



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

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ISCR Case No. 21-00748

Applicant for Security Clearance

**Appearances**

For Government: Aubrey M. De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*

04/08/2022

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant failed to make sufficient progress resolving two of the debts listed on the statement of reasons (SOR). Guideline F (financial considerations) security concerns are not mitigated, and eligibility for access to classified information is denied.

**Statement of the Case**

On September 3, 2019, Applicant completed and signed his Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On June 22, 2021, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline F. (HE 2) On

September 23, 2021, Applicant provided his response to the SOR, and he requested a hearing. (HE 3)

On December 7, 2021, Department Counsel was ready to proceed. On December 16, 2021, the case was assigned to me. On December 20, 2021, Applicant agreed to a hearing date of January 25, 2022. (HE 1) On January 10, 2022, the Defense Office of Hearings and Appeals issued a Notice confirming the hearing date of January 25, 2022. (*Id.*) His hearing was held as scheduled in the vicinity of Arlington, Virginia using the DOD Microsoft Teams video teleconference system. (*Id.*)

During the hearing, Department Counsel offered four exhibits, which were admitted without objection. (Tr. 27-28; Government Exhibits (GE) 1-GE 4) Applicant did not offer any documents at his hearing. (Tr. 18-19) On February 4, 2022, DOHA received a transcript of the hearing. Four documents were received after Applicant's hearing, and they were admitted into evidence without objection. (Applicant Exhibit (AE) A-AE D) The record closed on February 22, 2022. (Tr. 76, 81) Applicant mentioned during his hearing that he intended to submit Power Point slides; however, after his hearing he indicated he could not locate them. (AE E) He covered the content of the slides during his statement at his hearing.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Findings of Fact**

In Applicant's SOR response, he admitted parts of the SOR allegations in ¶¶ 1.a through 1.c, and he denied other parts of the SOR allegations. (HE 3) He also provided mitigating information. (*Id.*) His admissions are accepted as findings of fact. Additional findings follow.

Applicant is 37-year-old senior logistician. (Tr. 6; GE 1) In 2006, he received a bachelor's degree with a major in political science, and in 2013, he was awarded a master's degree in data and supply chain management. (Tr. 7; GE 1) He served on active duty for nine years in the Marine Corps, and then continued in the Marine Corps Reserve. (Tr. 7-8) He is currently a major. (Tr. 8, 34) In 2006, he married, and his four children are ages six, seven, eight, and ten. (Tr. 8-9)

### **Financial Considerations**

Applicant's current annual salary is \$135,000, and his spouse's annual salary is \$155,000. (Tr. 55) He has an additional annual income of about \$20,000 from other sources. (Tr. 55-56) He has substantial funds in the bank. (Tr. 56; AE C) From 2016 to 2022, Applicant and his spouse's gross annual income averaged from \$250,000 to \$300,000. (Tr. 68) He estimated his net worth to be about \$650,000. (Tr. 69) His net monthly remainder is about \$8,000. (Tr. 57) Several years ago, Applicant spent \$42,000 in medical and legal expenses to adopt a child. (Tr. 25) The adoption expenses reduced Applicant's available funds. Applicant's spouse is a physician's assistant. (Tr. 39)

Applicant and his spouse invested in several real estate investment properties over the years.

In 2014, Applicant purchased a 10-acre lot and home in state M for \$189,000 near his civilian place of employment. (Tr. 36-37) Around 2014 to 2015, he spent about \$180,000 to expand the house from 1,400 square feet to 3,500 square feet. (Tr. 16, 21, 25, 36, 38) He contracted with a construction company (CC) and agreed to pay \$119,495 to CC to remodel his residence. (Tr. 38, 41) He had \$80,000 cash, and he borrowed the remainder on credit cards.

Applicant paid the final payment to the CC before the work was completed, and then CC left without completion of the work. (Tr. 16, 41) CC closed their company, and Applicant was unable to recover the funds paid to CC to complete the contract. (Tr. 16, 26, 42) He acknowledged he made a poor decision to pay CC before the work was completed. (Tr. 41) He paid other construction companies or individuals \$57,000 to complete the construction. (Tr. 17, 26) Completion of construction was necessary to enable Applicant's family to live in the residence. (Tr. 17-18)

Applicant was unsuccessful in getting an insurance company to pay to complete the construction or to recover the funds paid to CC. (Tr. 26, 42-43) He did not provide details about why his insurance policy might pay for his losses. Applicant was unsure about why he did not sue CC; however, it may have been an inability to collect from CC and a reluctance to pay litigation costs when CC might not pay any judgment obtained from a court. (Tr. 59) In 2021, Applicant sold the house and made a \$130,000 profit after the mortgage was paid. (Tr. 33)

The SOR alleged Applicant has three charged-off debts totaling \$44,471 as follows: SOR ¶¶ 1.a (\$3,136), 1.b (\$21,335), and 1.c (\$20,000).

