



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



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| In the matter of: |) | |
| |) | |
| REDACTED |) | ISCR Case No. 21-02362 |
| |) | |
| Applicant for Security Clearance |) | |

Appearances

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

09/01/2022

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant defaulted on some debts, including two car loans, three credit-card accounts, and the rent owed for an apartment he vacated before the end of his lease term. He resolved some of them after receiving the Statement of Reasons (SOR), but he has been unable to maintain his payments for the car loans since February 2022 because of additional expenses incurred on the birth of his first child. His spouse has a part-time job starting in July 2022, which will help him resume his debt repayments. Clearance eligibility is granted.

Statement of the Case

On November 15, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued an 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 her. 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 November 30, 2021, Applicant responded to the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On January 26, 2022, Department Counsel indicated that the Government was ready to proceed to a hearing. On February 24, 2022, 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 March 1, 2022. After some coordination with the parties, on June 13, 2022, I scheduled a video teleconference hearing for June 28, 2022.

At the hearing convened as scheduled, four Government exhibits (GEs 1-4) and nine Applicant exhibits (AEs A-I) were admitted into the record without objection. A January 26, 2022 letter forwarding copies of the GEs was marked as a hearing exhibit (HE 1) for the record. Applicant testified, as reflected in a hearing transcript (Tr.) received by DOHA on July 12, 2022.

I held the record open after the hearing for two weeks for additional documents from Applicant. On July 1, 2022, Applicant submitted three exhibits, which were accepted in the record without objection as AEs J through L.

Findings of Fact

The SOR alleges that, as of November 15, 2021, Applicant owed \$19,045 (SOR ¶ 1.a) and \$2,105 (SOR ¶ 1.g) on loans for repossessed vehicles; \$614 (SOR ¶ 1.b), \$300 (SOR ¶ 1.c), and \$437 (SOR ¶ 1.d) in credit-card balances in collections; \$25 (SOR ¶ 1.e) in medical collection debt; \$55 (SOR ¶ 1.f) on a charged-off utility account; and \$3,956 (SOR ¶ 1.h) in collection debt placed by a former landlord. When Applicant responded to the SOR, he admitted that he incurred the debts but stated that he had repayment arrangements for the debts in SOR ¶¶ 1.a, 1.g, and 1.h; had settled the debts in SOR ¶¶ 1.b-1.d for less than their full balances; and had satisfied in full the debts in SOR ¶¶ 1.e and 1.f. He provided documents confirming payments, which were accepted into the record as exhibits at his hearing.

I accept Applicant's admissions to having owed the delinquent balances and incorporate them as factual findings. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 32-year-old high school graduate. He and his spouse married in February 2014. (GE 1.) They have an infant daughter, who was born in February 2022. (Tr. 20.) Applicant has been employed by a defense contractor as a Class A machinist since March 2020. (Tr. 24.)

Applicant worked as a setup operator for a company in his home state after high school. After some five years there, he was making only \$15 an hour, so in April 2013, he and his future spouse relocated for a new job paying him \$22 an hour in a state with a lower cost of living. (GE 1; Tr. 37-38.) The job was in a rural area with limited job prospects in the manufacturing sector. (Tr. 37.) A year into his new job, it became apparent that the business was failing and layoffs were expected. Applicant indicated on a January 7, 2020 Questionnaire for National Security Positions (SF 86) that he left the job before he could be laid off “like many of [his] coworkers were.” (GE 1.) At his hearing, he testified that he was laid off in “a very big downsizing.” (Tr. 36.) Whether he was formally laid off or left voluntarily in September 2014 in anticipation of being laid off, he and his spouse returned to their home state. (Tr. 37-38.) Before they left, Applicant informed his landlord (SOR ¶ 1.h) to see if he could be released from the remaining term on his apartment lease. He was informed that he would not have to pay for the months left on his lease provided someone moved into the apartment after they vacated. He did not receive any correspondence from the landlord after he moved. Given the full remaining rent balance was reported on Applicant’s credit report, he assumes the landlord did not rent out the vacant apartment. (Tr. 51.)

From October 2014 until January 2020, Applicant worked as a Class A machinist for a manufacturing company. (GE 1.) His spouse was a daycare worker for almost the entire time, earning approximately \$11 an hour. Most of her income went toward her student loans. (Tr. 32-33.) During that time, Applicant opened credit-card accounts that he did not handle responsibly. (Tr. 45.) Applicant was terminated from his job, which paid him an hourly wage of \$26 by the end of his employment, for absentee issues. He appealed and was awarded unemployment compensation at 60% of his income for about two months. (Tr. 26-29.)

