



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



In the matter of:)
)
) ADP Case No. 19-02237
)
Applicant for Public Trust Position)

Appearances

For Government: Kelly M. Folks, Esq., Department Counsel
For Applicant: *Pro se*

01/13/2023

Decision

PRICE, Eric C., Administrative Judge:

Applicant failed to mitigate the trustworthiness concerns under Guideline F (financial considerations). Eligibility for assignment to a position of public trust is denied.

Statement of the Case

On November 10, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility issued to Applicant a Statement of Reasons (SOR) detailing trustworthiness concerns under Guideline F, financial considerations. The action was taken under Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), for all adjudicative decisions on or after June 8, 2017.

Applicant submitted an undated response to the SOR, and requested a hearing before an administrative judge. The case was assigned to me on March 25, 2022. On May 5, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing scheduling the hearing via video teleconference. I convened the hearing as

scheduled on June 2, 2022. Department Counsel offered three exhibits marked as Government Exhibit (GE) 1 through 3; I sustained Applicant's objection to GE 2 and renumbered GE 3 as GE 2. The Government's exhibit list and pre-hearing disclosure letter, and my case management order dated May 5, 2022 are marked as Hearing Exhibit (HE) I through III. Applicant and a witness testified, and Applicant offered five exhibits marked as Applicant Exhibit (AE) A through F. The record was held open until July 8, 2022, to permit Applicant to submit additional documents, which he did. Those documents were marked as AE G through O; there were no objections to those exhibits. GE 1 and 2, and AE A through O are admitted in evidence. DOHA received the hearing transcript (Tr.) on June 15, 2022.

Findings of Fact

Applicant is 52 years old. He served in the United States Navy from February 1992 to February 2012, was honorably discharged, and retired as an E-6. He completed extensive training and a number of schools while serving in the Navy, and attended a technical school from March 2012 to October 2015, earning a certificate. He married in January 1998, and that marriage was annulled in January 2022. He has four adult children, ages 30, 27, 24, and 19. He has been employed as an aircraft mechanic since 2016 and works for a federal contractor. He also operates a small repair business. He held a security clearance while on active duty in the Navy. (GE 1; AE E; Tr. 38-47)

In his September 2018 Electronic Questionnaires for Investigations Processing (e-QIP), Applicant reported utilizing or seeking assistance from a credit counseling service or similar resource to resolve financial difficulties. He noted that he "h[as] charge off's that are affecting my credit report adversely", named a law firm that was assisting him, and noted that he was "[d]isputing negative marks on [his] credit record." (GE 1 at 38) He did not identify specific delinquent accounts, and denied that, in the previous seven years, he had any property voluntarily repossessed, defaulted on any loan, had accounts turned over for collection or charged off, and denied that he had been, or was then, over 120 days delinquent on any debt. (GE 1 at 38-39)

The SOR alleges eight delinquent debts, totaling approximately \$41,843 including an auto loan charged off in December 2017 in the approximate amount of \$32,918. Applicant denied all allegations, noting that he had retained a law firm and that the debts alleged at SOR ¶¶ 1.a, 1.b, 1.c, and 1.e were not reflected in, or had been deleted from, his credit report. (SOR Response)

Applicant submitted a January 2022 civil judgment reflecting that he had married a woman in January 1998, they "had lived as Husband and Wife until their final separation in May 2017 [and] it was later determined that said marriage was and is void as Wife was married to another man at the time that the parties marriage occurred." (AE E; Tr. 108-111) The judgment dissolved Applicant's marriage, and ordered him to pay \$308 monthly in child support until no later than November 2022, to support the parties' then minor child. He attributed his financial difficulties to maintaining two separate households (for himself near his employment since June 2017 and his family a few hours away), fraudulent debt

accrued in his name through identity theft, annulment of his marriage, his purported wife's expenditures, and her failure to make payments on certain bills. (Tr. 32-37, 49-50, 113-116)

Applicant reported being the victim of identity theft from November 2020 to April 2021 to local police. (AE F) He alleged that five named credit-card accounts and a "Legacy (NOI)" account had been fraudulently opened using his personal information, and that charges totaling \$4,700 (\$500, \$700, \$800, \$900, \$900, and \$900) had been made on those accounts. (AE F; Tr. 33-34) Those accounts do not correlate by creditor name, account number, debt amount or otherwise with any delinquent debt alleged in the SOR. Applicant testified that, in approximately 2020, he submitted another police report alleging other accounts had been fraudulently opened with his personal information, that he believed that report included some accounts alleged in the SOR, and that he would submit that report after the hearing, but did not do so. (Tr. 62-66, 73-76) He did not inform police that he suspected his purported wife used his identify to open accounts in his name, and was unaware of any police action taken after he filed the reports. (Tr. 111-112; AE F)

