



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



In the matter of: )  
 )  
 REDACTED ) ISCR Case No. 21-00608  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Andrea M. Corrales, Esq., Department Counsel  
For Applicant: *Pro se*

06/27/2022

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant became seriously delinquent on several consumer-credit accounts, primarily because he indulged his third wife’s desire to live apart from him and was late in preventing her from accessing his credit. More progress is needed towards resolving the past-due debts for which he is legally liable. Concerns about his financial judgment are not fully mitigated. Clearance eligibility is denied.

**Statement of the Case**

On June 18, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F, financial considerations. The SOR explained why the DCSA CAF was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DCSA CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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.*

On July 28, 2021, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On September 20, 2021, a DOHA Department Counsel indicated that the Government was ready to proceed to a hearing. On September 27, 2021, the case was assigned to me to determine whether it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant. I received the case file and assignment on October 6, 2021.

Scheduling the hearing was delayed due to the COVID-19 pandemic. On February 22, 2022, I informed Applicant that I was scheduling hearings via Microsoft Teams. After some coordination with the parties, on April 8, 2022, I scheduled a video conference hearing to be held on May 6, 2022. On May 2, 2022, I granted Applicant a continuance to May 17, 2022, to give him time to review the Government's potential exhibits, which he indicated he had not received in time for a May 6, 2022 hearing.

At the hearing convened on May 17, 2022, five Government exhibits (GEs 1-4 and 6) and five Applicant exhibits (AE A-E) were admitted into the record. Applicant objected to proposed GE 5, a summary report of his personal subject interviews. The document was not accepted into the record as it lacked the authentication required for admissibility under E3.1.20 of the Directive. Applicant testified, as reflected in a hearing transcript (Tr.) received by DOHA on May 26, 2022.

I held the record open for one month after the hearing for additional documentation from Applicant. On June 16, 2022, Applicant submitted four documents, which were admitted without objection as AE F through AE H. Applicant's forwarding email was marked and admitted as AE I.

### **Findings of Fact**

The SOR alleges that, as of June 18, 2021, Applicant owed eight debts totaling \$49,484 (SOR ¶¶ 1.a-1.b, 1.e-1.f, and 1.h-1.k); three charged-off debts totaling \$41,283 (SOR ¶ 1.c-1.d and 1.g); and a \$535 judgment debt from 2019 (SOR ¶ 1.l). When Applicant answered the SOR, he admitted the alleged debts in SOR ¶¶ 1.b-1.f and 1.k, and indicated that he was working on repayment terms for the debts in SOR ¶¶ 1.b, 1.c, 1.e, and 1.f; that he has taken action to pay off the debt in SOR ¶ 1.k, but that the debt in SOR ¶ 1.d has been written off. Applicant denied owing the medical debts in SOR ¶¶ 1.a and 1.g, asserting that they were his spouse's debts; the student loan delinquencies in SOR ¶¶ 1.h-1.j, asserting that they had been paid in full; and the judgment debt, asserting that it was for a check forged by his spouse.

I accept and incorporate as factual findings that Applicant was legally responsible to repay the delinquencies admitted by him. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 62-year-old program manager employed by a defense contractor most recently since July 1997. He previously worked for the company as an engineering assistant from September 1980 to February 1994. (GE 1.) Around July 1979, he was granted a secret-level security clearance for his matriculation at one of the United States military academies. He resigned his commission in October 1979 for medical reasons. (GE 1; Tr. 39.) Applicant held a secret-level clearance for his work with his current employer until 2008, when his clearance eligibility was upgraded to the top-secret level. (GE 1.) He currently holds a top-secret clearance and access eligibility to sensitive compartmented information. (Tr. 88.)

Applicant attended college at night for 17 years. He earned an associate's degree in electrical engineering in 1985 and a bachelor's degree in professional business management in 1995. (Tr. 39, 145-146.)