In October 2015, Applicant hired a debt reduction company (DRC) to help resolve five delinquent debts. (AE A) He paid DRC \$580 monthly. (Tr. 52) The debt in SOR ¶ 1.a originated from a store charge card, and the debt in SOR ¶ 1.b originated from a financial credit card. (Tr. 46, 49) DRC wrote the creditors in SOR ¶¶ 1.a and 1.b; however, DRC said the creditors "did not respond and chose not to pursue the accounts so now the statute of limitations has expired, and they cannot legally collect these debts. We will now be challenging the accounts on the credit report to be removed." (Tr. 46; AE A) DRC advised Applicant not to pay the creditors in SOR ¶¶ 1.a and 1.b. (Tr. 49)

Applicant did not provide the correspondence DRC sent to the creditors in SOR ¶¶ 1.a and 1.b. He did not receive an IRS Form 1099-C (cancellation of indebtedness) from the creditors in SOR ¶¶ 1.a and 1.b. (Tr. 47) He never made an offer to settle the debt in SOR ¶ 1.b because DRC was handling the settlement negotiations. (Tr. 61-62) Applicant did not indicate that DRC ever offered a specific settlement amount to the creditors in SOR ¶¶ 1.a and 1.b. (Tr. 63-64) He had the funds available to pay the debt owed to SOR ¶ 1.b in full if he chose to do so. (Tr. 69-70) Applicant provided a February 17, 2022 TransUnion credit report which did not include the delinquent debts in SOR ¶¶ 1.a and

1.b; however, his December 7, 2021 Equifax credit report lists the debt in SOR ¶ 1.b, but not the debt in SOR ¶ 1.a. (GE 4 at 5, AE B)

Applicant said the three-year statute of limitations barred collection of the debts in SOR ¶¶ 1.a and 1.b, and he believed the debt was “no longer valid.” (Tr. 32-33) The statute of limitations for a credit card debt in the state where his residence was located in 2015 and 2016 is five years. Applicant did not indicate the state with the three-year statute of limitations or provide information about why that state would have jurisdiction over his debts.

DRC said the creditor in SOR ¶ 1.c “chose not to respond and then charged off the account and did not pursue it despite our attempts and it is now past the statute of limitations and cannot legally be enforced.” (*Id.*) In 2015, the creditor in SOR ¶ 1.c issued an IRS Form 1099-C indicating the creditor cancelled a debt owed by Applicant for \$18,093. (SOR response at 7) Applicant said the debt was “paid off in full per negotiated settlement amount.” (SOR response at 3) Actually, he paid the settlement amount, and declared the \$18,093 as income on his federal income tax return. (Tr. 61)

Applicant explained that he did not pay the debts in SOR ¶¶ 1.a, 1.b, and 1.c because CC should have repaid the funds Applicant borrowed and paid to CC to complete work that was not performed. (Tr. 53) Applicant wanted DRC to convince some of his creditors to seek repayment from CC rather than from him. (Tr. 44) He was “under the impression” from DRC that the creditors could seek repayment from CC and when the creditors elected not to do so, Applicant elected not to repay the creditors in SOR ¶¶ 1.a and 1.b. (Tr. 54)

Applicant said he paid the debts he believed to be legitimate, and he did not pay the debts in SOR ¶¶ 1.a and 1.b because he questioned their validity. (Tr. 60) Applicant conceded that the lack of privity made enforcement by the creditors unlikely, that is, the contract between Applicant and CC is only binding on Applicant and CC (the actual parties to the contract), and creditors did not have a contractual basis to enforce the contract. (Tr. 65-66)

Two non-SOR creditors responded to DRC’s request for information, and DRC settled both debts on Applicant’s behalf. (AE A) Applicant established payment plans for some of his other debts. (Tr. 45-46) One non-SOR creditor obtained a judgment against Applicant for \$9,822. (Tr. 61) Applicant made \$2,000 monthly payments required by the judgment, and he resolved the debt. (Tr. 61)

Aside from the two debts in SOR ¶¶ 1.a and 1.b, Applicant has excellent credit. (Tr. 75; AE B) As to SOR ¶¶ 1.a and 1.b, he relied on the DRC’s advice, which was to allow DRC to negotiate settlement of his debts. (Tr. 75) He described himself as an honest, honorable, and trustworthy person. (Tr. 75)

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk 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. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the

facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## Analysis

### Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(b) unwillingness to satisfy debts regardless of the ability to do so”; and “(c) a history of not meeting financial obligations.”

