



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



In the matter of:)	
)	
)	ISCR Case No. 22-01250
)	
Applicant for Security Clearance)	

Appearances

For Government: Erin P. Thompson, Esq., Department Counsel
For Applicant: *Pro Se*

11/30/2023

Decision

MARINE, Gina L., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is granted.

Statement of the Case

This adjudication was prompted by information developed by the Continuous Evaluation Program (CEP) upon its review of Applicant’s credit bureau report (CBR) from January 2021. (GE 4) On July 11, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS), formerly named the Department of Defense Consolidated Adjudications Facility, sent Applicant a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DCSA CAS acted 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 adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

Applicant received the SOR on July 21, 2022. On a date not indicated in the record, he responded to the SOR (Answer) and requested a hearing before an administrative judge. The Government was ready to proceed on October 12, 2022. The case was assigned to me on June 1, 2023. On June 12, 2023, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that his hearing was scheduled for June 28, 2023. I convened the hearing as scheduled via video conference.

At the hearing, Applicant testified and I admitted into evidence Applicant Exhibit (AE) A and Government Exhibits (GE) 1 through 9, without objection. I appended a transmittal letter to the record as Hearing Exhibit (HE) I. At Applicant's request, I left the record open until July 26, 2023, to allow him the opportunity to submit additional information. He timely provided additional documents that I admitted into evidence collectively as AE B, without objection. DOHA received the transcript (Tr.) on July 13, 2023. On November 16, 2023, at Applicant's request and without objection from the Government, I reopened the record for good cause to receive additional documents that I admitted into evidence collectively as AE C, without objection.

Findings of Fact

Applicant, age 45, is married with three children, ages 16, 12, and 8. He earned a bachelor's degree in electrical engineering in May 2000, and a master's degree in control systems in May 2003. He was initially granted a DOD security clearance in July 2000, in connection his first employer, one of only two employers since he graduated college. He has been employed as an engineer by his sponsor since July 2005. (GE 1; Tr. at 7, 24, 65)

Indebtedness History

Applicant accrued the SOR debts after discharging previous debts through bankruptcy. He filed for Chapter 13 bankruptcy protection in 2009, to get a handle on his finances, which had become strained by an interest rate increase on his underwater mortgage. After completing the Chapter 13 repayment plan, his debts were discharged in 2014. The SOR debts arose between about 2015 and 2020, when his finances became overextended again due to changes in his wife's employment status and income, the birth of his third child, a cross-country move, and the COVID-19 pandemic. (Answer; GE 7 at 2; Tr. at 25-29, 33-34, 46, 70, 73)

While Applicant attributed his indebtedness history primarily to circumstances beyond his control, he accepted responsibly for the role that overspending without a savings buffer played. He believes that his financial problems originated with his "naïve" decision to purchase his first home, in an area with a higher cost of living, and a new car, immediately upon becoming married and gainfully employed in July 2005. He neither understood the uncertainties of the housing market nor considered other "what-ifs" that might occur. He and his wife were lulled into a false sense of security when they were both gainfully employed, which influenced their debt accumulation and spending habits. Their incomes afforded a certain lifestyle to which they became accustomed. As circumstances changed, they began living beyond their means attempting to maintain that

lifestyle. He incurred the \$7,446 veterinarian bill alleged in SOR ¶ 1.b by attempting to prolong the life of their family dog after it was diagnosed with cancer. (Answer; GE 7 at 2; Tr. at 15, 25-27, 28, 33-34, 38-39, 45, 46, 53, 73, 89)

Applicant purchased his first home in 2005, during the “sub-prime housing boom.” He obtained a mortgage loan with a “low down payment.” When the mortgage’s interest rate increased in 2009, the balance on the loan exceeded its fair market value by about \$80,000, due to the housing market “crash.” To avoid defaulting on his mortgage loan and other debts, he consulted a bankruptcy attorney to explore his options and borrowed “some money” from his retirement account. In June 2009, he decided to file a Chapter 13 bankruptcy, and not a Chapter 7, because he wanted to honor his debt obligations. His Chapter 13 repayment plan was confirmed in August 2009. His debts were discharged in August 2014, after he successfully completed the repayment plan with payments totaling \$9,000. (GE 1 at 33; GE 6; GE 7 at 2; GE 8 at 4-5; Tr. at 25, 27-29)