Applicant was married to his first wife from August 1980 to January 1992. He has two children from that marriage who are now ages 33 and 40. (GE 1; Tr. 52.) He married his second wife in February 2005 and was widowed in March 2014. (GE 1.) His second wife was diagnosed with a brain tumor in August 2012. She ended up in a coma and spent 22 months in a hospital until her death. Applicant spent a considerable amount of time at the hospital. (Tr. 29.) On her death, he served as the administrator for her trust (Tr. 53), which included the home that they had shared during their marriage. She owned the home from her previous marriage, and the deed to the property was in her name only. (Tr. 61-62.) Three of her children from a previous marriage (including a son now deceased) contested the estate. (Tr. 147-148.) The trust tied up Applicant's finances, as he continued to make the payments on two mortgages with initial balances of \$85,000-\$90,000 and \$50,000-\$55,000 on the property. He paid off the mortgages around mid-2018, and, pursuant to a court order, sold the property in September 2018. The proceeds from the sale were held by the trust until his second wife's estate was settled in January 2022. (Tr. 62-63.) In the end, Applicant and his second wife's children settled out of court. (Tr. 148.) Applicant incurred more than \$43,000 in attorney's fees in the battle over the trust assets. (Tr. 34,146-147.)

Applicant incurred substantial credit-card debt during his second marriage, in part to pay medical co-payments for his then-wife's care. (Tr. 59-60.) He testified that most of her medical debts were written off by her creditors on her death. (Tr. 59.) However, he also testified that, in 2016, he paid off more than \$90,000 in credit-card debt on four accounts (two accounts not alleged and the accounts in SOR ¶¶ 1.c and 1.f). His monthly payment totaling \$4,000 on those four accounts was unsustainable, so in July 2016, he re-mortgaged his home from his first marriage for \$103,000 and used some of the funds to pay off the four credit-card accounts. (GE 2; Tr. 57-60.) Additionally, in October 2016, he obtained a debt consolidation loan to pay off some credit-card debt. That loan became delinquent in October 2018 and was charged off for \$20,138 (not alleged).

Still grieving the loss of his second wife and lonely, Applicant met his third wife in late 2015 while out at a club. (Tr. 68, 87.) She was 29 years younger than him, had a young child (Tr. 69), and portrayed herself as loving with good ethics. (Tr. 30.) They got

engaged in February 2016 (Tr. 70) and were married in September 2016. (GE 1.) They lived apart throughout their marriage because she wanted to stay near her family, and it was not a reasonable commute for him. (Tr. 70-71.) He thought that they would live together at some point, but it didn't happen. (Tr. 60.) Applicant paid for her living expenses, daycare for her child, and gave her additional money when she asked for it. (Tr. 30-31, 69.) He gave her about \$2,200 a month starting in February 2016. (Tr. 70.) She held part-time employment in daycare. (Tr. 72.)

Around September 2016, Applicant's spouse began running up debt on his credit cards. (Tr. 74.) Initially, he saw no issues with her purchases, as they were for items he thought she needed, like a television. (Tr. 75.) She initially charged \$200 to \$300 a month on his accounts, which did not seem excessive until it "snowballed." (Tr. 72.) Eventually, unbeknownst to Applicant at the time (Tr. 77), she gained access to his credit cards by going through his wallet and writing down the account numbers. She purchased items over the telephone using his credit and pawned some items for the money. She pawned her rings in late 2017 or early 2018. He argued with her over her misuse of his credit, but he did not immediately close the accounts, as she would make "all kinds of threats" that he could no longer see her or she no longer wanted to be a couple. (Tr. 31-33, 73-75.) Additionally, in late 2017, she took his ATM card without his knowledge and drained his bank account. He discovered it when he went to use the card. (Tr. 74.) Yet he continued to support her because he took his marriage vows seriously, and she would cry that she needed help. (Tr. 75.) He took no action to freeze his credit because he did not know he could do so. (Tr. 100.)

In August 2018, Applicant's spouse was arrested for possession of heroin, confirming Applicant's suspicions that she had a drug problem. (Tr. 68.) They shared a checking account, and on her arrest, he immediately closed all his accounts so she could no longer have access. (Tr. 72.) He testified that he paid for four drug-rehabilitation programs for her (Tr. 33, 76), spending "thousands of dollars" in increments of "\$700 here, \$800 there." He purchased plane tickets and sent her money for bedding and clothes. (Tr. 149.) During her fourth rehabilitation program, she purchased a car in early 2019 that was eventually repossessed in September 2019. He asserts that she managed to obtain the loan in SOR ¶ 1.b for the vehicle in his name without his knowledge. (Tr. 33, 37, 81.) He stopped providing financially for his spouse in March 2019. (Tr. 80, 151.) Applicant and his spouse tried to live together in March 2019, after she had been discharged from her rehabilitation program, but that lasted only one week as he discovered she was again using drugs. (Tr. 82-83, 151.) By the time he and his wife separated in June 2019, Applicant was seriously in debt. (GEs 1-4.) He estimates that he provided his spouse a total of \$150,000 to \$200,000 between 2016 and early 2019. (Tr. 82.) He testified that "it took [him] a long time to wake up to the fact that [he was] dealing with a drug addict." (Tr. 141.)

