



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



In the matter of:	)	
	)	
	)	ISCR Case No. 17-04384
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Nicholas T. Temple, Esq., Department Counsel  
For Applicant: *Pro se*

12/17/2018

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant defaulted on a mortgage loan and on two credit-card accounts. The mortgage was released after he abandoned the property. He made no payments on \$20,054 in charged-off credit-card delinquencies because they are no longer legally collectible. Concerns about his financial judgment persist. Clearance is denied.

**Statement of the Case**

On January 16, 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 March 1, 2018, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On July 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 August 6, 2018, I scheduled a hearing for September 18, 2018.

At the hearing, five Government exhibits (GEs 1-5) were admitted. A March 28, 2018 letter forwarding the proposed GEs to Applicant was marked as a hearing exhibit (HE 1) for the record but not admitted in evidence. Six Applicant exhibits (AEs A-F) were admitted in evidence. Applicant testified, as reflected in a transcript (Tr.) received on September 27, 2018.

I held the record open, initially for six weeks, for post-hearing documentation from Applicant. On October 29, 2018, Applicant submitted a letter from an attorney (AE G), and requested a three-week extension to submit more evidence. On November 5, 2018, Department Counsel expressed no objection to AE G, but opposed an additional extension on the basis that Applicant had made little attempt in the time allotted to contact his creditors. I admitted AE G into the record and extended the deadline to November 26, 2018. On November 8, 2017, Applicant submitted comments by email, which I accepted into the record as AE H without any response from the Government. On November 26, 2018, Applicant submitted an email with a billing statement from his attorney, which was marked as AE I and entered into evidence, the Government having no objections.

### **Findings of Fact**

The SOR alleges under Guideline F that, as of January 16, 2018, Applicant was past due \$14,588 on a mortgage in foreclosure status with a \$109,401 balance (SOR ¶ 1.a), and that he owed charged-off credit card balances of \$11,984 (SOR ¶ 1.b) and \$8,070 (SOR ¶ 1.c). When he responded to the SOR in March 2018, Applicant admitted the debts, which he attributed to loss of a job and an economic downturn in the information technology sector in his previous locale, which made it difficult for him to find a job at an income needed to cover all his financial obligations. He indicated that the mortgage delinquency was settled without a final judgment of foreclosure. Applicant explained that he had no success in negotiating a settlement of the credit card debts. After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 46-year-old information technology network engineer. He has a bachelor's degree in computer science awarded in June 1996, and a master's degree in business administration awarded in December 2000. He began working for his current employer, a defense contractor, in September 2016. (GEs 1-2.)

Applicant and his ex-wife married in March 1998 and purchased a home. They had a daughter in 2001. In April 2004, they moved to a new locale. They bought a home, obtaining a mortgage loan for \$60,000. They began having marital difficulties, and decided to separate in 2006. (GE 1; Tr. 40-41.) They sold their marital home for approximately what they owed on the mortgage. They also sold a parcel of land to settle some debts. In August

2006, Applicant's ex-wife purchased a home for herself and their daughter. She paid for the home in part with an \$88,400 mortgage loan on which Applicant was also liable. The mortgage payments were \$768 a month. Applicant resided with his ex-wife and his daughter until February 2007, when he purchased a residence for himself with a mortgage loan of \$101,200, on which his ex-wife was also liable (SOR ¶ 1.a). His mortgage loan payments were approximately \$916 monthly. They jointly obtained a \$25,300 home-equity loan, to be repaid at \$103 monthly. Applicant was employed as an information technology manager at the time. (Answer; GEs 1-5; AE F; Tr. 40-42, 45-46.)

Applicant and his ex-wife were able to maintain the mortgage payments on their respective residences for a few years. In March 2009, Applicant left his job of six years after his employer hired someone else to maintain a program that Applicant had upgraded.<sup>1</sup> Applicant started his own computer business, but his self-employment income was not sufficient to cover all of his bills. He relied on credit cards, retirement savings, and financial assistance from his father, to pay his living expenses, mortgage, and car payment. He obtained a car loan of \$13,982 in July 2007 that he repaid at \$277 a month until it was fully satisfied in January 2012. (Answer; GEs 1-2; Tr. 42, 47.)