The cost of living was substantially higher in Applicant’s home state, and he struggled to maintain his payments on some of his financial obligations. (Tr. 36-39.) As of March 19, 2020, his credit report showed that he had defaulted on the SOR accounts (GE 3), as set forth in the following table.

| SOR Debt | Delinquency History | Payment History |
|-----------------------------------|---|--|
| 1.a. \$19,045 charged-off balance | Car loan obtained for \$23,590 June 2013 (GE 3; Tr. 64); became one month behind while moving back to his home state in 2014 and could not catch up (Tr. 40); vehicle repossessed; loan deficiency charged off for \$12,999 in Aug. 2015; \$19,045 balance as of Jan. 2020. (GE 3.) | Pursued for collection until 2017 (Tr. 65); Nov. 2021 contacted creditor about a repayment plan; made three \$100 payments from late Nov. 2021 (AE A) until Feb. 2022. (Tr. 20, 43.) |
| 1.b. \$614 collection balance | Credit-card account opened in May 2018 to pay for car | Settled debt on payment of \$245 in late Nov. 2021. (AE |

| | | |
|---------------------------------|--|--|
| | parts (Tr. 44); last activity Jul. 2018; \$614 for collection Feb. 2019; \$614 balance as of Mar. 2020. (GE 3.) | B; Tr. 43.) |
| 1.c. \$300 collection balance | Credit-card account opened May 2018; last activity Jul. 2018; \$300 in collection Feb. 2019; \$608 balance as of Feb. 2020. (GE 3.) | Settled debt on payment of \$456 on Nov. 29, 2021. (AE C; Tr. 44.) |
| 1.d. \$437 collection balance | Credit-card account debt from Jul. 2017; \$437 for collection Feb. 2018; \$437 balance as of Mar. 2020. (GE 3.) | Settled debt on payment of \$175 on Nov. 19, 2021. (AE D; Tr. 45-46.) |
| 1.e. \$25 collection balance | Medical debt from May 2018; \$25 for collection Oct. 2018; \$25 balance as of Mar. 2020.(GE 3.) | Paid \$25 on Oct. 25, 2021. (AE E; Tr. 48.) |
| 1.f. \$55 charged-off balance | Utility account opened Apr. 2013; final utility bill of \$55 from 2014 in collection as of Mar. 2020. (GE 3.) | Paid \$59 (debt plus fee) on Nov. 22, 2021. (AE F; Tr. 48-49.) |
| 1.g. \$2,105 loan balance | Auto loan obtained for \$7,771 in Aug. 2016, to be repaid at \$173 per month; last activity Sept. 2018; vehicle repossessed; \$2,105 past-due balance as of Mar. 2020. (GE 3.) | In Nov. 2021, arranged to pay \$50 per month (Tr. 50); made \$50 payments Nov. 29, 2021 through Feb.18, 2022. (AEs G, L; Tr. 20, 50.) |
| 1.h. \$3,956 collection balance | Rent for lease term remaining on apartment vacated Sept. 2014 (Tr. 51); \$2,984 for collection; \$3,956 balance as of Mar. 2020 (GE 3); \$4,267 balance (\$2,984 plus interest) as of Nov. 2021. (AE J.) | Nov. 30, 2021 arranged to make monthly payments of \$177.71 from Dec. 2021 through Nov. 2023 (AE H); paid \$177.71 monthly through June 2022 to reduce balance to \$3,127. (AE K.) |

Applicant started working for his current employer in March 2020 at \$38 an hour. (Tr. 24.) His income was significantly higher than in his previous job, but so too was his and his spouse’s housing expense. Their monthly rent went from \$785 in their previous locale to \$2,057 (heating and water included) on their relocation. (Tr. 54, 66-67.) Applicant’s spouse worked in child daycare for three months at \$14 an hour and then at a “doggie daycare” at about \$12.50 per hour for about six months until August 2021, when she quit working due to her pregnancy. (Tr. 30-32.)