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government’s obligations

under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

The financial considerations mitigating conditions under AG ¶ 20 are as follows:

(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 individual has received or is receiving financial 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.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access

to classified information will be resolved in favor of the national security.”  
Directive, Enclosure 2 ¶ 2(b).

Applicant described two circumstances beyond his control, which adversely affected his finances. He and his spouse adopted a child and spent \$42,000 in medical and legal expenses. He was the victim of an unscrupulous construction company (CC) when his home was under construction, which cost about \$57,000 to remedy. However, “[e]ven if Applicant’s financial difficulties initially arose, in whole or in part, due to circumstances outside his control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties.” ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)). Applicant did not file a lawsuit against CC. Applicant did not establish privity between CC and the creditors in SOR ¶¶ 1.a and 1.b. His dispute with CC does not provide a reasonable reason for him not to pay his debt owed to the creditors in SOR ¶¶ 1.a and 1.b.

Another component under AG ¶ 20(a) is whether Applicant maintained contact with creditors and attempted to negotiate partial payments to keep debts current. Applicant did not provide supporting documentary evidence that he maintained contact with the creditors in SOR ¶¶ 1.a and 1.b. He did not provide the letters that DRC sent to the creditors. He did not provide any evidence of any payments or settlement offers sent to these two SOR creditors after 2015. For example, if a debtor knows a valid debt is owed to a creditor, it does not show good faith to write the creditor, ask for a copy of the contract, and then refuse to pay the debt until the creditor provides a copy of the contract. A creditor must provide a copy of the contract to enforce a debt in court; however, in security clearance cases, the Applicant has the burden of providing proof a debt is invalid once it appears on their credit report.

Applicant’s debts in SOR ¶¶ 1.a and 1.b do not appear on his February 17, 2022 TransUnion credit report. These two debts may have been dropped from his credit report. “[T]hat some debts have dropped off his [or her] credit report is not meaningful evidence of debt resolution.” ISCR Case No. 14-05803 at 3 (App. Bd. July 7, 2016) (citing ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015)). The Fair Credit Reporting Act requires removal of most negative financial items from a credit report seven years from the first date of delinquency or the debt becoming collection barred because of a state statute of limitations, whichever is longer. See Title 15 U.S.C. § 1681c. See Federal Trade Commission website, *Summary of Fair Credit Reporting Act Updates at Section 605*, <https://www.consumer.ftc.gov/articles/pdf-01111-fair-credit-reporting-act.pdf>. Debts may be dropped from a credit report upon dispute when creditors believe the debt is not going to be paid, a creditor fails to timely respond to a credit reporting company’s request for information, or when the debt has been charged off.

DRC provided reasonable financial advice to Applicant about state statutes of limitations. State statutes of limitations for various types of debts range from 2 to 15 years. See Nolo Law for All website, Chart: Statutes of Limitations in All 50 States, <http://www.nolo.com/legal-encyclopedia/statute-of-limitations-state-laws-chart-29941>.



[html](#). According to the Federal Trade Commission, Consumer Information webpage, it is illegal under the Fair Debt Collection Practices Act for a creditor to threaten to sue to collect a time-barred debt. <http://www.consumer.ftc.gov/articles/0117-time-barred-debts>. The South Carolina Court of Appeals succinctly explained the societal and judicial value of application of the statute of limitations:

Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence and promote repose by giving security and stability to human affairs. The cornerstone policy consideration underlying statutes of limitations is the laudable goal of law to promote and achieve finality in litigation. Significantly, statutes of limitations provide potential defendants with certainty that after a set period of time, they will not be [haled] into court to defend time-barred claims. Moreover, limitations periods discourage plaintiffs from sitting on their rights. Statutes of limitations are, indeed, fundamental to our judicial system.

*Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 175-76, 609 S.E.2d 548, 552 (S.C. Ct. App. 2005) (internal quotation marks and citations omitted). South Carolina case law is not binding on state courts in other states. However, the South Carolina Court of Appeals' description of the basis for this long-standing legal doctrine is instructive. See also *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 486 (1988) (where the U.S. Supreme Court noted that "The State's interest in a self-executing statute of limitations is in providing repose for potential defendants and in avoiding stale claims.").