Applicant filed for divorce in May 2022. (AE C; Tr. 46, 149.) He paid a \$1,000 retainer fee upfront. (Tr. 148.) He and his spouse entered into a prenuptial agreement in 2016 when his annual salary was about \$150,000. (Tr. 152.) Under that agreement, he would have lost about \$100,000, which was a percentage of his property holding from his first marriage, if he filed for divorce without cause, so he delayed filing for divorce until he

was able “to demonstrate clearly beyond a shadow of a doubt that she had been in — unfaithful.” He found out that she was living with another man in 2019. He did not have the funds to pay for a divorce attorney earlier. (Tr. 80, 85-87.) Applicant now indicates that on the advice of his attorney, he plans to refile for divorce on June 24, 2022. (AE I.)

On January 30, 2020, Applicant completed and certified as accurate a Questionnaire for National Security Positions (SF 86). In response to SF 86 inquiries into delinquency involving routine accounts, Applicant reported that student loans he had taken out as a parent for his son’s education became delinquent around June 2019 in the amount of \$15,000 and were placed for collection. He reported that the debt collector would not agree to a three-year repayment plan and so began garnishing his pay at \$720 every two weeks since September 2019. He also listed two credit-card delinquencies of approximately \$23,000 (SOR ¶ 1.c) and \$26,000 (SOR ¶ 1.f); a jewelry debt for \$8,000 (SOR ¶ 1.e); delinquent property taxes of \$7,500 (not alleged, on his property from his first marriage); two smaller retail charge debts of \$2,600 and \$700 (not alleged) that he paid off; and a car-loan delinquency of \$26,000 (SOR ¶ 1.d) for a repossessed vehicle. He cited as the reason for his financial issues that his “soon to be ex-wife is a drug addict and stole monies [from him] placing [him] in extreme financial duress.” He indicated that those debts that were not paid were on a list to be addressed once his divorce is finalized, and that he planned to resolve the issues “in an order that is reasonable.” (GE 1.)

The delinquency and payment histories for the debts in the SOR, as reflected on one or more of the credit reports in evidence from March 2020 (GE 4), March 2021 (GE 3), and April 2022 (GE 2), are reflected in the following table.

<b>Debt alleged in SOR</b>	<b>Delinquency history</b>	<b>Payment Status</b>
\$186 medical debt in collection (SOR ¶ 1.a)	Medical debt first delinquent Aug. 2018; \$186 assigned for collection Feb. 2019. (GE 3.)	No payments on \$186 balance as of Apr. 2022 (GE 2); does not intend to pay it because he believes it is his wife’s responsibility. (Tr. 65, 96-97.)
\$7,831 loan balance in collection (SOR ¶ 1.b)	Car loan opened Jan. 2019 for \$15,131; asserts spouse bought vehicle in his name without his knowledge (Tr. 33, 98); first delinquent May 2019; no payments as of Aug. 2019 (AE B); asserts he learned of debt when car repossessed in Sept. 2019 (Tr. 99); account for collection Aug. 2020, \$7,300 credited toward account (AE B); \$7,831 balance as of Apr. 2022. (GE 2-4; AE B.)	Summer 2021 notified by creditor debt placed for collection; creditor wanted \$7,500 in lump sum (Tr. 100-102); collection entity now willing to accept \$2,581 in lump-sum payment (Tr. 36, 43-44, 101); no payments on \$7,831 balance as of May 2022, as giving priority to saving for moving expenses. (Tr. 101-102.)