The bankruptcy allowed Applicant to maintain his mortgage payments until November 2012, when he relocated from State A to State B. He could not afford to make both the rental payment for his new State B home and the mortgage payment for the State A home. Because his mortgage remained underwater by about \$75,000, his attempts to rent or sell the State A home were unsuccessful. The lender foreclosed on his mortgage loan in about February 2013. The record did not reflect any deficiency balance owed after the lender resold the home. (GE 1 at 33; GE 7 at 2; GE 8 at 4-5; Tr. at 25, 27-28)

Despite the higher cost of living in State B, Applicant and his wife were able to maintain their lifestyle “without too much trouble,” since they both had “stable, well-paying jobs.” However, they began to struggle financially again on a date not specified in the record, when his wife’s employer underwent new management, who changed the terms of her employment. His wife worked in the spa industry. Under her original terms, she earned a salary as an independent contractor and paid a rental fee for her workspace. Under her new terms, she earned a commission-based salary, which resulted in a “sizeable decrease” in her monthly income. After struggling to make ends meet with her reduced salary for an unspecified period, he and his wife decided that it was in their family’s best interest for her to become self-employed. Self-employment allowed her to reduce her expenses by not having to pay the rental fee, and to have a flexible schedule to care for their children. Although her self-employment income was lower than what she earned as an independent contractor, it was higher than her commission-based salary and sufficient to meet their needs until October 2015, when complications arose with the birth of their son. (Answer)

Applicant’s son was born with a medical condition, for which he was hospitalized for “multiple weeks” following his birth, and again for “multiple weeks” shortly after his first birthday. Not only did they incur medical expenses that were not fully covered by insurance, but their son’s medical condition precluded him from attending daycare, which precluded his wife from working outside the home. Considering these issues together with the rising cost of living in State B, Applicant and his wife decided to engage the services of a debt-relief company (DRC) to consolidate their monthly debt payments before any of

them became delinquent. At that time, Applicant believed that a “big company with legal backing” could better represent his interests in negotiating settlements than he could do on his own. In hindsight, he learned a “valuable, if not hard lesson” that he may have been better served by working directly with his creditors. His son’s medical condition eventually improved and he suffered no “long-lasting” health effects. As of the hearing, his son’s health was “good.” (Answer; Tr. at 31-32, 37, 70-72)

Debt Repayment History (through DRC)

The DRC required Applicant to stop making all monthly debt payments and allow his debts to fall into delinquent status to facilitate its settlement negotiations with his creditors. He was also required to make bi-weekly payments to the DRC of \$657 beginning in June 2018, which increased to \$1,314 in September 2018, then \$1,382 in December 2018, and then decreased to \$1,089 as of October 2019 (DRC payments). The DRC allocated a portion of the DRC payments to its fees, and then deposited the remainder into an account from which it could pay the settlements it negotiated with Applicant’s creditors. (Answer; AE B; Tr. at 20, 32-36, 60, 72)

Applicant struggled to pay the DRC payments at times, particularly after June 2019, when he relocated from State B back to State A to secure his employment. He and his wife decided that she would not return to the workforce until the fall of 2019, so that she could be home full time with their children over the summer. However, once they realized that her anticipated salary would “just cover the cost of childcare,” they decided that her return to work “seemed foolish.” His wife’s unemployment during this period further strained their finances. As a result, in about January 2020, Applicant “cut ties” with the DRC because he could no longer afford to make the DRC payments. (Answer; AE B; Tr. at 32-36)

Applicant made 20 DRC payments totaling \$17,887 from June 2018 through December 2019. He recalled that the DRC applied the DRC payments to fully resolve three unalleged debts and make payments toward resolving other debts for which the DRC had negotiated settlements. The other debts he managed through the DRC included: (1) “probably a handful” of the SOR debts, including SOR ¶ 1.a; and (2) an unalleged \$7,304 loan account. As reflected in the table below, Applicant provided documents showing the amounts paid to the creditors of the three unalleged debts and the associated fees collected by the DRC, which totaled \$6,976. (Answer; AE B; Tr. at 32-36)

Debt Type	Amount	Status	Record
Credit-card account	\$2,211	Resolved. DRC negotiated a settlement in Aug. 2018, which reduced balance owed to \$995. Debt settled in full via three monthly payments between Aug. and Oct. 2018. DRC collected fees totaling \$382.	AE B at 2, 20-21; GE 5 at 9; GE 7 at 3, 7