In July 2012, Applicant and his ex-wife became delinquent on the mortgage loan (SOR ¶ 1.a) and on the home-equity loan for his then residence. Applicant consulted with a realtor in late September 2012 for help with the paperwork "to get out from under the house." Applicant moved out of the house in November 2012 (Tr. 47-48) and prepared paperwork to deed the property in lieu of foreclosure, which the lender rejected in April 2013. (AE E.) The lender wanted to do a short sale, but rejected an offer of \$50,000 for the property. (Tr. 43.) When the mortgage account became past due for \$14,588, the lender initiated foreclosure proceedings. (GEs 1-5.)

In February 2013, Applicant obtained part-time employment with a home-improvement retailer. (GE 1; Tr. 43.) His credit-card account in SOR ¶ 1.b was closed in March 2013 for nonpayment since December 19, 2012. A credit line obtained in February 2008 (SOR ¶ 1.c) was likewise closed in March 2013 for nonpayment after December 19, 2012. As of August 2016, the balances of the charged-off accounts were \$11,984 (SOR ¶ 1.b) and \$8,070 (SOR ¶ 1.c). Another credit-card account, which had a credit limit of \$7,200 but a high credit of \$12,369, was placed for collection after no payments were made after February 2013. Applicant settled the debt for less than its full balance by January 2014. (GE 3.)

With his divorce not yet finalized, Applicant relocated to his present area in August 2013 for a full-time position with the home-improvement retailer. He took on a second job with another retailer for a short time, and was able to pay his bills but not get ahead. (GE 1; AE E; Tr. 43-44.) On October 10, 2013, the lender released the mortgage on his previous residence, and on October 31, 2013, issued a 1099-A Form, Acquisition of Abandonment

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<sup>1</sup> Applicant indicated on his August 2016 security clearance application that he left his job for "health reasons." (GE 1.) When he responded to the SOR, he indicated that he lost his job after the employer hired someone at a much lower salary to maintain the system Applicant upgraded. (Answer.) He provided no documentation showing that he was laid off.

of Secured Property.<sup>2</sup> At the time, Applicant and his ex-wife owed a principal balance of \$91,282 on their mortgage loan, and the property was valued at \$105,570. (AE F; 42-44, 48.) Applicant's understanding was that he and his ex-wife no longer had any obligation on the loan or on the home-equity loan. (Tr. 49.)

Applicant's gross income for tax purposes was \$31,005 in 2014, \$30,696 in 2015, and \$21,609 in 2016. (AE B.) He collected worker's compensation in 2016 after injuring his knee on the job, which was not taxable. (Tr. 44-45.)

On August 2, 2016, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86) to work for his current employer. In response to the delinquency involving routine accounts, Applicant listed the delinquent mortgage, which he indicated was resolved in October 2013 through return of the property. He also listed the defaulted home-equity line of credit as resolved in October 2013. Applicant listed the charged-off credit card for \$11,984 (SOR ¶ 1.b), and indicated that he had not taken any actions to resolve it because of a lack of income. He disclosed the defaulted credit account for \$8,070 (SOR ¶ 1.c), but stated in part: "Checking—I received a 'gains' tax form for a write off but still shows on credit report—will need to call and correct them showing that I owe money." (GE 1.) In September 2016, Applicant began working for his current employer at an annual salary of \$80,000. (Tr. 57.)

On September 28, 2017, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant explained that he signed over the deed in lieu of foreclosure to resolve the defaulted mortgage (SOR ¶ 1.a) and related home-equity loans on the property. He indicated that he could not maintain the loan payments because of low-paying jobs and insufficient income while self-employed. He asserted that he was still in negotiations with his creditors to settle his \$11,984 and \$8,020 credit-card delinquencies. He had settled a \$12,369 credit-card collection debt for \$2,000. Applicant volunteered that he began working part time for the home-improvement retailer in early September 2017 in addition to maintaining his full-time job with a defense contractor.<sup>3</sup> (GE 2.)