<p>\$23,051 charged-off account (SOR ¶ 1.c)</p>	<p>Credit-card account opened Jan. 2004; \$21,626 for collection Sep. 2017; asserts that debt was incurred by spouse after he paid off the balance in 2016 (Tr. 103); charged off for \$23,051 Apr. 2018; \$15,581 past due as of Mar. 2021 on \$21,626 balance; written off by creditor. (GE 2-4.)</p>	<p>Debt passed to collection entity willing to settle for almost \$11,000 and accept installment payments; no payments as of May 2022. (Tr. 104.)</p>
<p>\$12,533 charged-off auto loan (SOR ¶ 1.d)</p>	<p>Car loan obtained for \$43,000 in Mar. 2016 (Tr. 108-111) for a 2017 model-year vehicle after previous vehicle totaled in an accident (Tr. 154); car payments around \$600 a month; first delinquent Nov. 2018; became two months past due on loan, made subsequent payments but not enough to bring loan current; claims brought loan current Dec. 2018 but vehicle repossessed next day (Tr. 35-36, 108-112); owed about \$26,000 on the loan (GE 1; Tr. 112); \$12,533 charged off Feb. 2019. (GE 2-4.)</p>	<p>No efforts to collect deficiency balance (Tr. 115-116); Applicant unaware of balance as of Jan. 2020 SF 86 (GE 1); no payments on \$12,533 balance as of May 2022 (GE 2; Tr. 112-113); Applicant asserts creditor has to “chase” him for any charged-off balance. (Tr. 115, 118-119); does not believe has to repay a written-off debt. (Tr. 119.)</p>
<p>\$8,640 account balance in collection (SOR ¶ 1.e)</p>	<p>Jewelry debt for \$8,482 opened Feb. 2016 for spouse’s wedding band (Tr. 120); last payment Apr. 2018; \$8,639 charged off July 2018; for collection Jan. 2019; \$8,785 balance as of Apr. 2022. (GE 2-4.)</p>	<p>Settlement attempts over the past year; latest offer half of the \$8,785 balance; no payments, hopes for a more favorable settlement offer. (Tr. 121.)</p>
<p>\$25,033 credit-card balance in collection (SOR ¶ 1.f)</p>	<p>Credit-card account opened Feb. 2005; first delinquent Aug. 2018; charged off for \$25,033 Feb. 2019; for collection Mar. 2020. (GE 3; Tr. 125.)</p>	<p>Three-option settlement offer as of Feb 2022: (1) \$10,013 paid in lump sum within 30 days; (2) \$11,105 payable at \$616 monthly for 18 months; (3) \$11,508 payable at \$479 monthly for</p>

		24 months (AE G); no payments; “not ready to commit” to make any payments until his housing situation is resolved. (Tr. 126-127.)
\$5,699 charged-off account (SOR ¶ 1.g)	\$9,000 credit line for cosmetic surgery for spouse opened Sep. 2016 with his knowledge; first delinquent Aug. 2017; \$5,699 charged off; \$5,844 past due as of Feb. 2021 and Apr. 2022. (GE 2-4; Tr. 128-129.)	Debt balance in collection; sixth or seventh debt in priority to resolve; no payments on \$5,844 balance. (Tr. 127-129.)
\$161 student-loan debt in collection (SOR ¶ 1.h)	\$16,000 student loan obtained May 2008 for son’s education; first delinquent Sep. 2017 (Tr. 130); wages garnished for debt Sep. 2020 to Mar. or Apr. 2021 (Tr. 92-93, 131-132, 135). (GE 2-3.)	Disputes \$161 balance reported on Apr. 2022 credit report (GE 2); asserts paid in full. (Tr. 133-134.)
\$2,735 student-loan debt in collection (SOR ¶ 1.i)	\$15,000 student loan for son’s education obtained Aug. 2009; first delinquent Sep. 2017 (Tr. 130); wages garnished for debt Sep. 2020 to Mar. or Apr. 2021 (Tr. 92-93, 131-132, 135); \$2,735 past-due balance as of Feb. 2021 and Apr. 2022. (GE 2-3.)	Disputes \$2,735 balance reported on Apr. 2022 credit report (GE 2); asserts paid in full. (Tr. 133-134.)
\$4,752 student-loan debt in collection (SOR ¶ 1.j)	\$18,078 student loan for son’s education obtained Aug. 2010; first delinquent Sep. 2017 (Tr. 130); wages garnished for debt Sep. 2020 to Mar. or Apr. 2021 (Tr. 92-93, 131-132, 135); \$4,752 past-due balance as of Feb. 2021 and Apr. 2022. (GE 2-3.)	Disputes \$4,752 balance reported on Apr. 2022 credit report (GE 2); asserts paid in full. (Tr. 133-134.)
\$146 utility debt in collection (SOR ¶ 1.k)	Power bill for spouse’s apartment (Tr. 136); for collection Oct. 2019; \$146 due as of Mar. 2020. (GE 4.)	Not listed on Mar. 2021 or Apr. 2022 credit reports; asserts paid in full. (Tr. 136.)