Debt Type	Amount	Status	Record
Loan account	\$7,229	Resolved. DRC negotiated a settlement in Jun 2018, which reduced balance owed to \$3,607. Debt settled in full via 16 monthly payments between Jun. 2018 and Sept. 2019. DRC collected fees totaling \$1,320.	AE B at 2, 23-25; GE 5 at 9; GE 7 at 4
Credit-card account	\$1,557	Resolved. DRC negotiated a settlement in Nov. 2018, which reduced balance owed to \$467. Debt settled in full via three monthly payments between Nov. 2018 and Jan. 2019. DRC collected fees totaling \$205.	AE B at 2, 26-27; GE 5 at 10; GE 7 at 4

The record contains scant details about the other debts Applicant was managing through the DRC. He did not provide a copy of the agreement he signed or any other documents or information regarding the other debts sufficient to establish the terms of the negotiated settlements, the amounts paid to the creditors pursuant thereto, or the associated fees collected by the DRC. Moreover, he did not otherwise account for how the DRC allocated the remaining \$10,911 portion of the DRC payments toward paying the other debts. He only generally referenced the status of the other debts as of the date he terminated the DRC’s services by stating: (1) the debt in SOR ¶ 1.a was “close” to being settled in full; (2) the DRC “didn’t owe” him “any money” because they “were paying on my behalf” and “paid my debt down” a little bit. (Answer; Tr. at 32-36)

Debt Repayment History (Post-DRC)

Upon terminating the DRC’s services, Applicant lost all the benefits of the settlements the DRC negotiated for the other debts, including the credits applied for the payments made pursuant thereto. Because his creditors revoked the settlements and reinstated the original balances owed, he had to restart settlement negotiations on the other debts “from scratch.” Initially, Applicant found it “difficult” to negotiate settlements on his own behalf while he remained the sole income earner for his family. (Answer; AE B, C; Tr. at 54, 79)

The COVID-19 pandemic further delayed his wife’s return to the workforce not only because she was solely responsible for homeschooling their children, but also because it negatively impacted the spa industry. She was not able to return to work until the COVID-19 pandemic “began showing signs of letting up.” Applicant’s wife returned to work part time sometime in the late fall or winter of 2021, when she unsuccessfully tried to work for a friend’s business. However, she did not begin “drawing some form of income” until March 2022, when she became self-employed again in a related but different industry than she worked previously. His wife only works part-time “mom’s hours” (about four to six hours per day) so that she can be home with their children when they are not in school. (Answer; AE B, C; Tr. at 54, 79)

Before his wife’s return to work, Applicant was able to resolve three additional unalleged debts, as reflected in the table below.

Debt Type	Amount	Status	Record
Credit-card account	\$4,399	Resolved. App negotiated a settlement in Apr. 2019. Debt settled in full via four payments between Apr. and Jul. 2019, totaling an amount not specified in the record.	AE B at 2, 31-32; GE 9 at 11; GE 7 at 3, 9-10
Credit-card account	\$569	Resolved. App negotiated a settlement on a date not indicated in the record. Debt settled in full via an unspecified number of monthly payments through Aug. 2019, totaling an amount not specified in the record.	AE B at 2, 33-34; GE 9 at 11; GE 7 at
Credit-card account	\$777	Resolved. App negotiated a settlement on a date not indicated in the record. Debt settled in full via an unspecified number of monthly payments through Jan. 2020, totaling an amount not specified in the record.	AE B at 2, 29-30; GE 9 a 12; GE 7 at 4, 8

Since the addition of his wife’s income, Applicant has had the “flexibility” to make “slow and steady” progress in negotiating settlements and making payments toward resolving the SOR debts. (Answer; Tr. at 21) As of the date of the SOR, 12 of the 15 alleged debts, totaling \$52,399, remained unresolved. In his Answer, Applicant stated that he had been in contact with the creditors of the remaining 12 debts to negotiate repayment options. Since then, he has made payments totaling at least \$9,919 toward resolving the remaining 12 debts. The status of each debt is summarized on the following table:

SOR ¶	Amount	Status	Record
1.a	\$7,696	Resolved. App finalized settlement in May 2023, pursuant to which he made four monthly payments of \$577 between May and August 2023. In Sept. 2023, creditor confirmed debt settled in full.	AE A-C; Tr. at 36
1.b	\$7,446	Paying. App finalized repayment plan in Nov. 2022 to resolve debt via 96 monthly payments of \$77, beginning in Nov. 2022. Plan payments current as of Oct. 2023.	AE A-C; Tr. at 38-39
1.c	\$6,988	Plans to Pay. App discussed repayment options with creditor in Jun.	AE A; Tr. at 40