Applicant testified that from approximately 2018 until approximately 2021, he retained a law firm to assist in repairing his credit, and paid them approximately \$100 per month. He said that he terminated that relationship in 2021 because he was not satisfied with the results and had worked with another credit repair company since. (Tr. 48-58, 95-106) He said the current credit repair company was working to resolve approximately \$4,000 in debt, and submitted evidence that he paid them approximately \$110 monthly from February to June 2022. (Tr. 56-58, 66, 85-86; AE B at 2, 6, 10, AE M at 2, 7)

Applicant submitted three credit reports dated May 11, 2022, that did not specifically reference any of the debts alleged in the SOR. Those credit reports reflected that he was then current on all except one account, a credit account delinquent in the approximate amount of \$442. (AE A)

The evidence concerning debts alleged in the SOR is summarized below.

SOR ¶ 1.a: vehicle loan account charged off for \$32,918. A September 2018 credit report reflects an individual vehicle loan account was opened in August 2016, past due in the amount of \$35,963, and charged off in December 2017 for \$32,918. (GE 2) Applicant provided extracts of credit records from July 2021 reflecting that the individual account was opened in August 2016, delinquent in December 2016, charged off in December 2017, and purchased by another creditor. (AE J at 1-2, AE K at 2, AE L at 2-3) Applicant denied the allegation noting that he had retained representation, that the creditor alleged in the SOR had no record of the account, and that this account was not reflected in his credit report. (SOR Response)

Applicant testified that the delinquent account was a loan he had obtained to finance a new pickup truck in 2016, that the monthly payment on the loan was \$700, that when he started missing payments he asked his then spouse to make payments from a joint account they shared. He did not confirm whether she made any payments, but

discovered the account was delinquent, contacted the creditor to resolve the matter, and was told the debt had been charged-off, and that the creditor did not have additional information. He voluntarily returned the vehicle to the creditor in approximately 2019. (Tr. 49-58, 95-106) He confirmed that he made no payments to the creditor after the debt was charged-off. (Tr. 98-99) He said that the creditor provided documentation indicating that because it was such an old loan that he owed nothing and that “they couldn’t come after the money that was supposed to have been owed for it.” (Tr. 51, 53; AE G) He provided a September 2021 letter titled “Explanation of Calculation of Surplus or Deficiency” that stated “[t]his communication is from a debt collector [and] is an attempt to collect a debt and any information will be used for that purpose.” (AE I) The letter noted that: due to the debt’s age the creditor would not sue Applicant or report payment or non-payment of the debt to a credit bureau; the amount owed on the loan after the September 2021 sale of the vehicle was \$32,014.48 plus additional costs for a total deficiency balance of \$33,285.23; Applicant was liable for the deficiency balance, and that the creditor demanded payment of the deficiency balance. (AE I; Tr. 130-131) He submitted credit reports from May 2022 that did not reflect this debt or the creditor alleged in the SOR. (AE A) Applicant provided no documentary evidence that he or a credit repair company acting in his behalf contacted the creditor, made payments on, attempted to resolve or otherwise resolved this debt. This debt is not resolved.

SOR ¶1.b: collection account for \$2,660. A September 2018 credit report reflects the individual account was opened in 2015 and assigned for collection in August 2017, with an account balance of \$2,660. Applicant denied the allegation noting that he had retained representation, and that this account was “no longer on my credit report.” (SOR Response) He submitted credit reports from May 2022 that did not reflect this debt or the creditor alleged in the SOR. (AE A) He testified that the account was “fraudulent”, that he did not open the account, and that he believed someone, possibly his purported wife, used his personal information to open the account. This account was not listed in the April 2021 police report Applicant submitted identifying credit accounts he reported as being fraudulently opened using his personal information. He provided no documentary evidence that he or a credit repair company acting in his behalf contacted the creditor, disputed the debt, made payments on, or otherwise resolved the debt. This debt is not resolved. (GE 2; AE A, F; Tr. 58-64)