<p>\$535 judgment debt from 2019 (SOR ¶ 1.1)</p>	<p>\$535 small claims judgment filed Jan. 2019 against Applicant; notice mailed to an old address for him (GE 6); spouse in late 2017 forged check on his closed checking account for \$500 without his knowledge; bank dishonored check after creditor paid his spouse. (Tr. 31, 137-139.)</p>	<p>No payments on judgment (Tr. 140-141); made aware of judgment by DOHA (Tr. 32); asserts that state law does not allow him to file a fraud claim against a spouse (Tr. 31, 100).</p>
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Applicant was notified by letter from the U.S. Department of Education (U.S. DoED) of its intention to garnish his wages for the defaulted Parents Plus student loans. He asserts nonetheless that the garnishment of his wages was voluntary in that he “chose not to fight it.” The U.S. DoED wanted a lump-sum payment of the balances in full and would not agree to accept installment payments, so he “accepted” the garnishment as it operated as an installment repayment plan in amount similar to what he planned to offer. (Tr. 134-135.) In November 2021, the U.S. DoED notified Applicant that he was owed a refund for involuntary payments received since collections actions temporarily ceased by operation of law on March 13, 2020, due to the pandemic. (AE F.) The letter did not specify the amount to be refunded. Applicant maintains that the document is proof that he has paid the Parents Plus student loans. (AE I.)

In June 2021, Applicant bought a used vehicle. He put down about \$3,000 and obtained an automobile loan for \$13,654 with a repayment term of \$261 per month. (GE 2; Tr. 37-38, 47, 93.) As of March 2022, he had made timely payments on the account to reduce the loan balance to \$11,970. (GE 2.) Applicant testified that he is paid up on the loan through July 2022. (Tr. 38.)

In February 2022, Applicant received \$108,000 in the settlement of his second wife’s estate. (Tr. 42, 148.) He asserts that about \$40,000 of the money went to his attorney for legal fees associated with the resolution of the estate. He also paid off a \$25,000 loan from a lifelong friend. (Tr. 36, 64.) He explained that he borrowed the funds from his friend because he had to find a new attorney to handle the dispute over his second wife’s trust. (Tr. 66.) It is unclear whether some or all of this loan went to pay attorney fees over and above the \$40,000 paid in 2022.

Applicant currently rents his living quarters at \$700 a month, but he has to move out by the beginning of August 2022 because his landlord intends to renovate the upstairs. (Tr. 65, 67, 95, 117.) He expects the move to cost him \$6,000 to \$7,000, and his rent to more than double. (Tr. 65, 94-95.) He testified that he has to resolve his living situation before he begins to make payments on his delinquencies. (Tr. 104.) Applicant sees only two alternatives to address his debts: either bankruptcy, which he considers as not honorable, or negotiating settlements for reasonable balances, which he sees as “paying blackmail in a sense” because he did not personally benefit from the credit, was lied to by his third wife,



and suffered financially because of her abuse of his credit. (Tr. 105-107.) He has been frustrated at times in his efforts to negotiate settlements for his past-due debts “because people are greedy. They want their money. They want it yesterday. And they don’t care what your circumstances are or what.” (Tr. 124.)