SOR ¶	Amount	Status	Record
		2023. Will finalize repayment plan and begin payments after debts in SOR ¶¶ 1.a and 1.f are fully resolved.	
1.d	\$5,914	Plans to pay. App discussed repayment options with creditor in Jun. 2023. Will finalize repayment plan and begin payments after debts in SOR ¶¶ 1.a and 1.f are fully resolved.	AE A; Tr. at 40
1.e	\$5,865	Paying. App made one \$75 in June 2023. At the hearing, he professed a plan to set up an auto monthly transfers of between \$75 and \$100 toward resolving the debt. He did not update the status of this debt in either post-hearing submission.	AE A; Tr. at 41-43
1.f	\$5,536	Resolved. App finalized settlement in May 2023, pursuant to which he made four monthly payments of \$568 between May and August 2023. In Nov. 2023, creditor confirmed debt settled in full.	AE A-C; Tr. at 43-44
1.g	\$3,177	Resolved. In Nov. 2022, App made one lump-sum payment of \$1,200 to settle debt in full.	AE A; Tr. at 44-45
1.h	\$3,140	Paying. App finalized repayment plan in Oct. 2022 to resolve debt via 41 monthly payments of \$77, beginning in Oct. 2022. Plan payments current as of Oct. 2023.	AE A-C; Tr. at 45
1.i	\$2,732	Paying. App finalized repayment plan in Jun. 2023 to resolve the debt via monthly payments of \$125, beginning in Jun. 2023, until balance is paid in full. Plan payments current as of Oct. 2023.	AE A-C; Tr. at 46-47
1.j		Resolved. Same debt alleged in SOR ¶ 1.i.	AE A at 18; Tr. at 46-47
1.k	\$2,287	Paying. App finalized repayment plan in Oct. 2022 to resolve the debt via 30 monthly payments of \$77, beginning in Oct. 2022. Plan payments current as of Oct. 2023.	AE A-C; Tr. at 49-50
1.l	\$2,147	Resolved. App settled debt in full in May 2022, in an amount not specified in the record.	AE J at 25; Tr. at 50

SOR ¶	Amount	Status	Record
1.m	\$1,683	Resolved. Creditor cancelled debt in Nov. 2022, after App initiated contact to negotiate a settlement.	AE A; Tr. at 50-51
1.n	\$1,068	Resolved. App settled debt in full in May 2022, in an amount not specified in the record.	AE A; Tr. at 51
1.o	\$932	Resolved. In Dec. 2022, App made one lump-sum payment of \$513 to settle debt in full.	AE A-B; Tr. at 52

At the hearing, Applicant reported that the only other delinquent debts he incurred besides those alleged in the SOR and otherwise mentioned were delinquent taxes he owed to State B at various times. He attributed those taxes to the extraordinary amounts he owed initially due to changes in his wife’s employment status, and then to his increasing income bracket. Without specifying either the tax years involved or the amounts owed, he stated that he resolved all but one \$4,500 tax bill via payment plans he negotiated with State B. Although he could not recall the specific tax year to which the \$4,500 tax bill related, he believed it was one of the last tax years (sometime between 2017 and 2019) before he relocated back to State A. He attributed his delays in paying the State B taxes to “some missteps, and then things outside of our control happened.” He described his tax payment history to State B as “another contributor” to his overall indebtedness. He has not had any post-bankruptcy delinquent federal tax debt. He received a federal tax refund of “about \$1,000” for tax year 2022, because he keeps his exemptions from withholdings “pretty low.” (GE 6 at 2; AE B at 2, 13-14; AE C at 2, 11; Tr. at 30-31, 62-63, 77, 78)

On September 23, 2022, State B accepted his request to repay his final \$4,500 tax bill via 12 monthly payments of \$375, beginning in October 2022. He remained current with those payments through October 2023. However, he owed one more payment in November 2023, because his August 2023 payment was not processed due to an error by State B. (AE B at 2, 13-14; AE C at 2, 11; Tr. at 30-31, 62-63)

At the hearing, Applicant explained his debt repayment strategy as follows:

I started from the top and worked my way down. Some of them are more willing to come to agreements that benefit both parties than other ones. And then I also tried to maybe hit on some of the smaller debts first because I wanted to get through the progress, take care of those, and then work my way up. But there really wasn't any one [sic]-- none of these are priority over the others, because they're all the debt I owe and hey all needed to be addressed. It was really just the order -- I started at the top, and whoever was -- whoever was going to work with me. Ones that wanted \$500 and \$600 a month payments, I had to wait until I had settled some of the other ones financially, just -- \$500 payments, it can be a strain. (Tr. at 69-70, 79)

