past due 30 days when it was transferred shortly thereafter to a new loan servicer. The new loan servicer failed to withdraw the mortgage payment from their bank account, and their loan was placed into a government program, which increased the balance of the loan to \$231,520. (GEs 3-4; Tr. 22.)

In May 2011, Applicant's daughter vacated Applicant's house, and Applicant's spouse and grandson returned home in June 2011. (Tr. 32-33.) As of August 2011, Applicant and his spouse had an open line of credit for \$5,000 (SOR ¶ 1.b) as overdraft protection for the home-equity line of credit in SOR ¶ 1.a. Monthly payments on the account were \$143. (GE 3.) After a job opportunity at the same salary surfaced for his employer in his current location, Applicant moved back home in September 2011. (Tr. 32-33.)

² Applicant testified that he obtained a home-equity line of credit in 2005 with a small community bank, and it was later transferred to the bank identified in SOR ¶ 1.a. (Tr. 50.) Available credit reports show an opening date of August 2007 with the bank listed in SOR ¶ 1.a. (GEs 3-4.)

In August 2013, Applicant's spouse was diagnosed with cancer and began incurring medical bills that strained their finances. (Tr. 33-34.) While Applicant had health insurance, he had a \$9,000 deductible to cover any medical copayments. (Tr. 39-40.) Over the next two years, Applicant and his spouse paid \$11,000 to \$12,000 toward her medical expenses. He also lost income because he was unable to travel during his spouse's treatments. (Tr. 40.)

After November 2013, Applicant and his spouse stopped paying on the home-equity loan in SOR ¶ 1.a. When they were billed for two months of payments (approximately \$886), Applicant contacted the bank holding the debt and was informed that the loan had been converted to a 30-year second mortgage and that he was in default. He had paid on the secured line of credit for several years and disputed the terms claimed by the bank. Over the next five months, the balance continued to accrue because of nonpayment. Applicant assumed he was a victim of predatory lending. Applicant learned that the conversion to a 30-year loan was in the terms of his original contract. Not knowing how to proceed and unable to pay the full balance of the debt, Applicant contacted the bank. On its advice, he applied for a 30-year mortgage to address the delinquent secured line of credit, only to be denied. When he indicated that he could not pay the full balance, he was told that a lien would be placed against his home. In February 2015, the bank charged off the account for \$37,193 and placed a lien on his home. (GEs 3-4; Tr. 23, 52-56.)

In March 2014, Applicant and his spouse stopped paying on the line of credit obtained in July 2011 (SOR ¶ 1.b) that was held by the same bank as the secured home-equity loan. In October 2014, the bank charged off a balance of \$4,482. (GEs 3-4.)

Applicant missed one payment on his primary mortgage because of a lack of funds. He then made regular payments on his mortgage, but his account was chronically 30 days past due in 2014 and 2015 because he could not afford to make a double payment. (GEs 2-4.)

In July 2015, Applicant leased a 2015 model-year truck, taking on an \$18,991 debt to be repaid at \$486 per month. In December 2015, he obtained a \$12,795 car loan for a 2011 model-year small sport utility vehicle for his spouse. Monthly payments on the loan are \$248. (GEs 3-4; Tr. 59, 65-66.)

On February 24, 2016, Applicant completed and certified to the accuracy of a Questionnaire for National Positions (SF 86). In response to financial record inquiries concerning any delinquency involving routine accounts, Applicant indicated that he owed \$35,000 in credit card and second mortgage debt because of medical bills. (GE 1.)

A check of Applicant's credit on April 12, 2016, showed that, in addition to the charged-off balances of \$37,193 (SOR ¶ 1.a) and \$4,482 (SOR ¶ 1.b) on the lines of credit, medical debts of \$150 from June 2014 (SOR ¶ 1.e), \$150 from March 2015 (SOR ¶ 1.f), and \$119 from April 2013 (SOR ¶ 1.g) were in collection. Applicant or his spouse was making payments on a closed credit card account with a \$1,780 balance, on the auto lease with a \$15,096 balance and loan with a \$12,590 balance, and on open credit card accounts

with balances of \$5,250 and \$142. (GE 3.) A more recent credit report of November 27, 2017, revealed that a \$786 consumer credit debt was placed for collection (SOR ¶ 1.c) in November 2015. As of April 2017, a cellphone debt of \$262 from September 2016 was in collection (SOR ¶ 1.d). A credit card opened in November 2003 with Applicant as an authorized user was charged off for \$1,827 in 2013 (not alleged). (GE 4.)