SOR ¶1.c: collection account for \$2,429. A September 2018 credit report reflects the individual account was assigned for collection in April 2018 with an account balance of \$2,429. Applicant denied the allegation noting that he had retained representation, and that this account “is not being reflected on my credit report.” (SOR Response) He submitted credit reports from May 2022 that did not reflect this debt or the creditor alleged in the SOR. (AE A) He testified that he did not open the account and believed his purported spouse opened the account using his personal information. He said that he had the first credit repair firm address the debt, because it was on his credit report, and that it was not on the list of debts his current credit repair company was addressing. He provided no documentary evidence that he or any entity acting in his behalf contacted the creditor, disputed the debt, made payments on or otherwise resolved the debt. This debt is not resolved. (GE 2; Tr. 64-66)

SOR ¶1.d: joint contract collection account for \$1,290. The September 2018 credit report reflects the joint contract was assigned for collection in August 2016 with an account balance of \$1,290, and that the account was in dispute. (GE 2; AE H at 3, 10) Applicant denied the allegation noting that he had retained representation. (SOR Response) He submitted credit reports from May 2022 that did not reflect the debt or creditor alleged in the SOR. (AE A) He testified that the debt was for undisclosed charges from a property management company after he moved from a residence managed by that company to a different residence in 2016. He said the management company retained his deposit, that this debt appeared in his credit report, and that he contacted the management company after receiving a collection letter approximately 10 months later. He said that he asked for documentary evidence supporting the debt and received none, so he disputed the debt with a credit bureau. He believed his first credit repair representative sent letters to the management company, but did not have any documentation of their efforts. He did not know if any portion of his monthly payments to that credit repair company was applied to this debt, but believed the debt had been resolved. He acknowledged that he had not received notice from the creditor that the debt was resolved. He provided no documentary evidence that he or any entity acting in his behalf contacted the creditor, made payments on or otherwise resolved the debt. This debt is not resolved. (Tr. 66-72, 106)

SOR ¶1.e: collection account for \$1,259. The September 2018 credit report reflects the individual account was assigned for collection in May 2017 with an account balance of \$1,259, and that the account was in dispute. Applicant denied the allegation noting that he had retained representation, and that “[a]s of October 26, 2020, this account has been deleted.” (SOR Response) He submitted credit reports from May 2022 that did not reflect the debt or creditor alleged in the SOR. (AE A) He testified that he did not open the account, was not familiar with the account, and believed that his purported wife had used his personal information to open the account. This account was not listed in the April 2021 police report as an account reported by Applicant as fraudulently opened with his personal information. He said that he believed it was included in another police report that he had filed, stated that he would submit that police report after the hearing, but did not do so. He said that he had not contacted the creditor but had turned the debt over to his credit repair representatives to resolve in 2017 or 2018. He provided no documentary evidence that he or anyone acting in his behalf contacted the creditor, made payments on or otherwise resolved the debt, or that he reported this debt resulted from identity theft to police. This debt is not resolved. (GE 2; AE A, F; Tr. 72- 76)

SOR ¶1.f: medical collection account for \$477. A September 2018 credit report reflects an individual account was assigned for collection in April 2018 with an account balance of \$477, and that the account was in dispute. (GE 2) In response to Applicant’s dispute, a credit agency confirmed the \$477 debt was in his name and remained unpaid as of July 2021. (AE H at 4) Applicant denied the allegation noting that he had retained legal counsel. (SOR Response) He testified that he had co-signed along with his son as a responsible party for emergency medical treatment provided to his son in approximately 2018. After the past due bill appeared on his credit report in 2019 or 2020 and he learned that his son could not pay the bill, Applicant said that he decided to contact the creditor

to resolve the account, but was advised by his credit repair representative to let them address the debt. He said that he believed the debt was resolved, but had not received written confirmation of resolution. He provided no documentary evidence that he or any one acting in his behalf contacted the creditor, made payments on or otherwise resolved the debt. This debt is not resolved. (GE 2; Tr. 76-80,106-107)

SOR ¶1.g: collection account for \$405. A September 2018 credit report reflects an individual account was assigned for collection in May 2012 with a balance of \$405, and that the account was in dispute. Applicant denied the allegation noting that he had retained legal representation. (SOR Response) He testified that this was his military exchange account, that he had added his purported wife as an authorized user, that she had used the account to purchase various items, that the debt was currently \$3,760, and that he was timely paying the account. Although the account information in the credit reports does not fully align, Applicant's testimony was partially corroborated by the May 2022 credit reports, and I find this account is being resolved. (GE 2; AE A; Tr. 80-83, 107)

SOR ¶1.h: utility collection account for \$405. A September 2018 credit report reflects the individual account as assigned for collection with a balance of \$253. Applicant denied the allegation noting that he had retained legal representation. (SOR Response) He testified that this was a utility account for a residence occupied by his purported wife and their then minor child, that he had paid the bill, and that he could contact the company and obtain proof of payment. He provided no documentary evidence that he contacted the creditor, made payments on or otherwise resolved the debt. This debt is unresolved. (GE 2; Tr. 83-84)