DRC said the state statute of limitations was three years; however, the home under construction was in a state with a statute of limitations for credit card debt of five years. See *Credit.Com* website, <https://www.credit.com/debt/statutes-of-limitations/>. Once Applicant stopped making payments, the creditor had to file suit within the statute of limitations to maintain the collectability of their debt. There is no evidence that the creditors in SOR ¶¶ 1.a and 1.b took judicial action in court to pursue collection of these two debts. Assuming Applicant's debts in SOR ¶¶ 1.a and 1.b are collection barred, they are still relevant to financial considerations security concerns:

Applicant's argument concerning the unenforceability of the largest debt due to the running of the statute of limitations fails to demonstrate the Judge erred. First, security clearance decisions are not controlled or limited by statutes of limitations. Second, absent an explicit act of Congress to the contrary, the Federal Government is not bound by state law in carrying out its functions and responsibilities. Applicant does not cite to any Federal statute that requires the Federal Government to be bound by state law in making security clearance decisions. Third, a security clearance adjudication is not a proceeding aimed at collecting an applicant's personal debts. Rather, it is a proceeding aimed at evaluating an applicant's judgment, reliability, and trustworthiness. Accordingly, even if a delinquent debt is legally unenforceable under state law, has been discharged in a bankruptcy, or is paid, 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. See, e.g., ISCR Case No. 01-09691 at 3 (App. Bd. Mar. 27, 2003). In this case, the Judge's consideration of the unenforceable debt in making her security clearance eligibility determination was not arbitrary, capricious, or contrary to law.

ISCR Case No. 15-02326 at 3 (App. Bd. Oct. 14, 2014). The Appeal Board has "held that reliance on a state's statute of limitations does not constitute a good-faith effort to resolve financial difficulties and is of limited mitigative value." ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016) (citing ADP Case No. 06-18900 at 5 (App. Bd. Jun. 6, 2008); ISCR Case No. 03-04779 at 4 (App. Bd. Jul. 20, 2005); ISCR Case No. 01-09691 at 2-3 (App. Bd. Mar. 27, 2003)). See, e.g., ISCR Case No. 08-01122 (App. Bd. Feb. 9, 2009) (reversing grant of security clearance); ADP Case No. 06-14616 (App. Bd. Oct. 18, 2007) (reversing grant of security clearance and stating "reliance upon legal defenses such as the statute of limitations does not necessarily demonstrate prudence, honesty, and reliability; therefore, such reliance is of diminished probative value in resolving trustworthiness concerns arising out of financial problems" (citing ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006))).

Applicant did not describe any financial counseling. Applicant had ample financial resources over the last five years to resolve the debts in SOR ¶¶ 1.a and 1.b. There is no clear evidence that these two debts are being resolved. I have assumed that Applicant could not be held financially responsible for the debts in SOR ¶¶ 1.a and 1.b because of the statute of limitations. However, he did not provide sufficient documentation about why he was unable to make greater documented progress resolving these two debts. He did not show that the creditors would refuse payment notwithstanding the statute of limitations. There is insufficient assurance that this financial problem is being resolved. Under all the circumstances, he failed to establish mitigation of financial considerations security concerns.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration

of the guidelines” and the whole-person concept. My comments under Guideline F are 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 is 37-year-old senior logistician. In 2006, he received a bachelor’s degree with a major in political science, and in 2013, he was awarded a master’s degree in data and supply chain management. He served on active duty for nine years in the Marine Corps, and then continued in the Marine Corps Reserve. He is currently a major. He is clearly intelligent and has greater than average financial acumen.

Applicant provided important financial mitigating information. His finances were harmed by several circumstances beyond her control. All of his debts are current, except for the debt in SOR ¶¶ 1.a and 1.b. He and his spouse have ample income to pay their debts and maintain their financial responsibilities.

The evidence against grant of a security clearance is more substantial at this time. Applicant did not provide documentation about why he was unable to make greater documented progress resolving the debts in SOR ¶¶ 1.a and 1.b. Applicant did not provide a persuasive reason why he did not make specific and reasonable offers to settle the two debts. His lack of responsible financial action in regard to the debts in SOR ¶¶ 1.a and 1.b over the last seven years raises unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

It is well settled that once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. “[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant’s eligibility for access to classified information.” ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No.12-00270 at 3 (App. Bd. Jan. 17, 2014)).

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards documented resolution of his past-due debt, and a better track record of behavior consistent with his obligations, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate financial considerations security concerns.

### **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 and 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant

### **Conclusion**

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

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Mark Harvey  
Administrative Judge