Applicant did not list any financial delinquencies on his January 2020 SF 86. (GE 1.) On April 6, 2020, he had a personal subject interview (PSI) with an authorized investigator for the Office of Personnel Management (OPM). While reviewing the financial section on his SF 86, Applicant volunteered that he was delinquent on four accounts: two vehicle loans (SOR ¶¶ 1.a and 1.g) and two credit-card accounts (SOR ¶¶ 1.c and 1.d). He explained that someone in his security office had told him to “leave it blank” if he did not have the information for the accounts. When asked about the debts, he explained that he became delinquent on the vehicle loan in SOR ¶ 1.a because of a reduction in income when he moved back to his home state, and the vehicle was repossessed in mid-2015. He admitted that he had made no attempts to resolve the deficiency balance of about \$12,000 on his loan as he did not have the funds to put toward the debt. As for the auto loan in SOR ¶ 1.g, which Applicant asserted was a joint loan with his spouse but which is reported as his loan on his credit report (GE 3), he was \$700 behind in his payments for a vehicle that was “a lemon.” He further explained that he tried to resolve the issue before the vehicle was repossessed sometime in the summer of 2017. He indicated that he would contact the creditor within the next two months to make repayment arrangements. He estimated that he owed respective balances of \$300 and \$550 on the credit-card accounts in SOR ¶¶ 1.c and 1.d, which became delinquent because of a loss of overtime availability. He admitted he had no plans established to address the debts, but he intended to contact a debt consolidation agency within the next two months. (GE 2.)

Applicant was then confronted about the delinquent balances on his March 2020 credit report. He stated that he did not realize that the balance of the automobile loan was as high as the reported \$19,045, and that he plans on including the debt in a debt consolidation plan. Similarly, he did not realize that he owed \$608 on the credit-card account opened with the creditor in SOR ¶ 1.c. He did not recognize the medical debt in SOR ¶ 1.e, or the collection entities identified in SOR ¶¶ 1.b and 1.d (same company) and SOR ¶ 1.h, but indicated he would research the accounts and pay the medical debt within the day if it was valid. He recognized the utility provider in SOR ¶ 1.f but explained that he did not know he owed a balance. He stated that he would research the debt and pay it within five days if it is valid. He explained that he had been depending on overtime to pay his bills and overtime became unavailable. He denied any chance of recurrence of him becoming delinquent on financial accounts because he was living within his means, making more responsible financial decisions, and not opening any new credit-card accounts. He had not received any financial counseling as of his PSI. (GE 2.)

As of July 19, 2021, the debt in SOR ¶ 1.h was no longer on Applicant’s credit report. The other SOR debts were still listed on his credit report. Applicant had a record of timely \$420 monthly payments on a joint vehicle loan obtained for \$19,794 in July 2018. The balance of the loan was \$12,887 as of July 2021. (GE 4.) The loan is for a 2015 model-year vehicle. It is their only car. (Tr. 53-56.) He had opened a credit-card account in May 2021 with a \$1,000 credit limit. As of July 2021, the account had a \$1,087 balance. (GE 4.)

After his PSI, Applicant checked his credit report periodically for his credit score. (Tr. 48.) Apart from paying the medical debt in collection (SOR ¶ 1.e), he made no effort to address the past-due debts on his credit report before he received the SOR on November 17, 2021. (Tr. 42, 44, 62.) On receipt of the SOR, he contacted his creditors about repayment arrangements for the car loans (SOR ¶¶ 1.a and 1.g) and the apartment debt (SOR ¶ 1.h), and for lump-sum settlements on the other delinquencies, as he realized that he had to address them for his clearance eligibility. (Tr. 43-45.) The creditor for the car-loan deficiency in SOR ¶ 1.a wanted \$606 per month, which he indicated he could not afford. He was then given the option of paying what he could each month. (Tr. 68.) He arranged to make monthly payments of \$50 on the car debt in SOR ¶ 1.g and \$177 on the apartment debt in SOR ¶ 1.h. He did some house and yard work for his parents to pay off a loan for \$300, sold some of his possessions, and “scraped together” what he could from his income to make payments on his debts. (Tr. 46-47.)

Applicant stopped paying on the debts in SOR ¶¶ 1.a and 1.g after three months. (Tr. 20, 42, 50.) He could no longer afford the payments because he and his spouse have incurred about \$200 in monthly expenses for their daughter’s diapers and formula since her birth in February 2022. (Tr. 66.) He continued to make his monthly payments toward the apartment debt. (AE K.)

Applicant and her spouse combined their incomes when she was working. He handled the monthly household bills, including paying their rent. His spouse paid for the groceries and yearly vehicle taxes. They made an effort to keep each other informed about their expenses. (Tr. 34-35.) Applicant’s hourly wage increased to \$41 in 2022. (Tr. 25.) He had \$1,600 in a checking account in June 2022, most of which was earmarked for his and his spouse’s July 2022 rent. He had only \$20 in his savings account. (Tr. 57.) His and his spouse’s financial situation is “more stable than it’s ever been,” but they continue to live from paycheck to paycheck. (Tr. 60-61.)