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<sup>2</sup> As the borrower, Applicant was instructed on the 1099-A that if he abandoned the property, he may have income from the discharge of indebtedness in the amount of the unpaid balance of his cancelled debt. (AE F.) The market value of the property as of October 2013 exceeded the principal loan balance by \$14,288.34, but Applicant and his ex-wife were \$14,588 past-due on the loan at the time it was released. There is no evidence that the lender has pursued Applicant for any deficiency, even though the debt was still on his credit record as of March 2018. (GE 5.) For tax purposes, abandonment is treated differently from foreclosure. Generally, abandonment is not treated as a sale or exchange of the property while a foreclosure is treated as a sale or exchange. If the amount realized from an abandonment is more than an individual's adjusted basis, it amounts to a gain, if less, then it is a loss. See IRS Publication 544. If property is abandoned that secures a debt for which one is personally liable (recourse debt) and the debt is cancelled, the individual realizes ordinary income equal to the canceled debt. That income must be reported on an individual's tax return unless one of the exceptions or exclusions applies. See IRS Publication 4681. There is no evidence that the mortgage holder issued a 1099-C cancelling the debt. As to whether Applicant reported release of responsibility for the debt as income on his tax returns for 2013, Applicant testified that an accountant handled his and his then wife's income tax returns, which were filed separately. He indicated that he did not receive a copy of his return and could provide no information in that regard. (Tr. 62-63.)

<sup>3</sup> Applicant testified at his September 2018 hearing that he has held the part-time job for four or five months.

In November 2017, Equifax reported the delinquent mortgage (SOR ¶ 1.a) as \$14,588 past due as of November 2014. The defaulted credit cards (SOR ¶¶ 1.b and 1.c) were reported as unpaid charge-offs. (GE 4.) In January 2018, the DOD CAF issued an SOR to Applicant because of the mortgage and two credit-card delinquencies. In response to the SOR, Applicant indicated that the mortgage was settled without a foreclosure, but that he had been unable “to get any recourse” regarding the credit-card debts. (Answer.) As of March 2018, the mortgage was on his credit record as a “foreclosure” and past due for \$14,588. No payments had been made toward the \$11,984 and \$8,070 charged-off credit delinquencies. Applicant was making payments on terms acceptable to his creditor on a credit card with a \$1,000 limit opened in January 2017. (GE 5.) The card is self-funded in that Applicant deposits \$1,000 and can charge against his balance. (Tr. 58.)

Applicant purchased a legal plan through his part-time job with the home-improvement retailer, and in approximately July 2018, he consulted with an attorney, primarily about routine legal services. (Tr. 54.) Applicant advised the attorney that he had two old credit-card accounts that he last used six years ago and were closed in 2013. The attorney advised him to look into the applicable state statute of limitations regarding debt collection. According to Applicant, the attorney stated that if it was close to the date barring legal collection, he would suggest “just let it ride.” (Tr. 29-30.) Applicant already knew that the state in which he incurred his credit debts has a three-year statute of limitations for credit-card debts. (Tr. 56.) He learned that the state has a five-year statute of limitations on written contracts, and that the state in which he has resided since August 2013 was more favorable to creditors in that it has a six-year statute of limitations for all financial contracts. (AEs D, G; Tr. 56.) Applicant considered the credit-card delinquencies “off the books and off [his] plate.” Thinking he had a slim chance of obtaining the security clearance needed to keep his job, he made no effort to resolve his delinquent debts as of September 2018. (AE D; Tr. 49-50, 56.)

Applicant’s current annual income from his defense-contractor job is approximately \$80,105. (Tr. 44-45, 51, 57.) He had \$3,635 in combined checking account deposits as of September 2018, but his rent check had not yet cleared. (Tr. 26.) He had \$13,272 in his savings accounts. (AE C.) Applicant has been building his savings for emergency expenses because of his difficulty getting consumer credit. (Tr. 51-52.) He averaged \$2,195 in monthly bill expenses from April 2018 to September 2018, which included rent at \$1,435 per month but excluded food, personal care items, and other miscellaneous expenses. (AE B.) Applicant pays \$100 in child support per month and has his daughter on his health insurance. (Tr. 52.) Applicant recently purchased a motorcycle for \$700 cash that he uses on occasion to keep down the mileage on his 2007 model-year vehicle, which has 160,000 miles on the engine. (Tr. 53.)