After the hearing, Applicant reiterated his commitment to resolving his remaining delinquent debts. He anticipated that once he completed repaying his State B taxes and the debts alleged in SOR ¶¶ 1.a. and 1.f, he would have the “the flexibility to be more aggressive” with his repayment plan payments as well as begin to start repaying the debts alleged in SOR ¶¶ 1.c and 1.d. (AE C at 2)

Financial Information

Applicant is the primary wage earner for his family. He attributed the progress he has made in resolving his delinquent debts to his salary increases and the addition of his wife’s consistent income since March 2022. He estimated that his gross annual salary was about \$80,000, upon his hire in 2005. He had been earning about \$60,000 with his former employer, which he considered at the time to be a “bigger” salary increase than it was in hindsight. (Tr. at 65-67).

In February 2021, Applicant reported his gross annual salary as \$135,000, net monthly salary as \$6,500, and net monthly remainder as \$400. He also expected to receive a \$12,000 bonus at the end of 2021. However, at the hearing, he explained, “That’s pre-tax, obviously. It gets thrown into a check, and it looks like you made a million dollars a year. That \$12,000 goes away real fast.” His “bonuses have actually gone down for three straight years.” He recalled that his 2022 gross bonus was about \$8,000. He recollected that he “probably earmarked” both his 2021 and 2022 bonuses toward repaying debts and increasing his savings. (GE 7 at 4-5; Tr. at 74-75, 76)

“About two months” prior to the hearing, Applicant received an increase in his gross annual salary to between approximately \$160,000 and \$165,000. He also received a “bump” in salary of about \$400 per paycheck while he worked on a long-term assignment for his employer in State C for about a year between 2022 and 2023. He estimated that his wife has earned a gross annual salary of about \$20,000 since about March 2022, which he calculated based on her receiving “about \$400 a week, roughly.” However, he acknowledged that, because she only works “about 20 hours or so” per week, “\$400 might be a bit high.” After the hearing, Applicant reported his and his wife’s monthly net income as \$7,790 and \$1,500, respectively. He also reported a net remainder of \$126, after he made reported monthly payments totaling \$2,164 toward his delinquent debts. There is no information in the record about their prior income history. (Tr. at 5, 54-55, 65, 78-81)

At the hearing, Applicant advised that he planned to investigate the status of a new \$7,304 collection account that caught his attention when he reviewed a June 2023 CBR, which was provided to him a week before the hearing. He was not able to do so prior to the hearing. After the hearing, he confirmed that the new collection account related to an old debt, the unalleged \$7,304 loan account he previously managed through the DRC, as discussed above. After negotiating with the creditor for “a couple of months,” he finalized a settlement agreement on November 15, 2023, reducing the balance owed to \$4,650, to be paid via 31 monthly payments of \$150, beginning in December 2023. He learned that the DRC did not provide the creditor with his correct contact information, which is one reason why he forgot about the debt. The other reason is that the debt never appeared on any of the credit reports he reviewed. The June 2023 CBR was prepared by a different

credit bureau agency than the one whose reports he regularly monitors. (AE C at 2, 12-13; Tr. at 43, 81-82)

All accounts were reported in good standing on Applicant's June 2023 CBR. Although he continued to rely on consumer credit to meet expenses, he was current with his monthly payments and had not incurred any new delinquent debts. He actively uses only two personal credit cards to "rebuild credit," on which he pays the balances in full each month. Both cards have credit limits of \$300. He opened one in June 2017, and the other in April 2023. He carries balances on only two other accounts, on which he timely makes the required monthly payments, including: (1) a personal loan he opened in May 2023 to pay for hospital fees totaling about \$8,500, which were not fully covered by his insurance because he incurred them while he was working in State C; and (2) a vehicle loan he refinanced in August 2021 to lower his monthly payment. He chose to use the consumer loan to pay his medical debts because the loan terms "made sense" to him, and to avoid delaying payment to the medical facility. The monthly payments on those two loans are \$298 and \$325, respectively. (GE 9; Tr. at 45, 46, 51, 82-86)