Applicant’s spouse obtained a part-time job, 20 to 30 hours per week in the evenings, as a store clerk at \$14.25 per hour starting in July 2022. (Tr. 30, 63.) Since they cannot afford daycare, Applicant plans to watch his daughter in the evenings when his spouse is working. (Tr. 63.) Applicant understands that he did not always exercise sound financial judgment in the past in that he lived beyond his limited means. (Tr. 19.) He is committed to seeing through his repayment agreement with his former landlord (SOR ¶ 1.h), and with the expected income from his spouse’s employment, getting back on track with the arrangements for the two defaulted car loans (SOR ¶¶ 1.a and 1.g). (Tr. 22.)

Applicant has been timely with his income-tax filings. He currently owes less than \$1,000 in federal income taxes for a tax year(s) prior to 2020, and tax refunds have been taken and applied to the tax liability. (Tr. 59-60.) Information about the extent of the tax debt and the tax year(s) involved was not presented in evidence. When he began his current job, he arranged for additional tax withholdings from his income to help pay down his federal tax debt. (Tr. 60.)

Character Reference

Applicant's current supervisor has worked for their employer for 39 years. He attests that Applicant can be counted on to fulfill his work duties with little disruption and to inform him of any work or personal issues that need to be addressed. He described Applicant as "a quiet presence in a large group of men that are a generation older than him." Applicant has been willing to learn and asks relevant questions. The supervisor believes Applicant "has a trustworthy and dependable character." (AE I.)

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 admits that he defaulted on the accounts alleged in the SOR. He knew of four of the debts (SOR ¶¶ 1.a, 1.c, 1.d, and 1.g) before his April 2020 PSI, and was alerted about the other delinquencies on his credit report during his PSI. He resolved the \$25 medical debt (SOR ¶ 1.e) in October 2021, but approximately \$31,000 in charged-off and collection debts remained unaddressed as of the issuance of the SOR in mid-November 2021. His record of delinquency establishes disqualifying conditions AG ¶¶ 19(a), “inability to satisfy debts,” and 19(c), “a history of not meeting financial obligations.”

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 are relevant to the issues in this case:

(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.

AG ¶ 20(a) cannot reasonably apply. The debts in SOR ¶¶ 1.a, 1.f, and 1.h were incurred in 2014, so some time ago, but the credit-card debts (SOR ¶¶ 1.b-1.d) and car-loan debt in SOR ¶ 1.g were incurred on accounts opened after Applicant and his spouse returned to their home state. Applicant ignored collection letters received as recently as in 2017 for his largest debt, the car-loan deficiency in SOR ¶ 1.a. He took no action to resolve any of the debts before October 2021, despite being on notice since his April 2020 PSI that the delinquent balances on his credit report were of concern for his clearance eligibility. 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 established in that the failure of his then-employer's business was a factor outside of his control that led either to his layoff or resignation in lieu of expected layoff in September 2014. Due to the lack of job prospects in that rural area, he and his spouse returned to their home state. The debts in SOR ¶¶ 1.f and 1.h are directly attributable to the loss of his job and their decision to return to their home state. While he and his spouse found work back home, their income was barely enough to meet their expenses. Applicant fell behind on the car loan in SOR ¶ 1.a around September or October 2014, and he could not catch up. Lack of income was also a factor in the default of the car loan in SOR ¶ 1.g. However, he admitted at his hearing that he handled his credit-card accounts irresponsibly in that he made no attempts to pay down the balances, so not all of his debts are attributable to circumstances beyond his control.

The Appeal Board has held that "[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)). A component of financial responsibility is whether Applicant maintained contact with his creditors and attempted to negotiate partial payments to keep debts current or payment plans for resolution of debt balances. After moving for his current job in 2020, he was focused on “starting his life over,” and did not think about the car loan in SOR ¶ 1.a. It was “out of sight out of mind.” (Tr. 41.) Applicant’s starting wage with the defense contractor was \$38 an hour, which was a sizeable increase from the \$26 an hour in his previous job, although his housing costs more than doubled to \$2,057 per month. Discretionary income was limited, especially after his spouse stopped working due to her pregnancy in August 2021. Nonetheless, he had an obligation to reach out of this creditors, inform them of his financial situation, and attempt to arrange for repayment. He failed to do so in a timely manner. His inaction towards his past-due debts before October 2021 is not mitigated under AG ¶ 20(b).