At his hearing, Applicant admitted that he did not want to reach out to his creditors to resolve the credit-card delinquencies because it would “restart the time clock” on the debts if he was going to be denied security clearance eligibility because of the defaulted mortgage. (Tr. 30.) He expressed a willingness to contact his creditors and attempt good-

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(Tr. 57.) He discrepantly gave a start date of September 9, 2017, for his part-time employment during his subject interview in late September 2017. (GE 2.) The discrepancy was not clarified.

faith settlements. I held the record open for over two months for Applicant to present evidence of settlement efforts. Applicant presented a letter from his attorney who rendered his professional opinion that Applicant's debts are no longer legally collectible because the laws of the state where the debts were incurred are likely controlling, and it has been more than three years since Applicant's last payment on the credit accounts. Regarding the defaulted mortgage, the attorney indicated that the five-year statute of limitations for written contracts has expired because Applicant defaulted on the loan before the October 31, 2013 date of abandonment of the property. (AE G.) The attorney billed Applicant \$1,091 for his services providing advice and his legal opinion on the debt matters. (AE I.)

On November 8, 2018, Applicant explained that he would have resolved his past-due credit-card debts two years ago if he had not been told by a co-worker that he would be disqualified from having a security clearance granted if he had a bankruptcy or a foreclosure on his record. Applicant requested that he be granted three months to address his credit issues, and that, if he fails to do so, Department Counsel could appeal a favorable grant. (AE H.) I held the record open to November 26, 2018, for proof of any efforts to resolve the SOR debts. On November 26, 2018, Applicant responded that he used the time to contact his creditors, but he had not been able to resolve the issues. He admitted that he is "conflicted" about resolving the debts because they are so close to dropping from his credit record, but that to get a clearance and work the issue in a short time as a requirement for continued employment would be the only option to "accept the punishment of having 7 more years of bad debt." (AE I.)

Applicant provides engineering support for a U.S. military program on a military base. The program manager has been able to rely on him "to be polite, inquisitive, professional and a team player in any area of [their] work." Applicant has been "punctual, dedicated and passionate about his work." (AE A.)

Applicant also provided character reference letters from personal associates and friends. Applicant has been active in his church. He has demonstrated honesty and reliability in his dealings with his pastor. A longtime friend also attested to Applicant's trustworthiness. A former co-worker and small business partner indicated that Applicant has always upheld the strictest of moral standards. Applicant was described as "efficient, detail-oriented, and extremely competent" by a former colleague. They met in 1999 while performing contract work for a defense contractor. Applicant has been "a go-to resource" for him on more than one occasion when he needed help on projects. He has known Applicant to "lead by example when it came to ensuring the safety and security of information and people both professionally and personally." (AE A.)

## **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's admissions and the available credit reports establish the delinquencies alleged in the SOR. In 2012, Applicant and his ex-wife defaulted on a mortgage loan for his then residence. Applicant made no payments on the credit cards in SOR ¶¶ 1.b and 1.c after December 2012, and his accounts were closed in March 2013 because of nonpayment. Disqualifying conditions AG ¶¶ 19(a), "inability to satisfy debts," and 19(c), "a history of not meeting financial obligations," apply. Moreover, AG ¶ 19(b), "unwillingness to satisfy debts regardless of the ability to do so," is implicated. Applicant chose to ignore the credit-card delinquencies even after obtaining his present job at a salary of \$80,000 a year because collection was legally barred in the state in which he incurred the debts.

Applicant has the burden of establishing that matters in mitigation apply. 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.

Although the delinquencies were incurred more than five years ago, AG ¶ 20(a) is not mitigating of his years of disregard of his legitimate indebtedness. He has made no payments toward the debts, even though they continue to adversely affect his credit.