In May 2017, Applicant had a medical issue that required his hospitalization for a month. He was out of work until August 2017, and his short-term disability income was 60% of his regular income. (Tr. 26-27.) Applicant incurred approximately \$10,000 in out-of-pocket medical expenses in addition to the income loss for being unable to travel for work. (Tr. 41.)

On August 16, 2017, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). He acknowledged that he could owe as much as \$40,000 on the secured line of credit, which he actively disputed until 2015 on the basis that it was a ten-year loan, not the 30-year loan claimed by the bank. He had not received any correspondence about the account since 2015 and had not paid anything toward the debt. He expressed an intention to make payments on the account if he receives information on the account. Applicant volunteered that he missed two payments on a MasterCard account that was charged off for approximately \$700 and could be in collections. He did not know the current status of the account but would pay it if contacted by the creditor. When confronted with other adverse credit information on his record, Applicant indicated about the medical collection debt on his record that he could have overlooked some medical bills from his spouse's cancer treatments, but he did not recall any specifics. When asked about his late payments on his primary mortgage, Applicant related that after he missed one payment, he was always one month behind because he could not make a double payment. However, he indicated that he brought the loan current in 2017. Applicant did not recognize the \$1,827 delinquency on his credit record. As for the \$4,482 charged-off credit line, Applicant explained that it was for overdraft protection of the secured line of credit account, and that it was charged off. Applicant related that his current financial status was positive, and he did not anticipate any future financial issues. (GE 2.)

As of September 2017, Applicant was one month behind on his \$1,711 monthly payment of his primary mortgage. (GE 4.) He fell behind last year because of his loss of income, registration costs for both vehicles, and the expense of having to put new tires and brakes on his truck. He has been consistently one month behind since then. (Tr. 60.) A credit card account with a current balance of \$252 had been delinquent as recently as June 2017. Applicant was making timely payments for his and his spouse's car loan balances of \$9,455 and \$5,843. He was also making timely payments on his credit card with a home improvement retailer, which had a balance of \$4,339. (GE 4.)

As of May 2018, Applicant had made no payments on the charged-off line of credit (SOR ¶ 1.a) or its overdraft protection account (SOR ¶ 1.b), which were closed with reported outstanding balances of \$37,193 and \$4,482. (AE C.) He testified that he intends to repay those debts when he sells his home and that he has no choice in that regard. (Tr. 23-24, 56.) Applicant testified that he received a 1099 form from the bank in 2017, but he

“could not trace it” because the amount does not correspond to information that he has about the account. (Tr. 57-58.) He reported the amount as income on his tax return and incurred a federal tax underpayment of \$1,100. He was expecting a state tax refund of \$1,300 that he planned to use to satisfy his federal tax liability. (Tr. 61.) As for consumer credit card accounts, Applicant stated that five collection entities are currently taking between \$40 and \$60 a month from his checking account.³ (Tr. 24, 44.) Applicant believed that one of his debts (SOR ¶ 1.c) was being actively collected at \$37 a month. After he received the SOR, he contacted the creditor holding the debt and made a payment in late January 2018, which reduced the balance to \$742. (AE B; Tr. 43.) He did not realize until May 2018 that he failed to authorize recurring payment. He corrected the issue to repay the debt at \$37 a month from May 2018 through December 2019. (AEs A, D.) Applicant believes that the medical accounts and the wireless phone debt are paid “as noted by the absence of these accounts in the collections section” on his credit report. He testified that, in November 2017, he made repayment arrangements with an entity now collecting the wireless phone debt, and that he is repaying the debt at \$60 a month from his account with a credit union. (Tr. 46-47.) Information from Credit Karma indicates the wireless phone collection account (SOR ¶ 1.d) has been closed with an outstanding balance of \$200 as of late May 2018. (AE C.) There is no documentation confirming payments toward the medical collection debts, although Applicant stated that he began making \$40 monthly payments toward the debts after he received the SOR. (Tr. 48.) With regard to the timing of his debt repayments, Applicant stated:

I didn't have any more money available. I realized the importance of the impact of some of these bills. I wasn't ignoring them. I was paying other bills. I didn't want anything else to get onto the credit report. I decided to pay them. (Tr. 49.)