Applicant still owns the house that he bought in 1987. (Tr. 47, 56.) The home is too far from his work for him to commute to work, so he rented it out for years until 2017. He could not afford needed repairs to the property so it sat vacant (Tr. 54.) He fell behind about \$7,500 on the property taxes. He paid some of the back taxes in April or May 2021 and the rest in 2022, using some of the money he received from his second wife’s estate. (GE 1; Tr. 36, 64.) He took \$12,000 to \$14,000 of the \$108,000 received from her estate to fix up the property so he could rent it out. (Tr. 64-65.) A tenant signed a lease on the property in February 2022. Applicant pays around \$575 a month on the mortgage for the property (Tr. 54-56) and is paid \$825 per month in rent. (Tr. 90.) He has made timely payments on the mortgage, which had a balance of \$101,360 as of April 2022. (GE 2.)

Applicant has an open line of credit for \$1,600 obtained in September 1993. As of April 2022, the outstanding balance was \$241. He has no open credit-card accounts. (GE 2.) He continues to receive offers of credit and was pre-approved for a credit card with a \$2,500 credit limit. That offer expired on May 18, 2022. (AE D.) He recently received a “Certificate of pre-qualification” for a personal loan of between \$1,000 and \$50,000, with the amount to be determined if he accepted the offer by June 16, 2022. (AE E.) He is not planning to accept any of the credit-card offers before his divorce is finalized. (Tr. 46-47.) He is considering obtaining a consolidation loan of \$20,000 to \$30,000 to pay off reduced settlement balances. (Tr. 49, 123.)

Applicant is currently negotiating with the creditor that had charged-off \$20,138 in loan debt (not alleged in SOR) that has been unaddressed since 2018. (GE 3.) On March 3, 2022, the collection entity holding the debt was willing to settle the debt for \$10,069. (AE H.) Applicant testified that he was alternatively offered a loan that would include the more than \$20,000 he owes. (Tr. 141-143.) He has made no payments on that debt. After his hearing, he retained the services of a credit-repair firm to correct his credit record and begin the process of repairing his credit. (AE I.) He provided no details about that arrangement or any no documentation in that regard.

Applicant’s annual salary from his defense-contractor employment is \$177,000. He received incremental wage increases over the years. (Tr. 151-152.) Over the past year, he has had about \$2,900 in monthly discretionary income after paying his living expenses, which he testified has gone to paying off some debts and repairing his property so he can rent it out. Prior to that time, his wages were being garnished for his parent student loans at \$1,500 a month. As of May 2022, he had about \$3,000 in checking-account deposits and \$900 in savings. He has almost \$300,000 in 401(k) assets. (Tr. 89-92.) He has not had any credit counseling. (Tr. 95.)

Applicant has no record of violating security requirements. (Tr. 38, 157-158.) He requests that he be given time to address his financial delinquencies and expects that he

will be able to settle some of the SOR debts over the next year, if he can settle them with repayment plans rather than in lump-sums. (AE I; Tr. 158.)

## 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.

Guideline F security concerns are established when an individual does not pay financial obligations according to terms. Applicant asserts that he incurred only the student loans (SOR ¶¶ 1.h-1.j), the car loan in SOR ¶ 1.d, and the jewelry debt in SOR ¶ 1.e. The collection debt in SOR ¶ 1.a and the charged-off debt in SOR ¶ 1.g were apparently medical procedures for his estranged third wife, and he does not intend to repay the debts unless he is legally required to do so. He asserts that she ran up the credit-card balances on the accounts in SOR ¶¶ 1.c through 1.f after he had brought the balances on those accounts to zero in 2016. The \$146 utility debt in SOR ¶ 1.k was for his spouse's apartment. As for the car loan in SOR ¶ 1.b, he testified that she somehow managed to obtain a loan using his credit without his knowledge. Regarding the judgment debt in SOR ¶ 1.i, Applicant explained that she fraudulently forged an old check that was dishonored by his bank. He presented no documentation showing that she forged a check, abused his credit without his knowledge, or that he is not legally liable for the debts in his name.

While the Government bears the burden of production on controverted issues of fact under ¶ E3.1.14 of the Directive, the Appeal Board has long held that a credit report is normally sufficient to meet the Government's burden of producing substantial evidence of indebtedness. See *e.g.*, ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015). All debts but the judgment debt (SOR ¶ 1.l) are listed on one or more of the credit reports in evidence. Absent evidence showing that he is not legally liable for any of the debts in the SOR, I find that AG ¶¶ 19(a) and 19(c) apply to the SOR debts, including the \$186 medical debt (SOR ¶ 1.a) and the \$146 utility debt (SOR ¶ 1.k), which were no longer on his credit report as of April 2022.