AG ¶ 20(b) has some applicability in that the debts were caused by underemployment. Whether he resigned voluntarily from his job in March 2009 for health reasons, was laid off, or forced out when his employer hired someone else to manage the system he had upgraded, Applicant was unable to find work in the information technology sector for the income needed to meet all his financial obligations. As a self-employed computer engineer, he had no control over the market for his services. Even though his debts may be attributed to conditions beyond his control, Applicant must also demonstrate that he acted responsibly under the circumstances to address his delinquent debts. Regarding the delinquent mortgage, he offered to deed the property in lieu of foreclosure and tried a short sale before the lender deemed the property abandoned and released the mortgage. Applicant and his spouse were \$14,588 past due on their loan at the time. He was released from the mortgage in October 2013, although there is no indication that his debt was cancelled. Even giving him some time to stabilize his finances after he began his defense-contractor employment in September 2016, he did not demonstrate an adherence to his financial obligations by ignoring known credit card delinquencies because they were no longer legally collectible in the state where the debts were incurred.

Neither AG ¶ 20(c) nor AG ¶ 20(d) has been shown to fully apply. There is no evidence that Applicant is being pursued for any debt on the mortgage loan. However, abandonment of a financial obligation is not a good-faith effort to resolve a debt. Regarding the statute of limitations, the Appeal Board recently reaffirmed its long-held position about debts that are no longer legally collectible, as follows:

The security significance of long delinquent debts is not diminished merely because the debts have become legally unenforceable owing to the passage of time. Security clearance decisions are not controlled or limited by any statute of limitation, and reliance on the non-collectability of a debt does not constitute a good-faith effort to resolve that debt within the meaning of the Directive. A security clearance adjudication is not a proceeding aimed at collecting an applicant's personal debts. Rather a security clearance adjudication is a proceeding aimed at evaluating an applicant's judgment, reliability, and trustworthiness to make a decision about the applicant's security eligibility. Accordingly, even if a delinquent debt is legally unenforceable . . . , the federal government is entitled to consider the facts

and circumstances surrounding an applicant's conduct in incurring and failing to satisfy the debt in a timely manner.

ISCR Case No. 17-01473 at 5 (App. Bd. Aug. 10, 2018) (quoting ISCR Case No. 10-03656 at 3 (App. Bd. Jan. 19, 2011)).

Applicant was on notice as of his September 2017 interview that his delinquent debts were of concern to the DOD. He indicated at that time that he was still under negotiations to settle his delinquent credit-card accounts. He now admits that he did not intend to resolve them because the statute of limitations had run. Even before he consulted with an attorney in July 2018, he did not see a reason to address his delinquent debts, thinking that he had a slim chance of obtaining a security clearance. While it may be financially advantageous for Applicant to wait for the debts to drop from his credit report, it casts doubt on his judgment and reliability with regard to complying with security rules and regulations.

Applicant's financial situation has stabilized in that he is able to meet all of his current financial obligations. He has managed to accumulate approximately \$13,272 in savings, which would indicate that he has some funds available to make payments toward his delinquent debts. After his hearing, Applicant requested that he be granted a security clearance conditionally for two to three months to give him time to address his debts, and if he fails to do so, the Government can then appeal the favorable grant. I have considered the exceptions in Appendix C of the Directive<sup>4</sup> and decline to apply them, particularly in this case where Applicant was given more than two months after his hearing to show that he is currently engaged in any debt-resolution efforts or repayment plans. While he may now be willing to accept "the punishment of having 7 more years of bad debt," it is not enough to warrant an exception. 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). Applicant has not mitigated 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.

Applicant has been a productive and dedicated employee for a defense contractor. His government customer has been able to rely on him for engineering support. Yet, 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

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<sup>4</sup> Appendix C of Security Executive Agent Directive (SEAD) 4 grants DOHA administrative judges the discretionary authority to grant initial or continued eligibility for a security clearance *despite the presence of an issue(s) that can be partially but not completely mitigated* with the provision of additional security measures.

clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). For the reasons noted, I cannot find that it is clearly consistent with the national interest to grant Applicant 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:	AGAINST APPLICANT
Subparagraphs 1.a-1.c:	Against Applicant

### **Conclusion**

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

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Elizabeth M. Matchinski  
Administrative Judge