Applicant testified and provided documentary evidence that his financial condition has improved. He provided documentary evidence of approximately \$9,500 in net monthly income including approximately \$5,000 (federal contractor pay), \$1,175 (Navy retired pay), \$3,332 (Veteran's Administration disability payments for 100% disability rating), and unspecified income from a motorcycle repair business. (AE B; Tr. 86-93). Records from February 2022 through June 2022, reflect that his monthly checking account balance ranged from approximately \$18,000 to \$23,000, and his monthly savings account balance increased from approximately \$1,900 in November 2021 to \$11,623 in May 2022. (AE B, C, D, M) He did not provide a monthly budget, but estimated his monthly expenses at approximately \$3,500. (Tr. 90). He testified that he had reviewed his debts with a credit repair agency and believed that constituted financial counseling, and received financial management training while in the Navy. (Tr. 84-85, 94)

Applicant submitted letters of recommendation from a supervisor, team leader, and a co-worker. They favorably commented on his work ethic, technical skills, workmanship, commitment to the team, dependability, trustworthiness, integrity, and recommended him for a security clearance or a public trust position. (AE N) His friend and romantic partner of two years also testified. (Tr. 120-137) She said that she overheard his speakerphone conversations with creditors/credit agencies regarding suspected fraudulent accounts after he disputed those accounts and had reported the suspected identity theft to the police, and that those representatives said the disputed accounts included his ex-

spouse's name. (Tr. 133-35). She also testified that Applicant "was unaware of a lot of things [but once he becomes aware] he tries to correct them", that he would not intentionally jeopardize his well-being, is trustworthy and reliable. (Tr. 136-37)

Any derogatory information not alleged in the SOR will not be considered for disqualifying purposes; however, it may be considered in the application of mitigating conditions and in a whole-person analysis. (AE A)

Policies

The standard set out in the adjudicative guidelines for assignment to sensitive duties is that the person's loyalty, reliability, and trustworthiness are such that assigning the person to sensitive duties is clearly consistent with the interests of national security. SEAD 4, ¶ E.4. A person who seeks access to sensitive 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. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information.

When evaluating an applicant's suitability for a public trust position, the administrative judge must consider the disqualifying and mitigating conditions 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. The 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 protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt will be resolved in favor of national security. The Government must present substantial evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.14. 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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). An applicant has the ultimate burden of demonstrating that it is clearly consistent with national security to grant or continue eligibility for assignment to a public trust position.

Analysis

Guideline F: Financial Considerations

The trustworthiness concern under this guideline is set out 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

This concern is broader than the possibility that a person might knowingly compromise classified or sensitive information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified or sensitive information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified or sensitive information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise trustworthiness concerns. The following are potentially applicable:

- (a) inability to satisfy debts, and
- (c) a history of not meeting financial obligations.

Applicant's admissions and record evidence including the September 2018 credit report establish that he has a history of financial problems dating back to at least 2017. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes conditions that could mitigate trustworthiness concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (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.

Applicant provided credit reports from May 2022 that did not reflect delinquent debts alleged in the SOR. However, evidence that some debts have dropped off recent credit reports is not meaningful evidence of debt resolution. See ISCR Case No. 14-05803 at 3 (App. Bd. July 7, 2016) (citation omitted). “Mere evidence that debts no longer appear on credit reports is not reason to believe that they are not legitimate or that they have been satisfactorily resolved.” ISCR Case No. 16-02941 at 2 (App. Bd. Dec. 12, 2017) (citation omitted). The absence of unsatisfied debts from an applicant’s credit report does not extenuate or mitigate a history of financial difficulties or constitute evidence of financial reform or rehabilitation. See ISCR Case No. 15-02957 at 3 (App. Bd. Feb. 17, 2017).

AG ¶ 20(a) is not fully established. The debts alleged at SOR ¶¶ 1.a, 1.d, 1.f, and 1.h have not been resolved. The largest delinquent debt (SOR ¶ 1.a - \$32,918) was incurred in August 2016, charged off in December 2017, and subject of a demand for payment by the creditor in September 2021. The delinquent debts alleged in SOR¶¶ 1.d, 1.f, and 1.h total an additional \$2,172. He has provided insufficient documentary evidence of any effort to pay, settle or otherwise resolve these delinquent accounts. These debts are ongoing and were not incurred under circumstances making recurrence unlikely. His conduct casts doubt on his current reliability, trustworthiness, and good judgment.