In addition to the accounts alleged in the SOR, Applicant defaulted on a loan that has a delinquent balance of \$20,138. Since the loan was not alleged, it cannot be considered for disqualification purposes. Nonetheless it can be properly considered for other purposes. The Appeal Board has held that conduct not alleged in the SOR may be considered for limited purposes, such as assessing an applicant's credibility; evaluating an applicant's evidence of extenuation, mitigation, or changed circumstances; considering whether an applicant has demonstrated successful rehabilitation; or providing evidence for the whole-person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006). The debt is relevant to assessing whether his financial situation has changed significantly to where it no longer presents a security risk.

Applicant bears the burden of mitigating the negative implications for his financial judgment raised by the delinquent debts. Application of the aforesaid disqualifying conditions triggers consideration of the potentially mitigating conditions under AG ¶ 20. The following may apply in whole or in part:

- (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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Regarding AG ¶ 20(a), Applicant asserts that the circumstances that led to his indebtedness will not recur because he is in the process of divorcing his wife, whose

financial irresponsibility and abuse of his credit to obtain money to support her drug habit caused him extreme financial duress. Applicant did not provide an explanation for how his wife managed to obtain a car loan in his name without his knowledge. His explanation that she forged an old check of his on a closed account is reasonable. Even so, the evidence shows that he continued to allow his wife to access his credit after he began to question some of her purchases. His belief that he was honoring his marriage is insufficient justification for allowing her to run up balances on credit cards to the point where he could no longer maintain the minimum payments. He testified that he argued with her over her spending, but it appears that he gave in to her threats that she would end their relationship if he cut off her access to his credit.

AG ¶ 20(a) also cannot fully apply because of the recency of the delinquencies. While the student loans (SOR ¶¶ 1.h-1.j) and the utility debt (SOR ¶ 1.k) have been sufficiently resolved to where they are no longer a source of financial pressure for him, Applicant has not made any payments on the other debt balances, including the small claims court judgment. An applicant's ongoing, unpaid debts evidence a continuing course of conduct and are considered recent. *See, e.g.,* ISCR 17-03146 at 2 (App. Bd. Jul. 31, 2018), citing, *e.g.,* ISCR Case No. 15-08779 at 3 (App. Bd. Nov. 3, 2017).

AG ¶ 20(b) is partially mitigating to the extent that Applicant's finances were negatively impacted by his second wife's medical expenses, which caused him to take on mortgage debt to pay off credit-card balances. He testified that he had to pay for two mortgages on the house he had shared with his second wife, even though he was not on the property deed. He incurred some \$43,000 in legal expenses in the contest over her trust. The legal fees were outstanding until the estate was settled in early 2022. AG ¶ 20(b) also applies in that his third wife incurred debt in his name without his knowledge, including by surreptitiously obtaining his credit-card account information.

Yet Applicant's financial problems cannot fully be attributable to circumstances outside of his control. Grief over his second wife's death explains a somewhat hasty marriage to a woman 29 years younger who took advantage of him, but he chose to support his third wife's desire to live apart during their marriage. He paid her living expenses and daycare for her child for at least two years while some of his financial accounts became delinquent and were charged off. He did not act expeditiously to cut off her access to his credit. He knowingly incurred the car loan in SOR ¶ 1.d, but contends that the creditor acted in bad faith by repossessing his vehicle, asserting that he made a payment to catch up on the loan the day before the vehicle was repossessed. However, he also acknowledged, and his credit reports show, that he made either partial or late loan payments leading to a history of chronic delinquency on the car loan. His parent student loans became seriously delinquent in December 2018 because he gave priority to paying for multiple drug-rehabilitation programs for his third wife. Her drug problem was outside of his control. However, it is difficult to conclude that Applicant acted fully financially responsibly as he lacks a track record of timely efforts to work with his creditors toward resolving or settling his financial issues. Despite the passage of three years since he and his third wife separated, he has made little progress toward several of the debts of concern to the DOD.

AG ¶ 20(c) applies to the student loan debts (SOR ¶¶ 1.h-1.j), but the lender had to resort to garnishment of Applicant's wages to collect on the loans. Applicant did not contest the garnishment, but it was involuntary in that the creditor had to pursue him for the money. The Appeal Board has held that resolution through garnishment "diminishes the [mitigating] weight to which the evidence is entitled." See ISCR Case No. 14-05803 (App. Bd. July 7, 2016).