Applicant testified to his belief that the \$119 medical collection debt (SOR 1.g) has been paid (Tr. 49), although he provided no corroborating documentation. Since January 2018, he and his spouse have less than \$100 in discretionary income each month. (Tr. 58.) He had \$2,500 to \$3,000 in his checking account as of mid-May 2018 because he had just been paid. (Tr. 62.)

Applicant and his spouse have been raising his grandson (age 15 as of May 2018) since infancy. Applicant has expenses for his grandson's driving school, competitive archery training, and high school activities, in addition to necessities such as food and clothing. Applicant's spouse is currently unemployed and has not worked since 2002. (Tr. 25, 34.) She finished her cancer treatment in 2016. (Tr. 26.) Applicant's current salary is \$93,000 a year. (Tr. 37.) Since 2014 or 2015, he has had retirement income of \$1,300 a month from his previous job. He applied for the disbursement when his spouse was under medical treatment. (Tr. 63.) He has accumulated \$7,000 in a 401(k) with his current employer. Applicant's spouse has \$12,000 in a retirement account. (Tr. 64.) Before his own medical problem in May 2017, he traveled for work and had per diem income that augmented his salary by \$10,000 a year on average. Applicant expects to resume traveling

³ Applicant had been repaying some debts not alleged in the SOR. (Tr. 43-44.)

for work in the near future. (Tr. 37-39.) He described his financial situation as “the worst it’s been in 30 years, but it’s getting better.” (Tr. 64-65.)

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.

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. Debts that have been charged off or placed for collection raise financial considerations security concerns. Applicant became delinquent on a secured line of credit account and an associated overdraft protection account while his spouse was undergoing treatment for a serious illness diagnosed in August 2013. He had no success in restructuring the debt or obtaining a new loan to address the delinquency, and balances of \$37,193 and \$4,482 were respectively charged off in February 2015 and October 2014. A \$786 credit card delinquency was placed for collection in November 2015 due to nonpayment since February 2014. A wireless telephone debt of \$262, and three medical debts totaling \$419 were placed for collection. Disqualifying conditions AG ¶ 19(a), "inability to satisfy debts," and ¶ 19(c), "a history of not meeting financial obligations," apply.

The burden is on Applicant to mitigate the evidence of financial delinquency. 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; and

(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.

AG ¶ 20(a) does not apply. With the possible exception of the wireless services debt, which had some activity on the account in September 2016, the debts became past due three to four years ago. The delinquencies were not recently incurred. However, they had not been resolved as of the issuance of the SOR in January 2018. 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 some mitigation under AG ¶ 20(b). Between 2008 and 2011, Applicant and his spouse continued to pay the mortgage on their home while renting separate housing near their son, who had been injured in Iraq. Applicant's daughter, who moved into the home while they were away, could only afford half the monthly mortgage obligation. Their monthly housing expense went from \$1,600 to \$2,000 (half the mortgage plus their rent of \$1,200). Applicant's spouse's serious illness, diagnosed in August 2013, was an unforeseen circumstance that further compromised the family's finances. Over the next two years, Applicant and his spouse paid \$11,000 to \$12,000 toward her medical expenses. Applicant lost income of approximately \$10,000 on average a year because he was unable to travel during his spouse's treatments. The secured line of credit, the overdraft protection account, and the \$150 medical debts became delinquent during that time. More recently, Applicant had a medical problem in May 2017 that led to a loss of 40% in income over the short term and additional medical expenses. It continues to have an impact in that he has been unable to travel for work.

Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside of his control, I have to consider whether Applicant acted in a reasonable manner when dealing with his financial difficulties. See ISCR Case No. 05-11366 at 4, n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether Applicant maintained contact with his creditors and attempted to negotiate partial payments to keep debts current. Applicant has had retirement income of \$1,300 per month for the past two years. It is difficult to find that Applicant acted fully responsibly toward his creditors when he did little, if anything, to address his delinquencies in 2016 and 2017. Applicant submits that he was paying other debts, but the evidence also shows that he took on car payments totaling \$734 per month in 2015 while collection debts went unpaid. Applicant did not recognize the medical debts when confronted about them during his subject interview, but he knew that he had at least one delinquent credit card account (SOR ¶ 1.c) that he believed was in collections for \$700. He ignored the debt until it was clear that it became an issue for his security clearance eligibility.

AGs ¶¶ 20(c) and 20(d) have minimal applicability. Applicant presented documentation showing that he has a repayment plan established for the debt in SOR ¶ 1.c showing a payment of \$37 on the same day as his security clearance hearing. He indicates that he also made a payment in late January 2018, and available credit reports show some reduction in the balance from \$786 in November 2017 to \$742 in May 2018. Applicant submits that the medical and wireless phone debts in collection have been paid because they are not listed in the collections section on his May 2018 credit report. The Appeal Board stated in ISCR Case No. 16-01338, decided on July 13, 2018:

As we have previously stated, a credit report, in and of itself, may not be sufficient to meet an applicant's burden of persuasion as to mitigation, insofar as it provides little evidence regarding the underlying circumstances of the debt. Moreover, the fact that a debt no longer appears on a credit report does not establish a 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). For example, debts may fall off credit reports merely due to the passage of time. See, e.g., ISCR Case No. 03-20327 at 6 (App. Bd. Oct 26, 2006).

Applicant presented only part of his May 2018 credit report. Even so, it shows that the wireless phone account, now closed, has a \$200 balance. The medical debts are not listed. He testified that he made \$40 monthly payments toward the \$300 in medical collection debt (SOR ¶¶ 1.e and 1.f) after he received the SOR, but he presented no payment records. He made no progress toward resolving the \$37,193 and \$4,483 charged-off debts. Applicant asserts an intention to repay the debts when he sells his home because the bank has a lien against his property. The Appeal Board has consistently held that a promise to pay a debt in the future is not a substitute for a track record of paying debts in a timely manner. See e.g., ISCR Case No. 09-05390 at 2 (App. Bd. Oct. 22, 2010). While Applicant testified that he received a 1099 form for \$9,999 from the creditor in

2017, and that he reported it on his income tax returns, the form itself is not in evidence, and he could not explain it. Neither AG ¶ 20(c) nor AG ¶ 20(d) applies to the charged-off debts in SOR ¶¶ 1.a and 1.b.

AG ¶ 20(e) was not established. Applicant asserted that he paid on the account in SOR ¶ 1.a for several years before he fell behind. He disputed the terms of the account in that the bank converted it to a mortgage loan, but he learned that it was allowed under the terms of the contract.

Applicant is not required to pay off every one of his past-due debts before he can be granted security clearance eligibility. However, some concerns persist about his financial stability. His home mortgage was past due 30 days in March 2017 before his medical issue in May 2017. His short-term disability in the summer of 2017 explains why he was past due 30 days on his mortgage in August 2017, but he was again 30 days past due on his mortgage from January 2018 to May 2018. He had vehicle expenses in late 2017 that may not have been discretionary and caused some financial strain. His retirement income of \$1,300 is more than ample to cover his car payments. He did not adequately explain or document why he has been unable to catch up on his mortgage payments in 2018 when he is earning \$93,000 in base salary with a defense contractor. More progress is needed toward resolving the past-due debts to mitigate the financial considerations security concerns.

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. At the same time, it is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). Applicant obtained a secured line of credit without fully understanding the terms of the contract, but this does not excuse him from his contractual liability. Based on the evidence presented, I am unable to conclude that it is clearly consistent with the national interest to continue Applicant's 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:

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| Paragraph 1, Guideline F: | AGAINST APPLICANT |
| Subparagraphs 1.a-1.g: | Against Applicant |

Conclusion

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

Elizabeth M. Matchinski
Administrative Judge