AG ¶ 20(b) is not fully established. Applicant’s September 2017 separation from his purported wife, claims that she did not make payments on some debts, subsequent annulment of that marriage, and claims that someone improperly used his identity to obtain credit contributed to his financial problems were conditions beyond his control. He claimed that the debts alleged in SOR ¶¶ 1.b, 1.c, and 1.e resulted from fraud and identity theft, but did not submit sufficient documentary evidence to substantiate those claims. Although provided an opportunity to submit additional evidence, including a police report that he contended would support his claims he did not do so. I resolve SOR ¶ 1.e in his favor because his claim that this debt resulted from identity theft is at least partially corroborated by documentary evidence that he disputed the debt. He did not provide sufficient evidence that he or his representative contacted the remaining creditors, disputed, made payments on, or otherwise resolved the debts alleged at SOR ¶¶ 1.b and 1.c, or that he otherwise acted responsibly under the circumstances with respect to the debts alleged in SOR ¶¶ 1.a through 1.d, 1.f, and 1.h.

AG ¶ 20(c) is not fully established. Applicant testified that he worked with two credit repair services, claimed that he had received financial counseling and attended courses in financial management. However, he failed to provide sufficient evidence that he received financial counseling from a legitimate and credible source, and has presented insufficient evidence that the debts alleged at SOR ¶¶ 1.a through 1.d, 1.f, and 1.h are being resolved, or are under control.

AG ¶ 20(d) is not fully established. Applicant provided documentary evidence that he is resolving the debt alleged in SOR ¶ 1.g. He provided insufficient documentary evidence that he has initiated and is adhering to a good-faith effort to repay the creditors or otherwise resolve the debts alleged in SOR ¶¶ 1.a through 1.d, 1.f, and 1.h.

Of particular note, Applicant acknowledged that he incurred the delinquent debt alleged in SOR ¶ 1.a, totaling at least \$32,918, but presented insufficient evidence of a good-faith effort to resolve that debt. Although he claimed the debt had been forgiven because of its age he presented no evidence to corroborate that assertion; but submitted evidence the then creditor contacted him in September 2021 in an effort to collect the debt. The Appeal Board discussed stale debts in a security clearance case, which also applies here.

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

ISCR Case No. 17-01473 at 5 (App. Bd. Aug. 10, 2018) (citation omitted).

AG 20(e) is not fully established. Applicant averred that he disputed several of the debts alleged in the SOR. However, with the exception of the debt alleged in SOR ¶ 1.e he has provided insufficient evidence to establish a reasonable basis to dispute the legitimacy of the delinquent debts alleged in SOR ¶¶ 1.a through 1.d, 1.f, and 1.h, or of actions he has taken to resolve those issues.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a public trust position 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), the ultimate determination of whether to grant eligibility for a public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were already addressed, but some warrant additional comment.

I considered that Applicant is 52 years old, served 20 years on active duty, was honorably discharged, and retired from the Navy in 2012. I also considered that he held a security clearance while on active duty in the Navy, and was determined by the VA to be totally and permanently disabled due to service-connected disabilities. I considered that he is respected by his supervisors, co-workers and girlfriend. I also considered that recent credit and bank records reflect that his financial situation has significantly improved.

However, of the eight delinquent debts alleged in the SOR, Applicant has resolved or is resolving only two debts totaling approximately \$1,664. He has provided insufficient evidence that he has resolved, or attempted to resolve the six remaining delinquent debts totaling approximately \$40,179 including a delinquent vehicle loan of approximately \$32,918. His decision not to make payments on or otherwise attempt to resolve the vehicle loan debt may have helped him to put his finances in order, but that decision also raises potentially disqualifying and current trustworthiness concerns under the Directive.

A public trust adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not held to a standard of perfection in his debt-resolution efforts or required to be debt-free. "Rather, all that is required is that an [he] act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). Applicant good intentions have not yet evolved into a reasonable and credible plan that includes the debts alleged in SOR ¶¶ 1.a through 1.d, 1.f, and 1.h.

After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the trustworthiness concerns based on financial considerations. Accordingly, I conclude that he has not carried his burden of showing that it is clearly consistent with national security to grant him eligibility for a public trust position.

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.d, 1.f, 1.h:	Against Applicant
Subparagraphs 1.e, 1.g:	For Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant Applicant eligibility for a public trust position. Eligibility for a public trust position is denied.

Eric C. Price
Administrative Judge