Evidence of good-faith efforts to address his debts under AG ¶ 20(d) is limited. Only very recently, he retained the services of credit-repair company to correct his credit record and begin the process of repairing his credit. To the extent that Applicant has been trying to settle his debts on his own, he presented settlement offers for two accounts: the unalleged \$20,138 defaulted personal loan and the \$25,033 credit-card delinquency (SOR ¶ 1.f). He has no current payment plans in place for more than \$100,000 in delinquent debts, including about \$82,373 owed on SOR debts. He has known since he received the SOR in July 2021 that his delinquent accounts were of concern to the DOD. Of the \$108,000 in settlement from his second wife's estate, \$40,000 to \$43,000 went to legal fees; \$12,000 to \$14,000 went to repair the home from his first marriage so that he could rent it out; and \$25,000 went to pay off a personal loan from a longtime friend. While he could not afford lump-sum payoffs, it appears that he had some funds to put toward his old debts. Applicant's continued disregard of the court judgment (SOR ¶ 1.i) is evidence of ongoing questionable judgment. However valid his indignation over his third wife's behavior may be, he has not disproven his legal liability for the debts incurred in his name.

The Appeal Board has held that the 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 with regard to his fitness or suitability to handle classified information appropriately. See ISCR Case No. 09-02160 (App. Bd. June 21, 2010). The Appeal Board has also held that an applicant must demonstrate "a plan for debt payment, accompanied by concomitant conduct, that is, conduct that evidences a serious intent to resolve the debts." See ADP Case No. 17-00263 at 4 (App. Bd. Dec. 19, 2018), citing, *e.g.*, ISCR Case No. 16-03889 at 5 (App. Bd. Aug. 9, 2018). While this can be read as requiring debt repayment for mitigation, it is consistent with the Appeal Board position in ISCR Case No. 09-02160 in that a person who ignores legitimate financial obligations without reasonable justification does not display the good judgment, reliability, and trustworthiness required of person's entrusted with the Nation's sensitive information. It appears that Applicant has delayed taking action to address his debts in the hope that his creditors will accept less in settlement as more time passes. To the extent that he has given priority to his self-interest over his repayment obligations, Applicant undermines his case in mitigation of the financial considerations security concerns. More progress is needed toward resolving his debt issues to fully mitigate the financial considerations security concerns.

## Whole-Person Concept

In assessing the whole person, the administrative judge must consider the totality of Applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). Those factors are:

(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.

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 is a longtime defense-contractor employee whose financial situation deteriorated because of some factors over which he had no control. He was taken advantage of financially and emotionally by his third wife, who had a heroin problem. Slow in rectifying the situation, he requests more time to address the issues of security concern. Appendix C of Security Executive Agent Directive (SEAD) 4 grants DOHA administrative judge's 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. *See, also*, Memorandum, Director for Defense Intelligence (Intelligence and Security), dated January 12, 2018, ("Appendix C identifies authorized exceptions that are to be utilized when making adjudicative decisions to grant initial or continued eligibility for access to classified information or to hold a sensitive position. . . Effective immediately, authority to grant clearance eligibility with one of the exceptions enumerated within Appendix C is granted to any adjudicative, hearing, or appeal official or entity now authorized to grant clearance eligibility when they have jurisdiction to render the eligibility determination.")

After carefully considering and weighing the financial considerations security concerns, I find that Applicant has not demonstrated that he can be counted on to timely rectify those debts for which he is legally liable but does not feel he should have to repay. He has not made enough voluntary progress toward addressing the issues of security concern to warrant exercise of the discretionary authority under Appendix C at this time. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is strong presumption against the grant or renewal of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9<sup>th</sup> Cir. 1990). Based on the evidence of record, it is not clearly consistent with the interests of national security to grant or continue security clearance eligibility for Applicant 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.g:	Against Applicant
Subparagraphs 1.h-1.k:	For Applicant
Subparagraph 1.l:	Against Applicant

## Conclusion

In light of all of the circumstances, 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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Elizabeth M. Matchinski  
Administrative Judge