With the sole exception of the medical debt, which he paid to remove the small collection balance from his credit record, Applicant’s efforts at debt resolution post-date his receipt of the SOR. The Appeal Board has long held that an applicant who begins to address his debts only after having been placed on notice that his clearance eligibility is in jeopardy “may be disinclined to follow rules and regulations when [his] person interests are not at stake.” See, e.g., ADP Case No. 17-00263 at 3 (App. Bd. Dec. 19, 2018) (citing ISCR Case No.16-03122 at 3-4 (App. Bd. Aug. 17, 2018)). Applicant would have had a stronger case in mitigation had he been proactive and timely in addressing his debts, but his willingness to resolve the issues of financial concern weighs in his favor. He is credited under AG ¶¶ 20(c) and 20(d) with satisfying in full the \$25 medical debt (SOR ¶ 1.e) in October 2021, and the \$55 utility balance (SOR ¶ 1.f) in November 2021, and with settling the credit-card debts (SOR ¶¶ 1.b-1.d) for less than their full balances in November 2021.

Concerning the deficiency balances on the two car loans (SOR ¶¶ 1.a and 1.g) and the debt owed his former landlord (SOR ¶ 1.h), Applicant contacted his creditors within days of him receiving the SOR. He established a payment plan for the apartment rent, and his consistent track record of repayment at \$177 per month since then reflects sufficient good faith to also resolve that debt in his favor. He exhibited a similar willingness to repay the car-loan debts, but after only three months, he stopped paying on the car-loan deficiency balances when his daughter was born in February 2022. He could not afford to continue repaying them because of the added expenses associated with having a child and his spouse being unemployed since August 2021. The \$19,045 car-loan debt in SOR ¶ 1.a is by far his largest debt, and it was still on his credit report as of July 2021. The debt has been charged off, and there is no evidence of collection efforts since 2017, so it may no longer be a source of undue financial pressure for Applicant. However, the federal government is still entitled to consider the facts and circumstances surrounding an applicant’s conduct in incurring the debt and failing to satisfy it in a timely manner. See, e.g., ISCR Case No. 14-03991 at 2 (App. Bd. Jul. 1, 2015).

With his spouse starting a part-time job in July 2022, Applicant expects to be able to resume payments on the two car loans at some point. Promises to pay off a delinquent debt in the future are not a substitute for a track record of paying the debt in a timely manner or otherwise acting in a financially responsible manner. See ISCR Case No. 07-13041 at 4 (App. Bd. Sept, 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)). Without more of a track record of repayment on the car loans, neither AG ¶ 20(c) nor AG ¶ 20(d) fully applies. Even so, there is significant mitigating evidence in his favor when considering his limited finances and the impact of his job loss in 2014.

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.

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). It is not intended as punishment for past shortcomings. There is some evidence of financial responsibility in that Applicant appears to be living within his means. He is making timely payments on his current car loan. He is not overextended on credit. His finances are likely to improve in the future as his spouse brings income into the household. Applicant's supervisor attests to Applicant being dependable, trustworthy, and willing to learn on the job. He readily admitted at his hearing that he exercised poor financial judgment in the past.

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.”)

Applicant understands the importance of addressing his past-due debts if he wants to maintain clearance eligibility. He has been unable to maintain payments on two of his old debts because of the extra expenses that come with the birth of a child and not because of irresponsible spending. The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

. . . the concept of meaningful track record necessarily includes evidence of actual debt reduction through payment of debts. However, an applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has . . . established a plan to resolve his financial problems and taken significant actions to implement that plan. The Judge can reasonably consider the entirety of an applicant’s financial situation and his actions in evaluating the extent to which that applicant’s plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) (Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.) There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). Security officials can check his credit reports and revoke his security clearance if he shows a lack of financial responsibility in the future. Applicant testified credibly to his willingness to continue to address his remaining debts. When he received the SOR, he immediately took steps to resolve the debts that he could pay. He did odd jobs for his parents and sold some of his possessions for the funds to make settlement payments. His progress in resolving his delinquent debts provides assurance that he will resume payments on his remaining two delinquencies. After carefully considering the whole-person concept and weighing the financial considerations security concerns, I find that it is clearly consistent with the interests of national security to grant or continue Applicant’s clearance eligibility.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:

FOR APPLICANT

Subparagraphs 1.a-1.h:

For Applicant

Conclusion

In light of all of the circumstances, it is 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 granted.

Elizabeth M. Matchinski
Administrative Judge