Since the time they began working with the DRC, Applicant and his wife have been operating as a primarily "cash family," with the exceptions noted above. For an unspecified period, he has been setting aside funds from his paychecks, in various amounts, to accumulate savings for "some financial cushion to agree to the settlements with multiple [creditors] concurrently." As of the hearing, he was allocating \$350 per paycheck to his savings account. He had a savings account balance of "about \$1,800," and a retirement account balance of "about \$40,000." He has not been able to save "as much as [he] should or would like to," because he has been prioritizing repaying his delinquent debts. He borrowed an unspecified amount from his retirement account to help him refinance his vehicle, as previously discussed, which he is repaying via an automatic \$175 deduction from each paycheck. (Tr. at 20, 45, 52, 57-58, 75-76)

Whole Person

Applicant has ascended to the role of a senior principal engineer in the nearly 18 years that he has been working for his current employer. He currently manages a team of 19 people. He has never committed a security clearance violation during his 23 years as a "cleared employee," including the years when he worked for his former employer. He understands the importance managing his finances responsibly. He and his wife are in a "much better head space and financial place now than five years ago." When they engaged the services of the DRC, they began implementing lifestyle changes to avoid future indebtedness, including substantially reducing their credit-card use, as indicated above. He chose to work in State C, and to live there alone and away from his family for a year, to avail himself of an opportunity to make extra money to "really attack" his debt repayment efforts. Neither he nor his family have not taken a vacation "in recent history." He learned a lesson from his experience with the veterinarian bill alleged in SOR ¶ 1.b, and has not incurred any similar debts, including for two subsequent family dogs who also passed away from cancer. (Answer; GE 7 at 2; Tr. at 15, 25-27, 28, 33-34, 38-39, 45, 46, 53, 73, 89)

Applicant has sought out resources to improve his financial literacy, which is how he learned about using credit cards to rebuild credit. Because Applicant has not undergone any financial counseling in the past 10 years (since his Chapter 13 bankruptcy), he expressed an interest in pursuing financial counseling again to continue learning “best practices” for managing his finances. (Tr. at 53-54, 83-84)

Upon reflection of his financial situation at the hearing, Applicant acknowledged and opined,

I said it before, there's some responsibility there. I will not run from that. That's a fact. You don't accumulate this without a bit of that. There were some circumstances out of my control, but again, my responsibility to probably keep things managed so if things out of my control do happen, I don't succumb to them. (Tr. at 53)

I'd like to think if COVID didn't happen and my wife resumed working when we moved back to the east coast, these would have been paid or in progress before [they became a security concern]. COVID did happen. Nothing I could change about that. So I can't really change the history. I can just show the efforts I've made over the last year that kind of aligned with [my wife] going back to work, which is sort of, we're thinking, for the family. A single-income family is tricky to support a family of five. (Tr. at 53)

It's rather embarrassing, quite frankly, to have the education I do and be able to some of the technical work but then . . . having issues with my own personal finances. I'd hope that I'd shown that with the wherewithal financially in my household to address these debts in an expedient manner I've done so. I understand that there's still some left, and there's still some concerns we're trying to address. . . And this was a lapse in judgment for a protracted period of time or prolonged. I will not dismiss that. Things were in my control that led me to being in a spot where occurrences out of my control put me in this spot. (Tr. at 89)

Policies

“[N]o one has a ‘right’ to a security clearance.” (*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988)). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” (*Egan* at 527). The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” (EO 10865 § 2)

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative

judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk 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.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." (EO 10865 § 7). Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. (*Egan* at 531). "Substantial evidence" is "more than a scintilla but less than a preponderance." (*See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994)). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. (ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016)). 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. (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 the national interest to grant or continue his [or her] security clearance." (ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002)). "[S]ecurity clearance determinations should err, if they must, on the side of denials." (*Egan* at 531; AG ¶ 2(b))

Analysis

Guideline F: Financial Considerations

The 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

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

The record evidence and Applicant's admissions establish the following disqualifying conditions set forth in AG ¶ 19 under this guideline:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators.

I considered each of the factors set forth in AG ¶ 20 that could mitigate the alleged concerns under this guideline and find the following warrant discussion:

- (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.

Adjudication of security clearance eligibility involves evaluating an applicant's judgment, reliability, and trustworthiness, and is not a debt-collection proceeding. The AGs do not require an applicant to immediately resolve or pay each debt alleged in the SOR, or to be debt free; nor is there a requirement that the debts alleged in an SOR be resolved first. An applicant need only establish a plan to resolve the indebtedness and then take significant actions to implement the plan.

Applicant began actively working to address his post-bankruptcy indebtedness more than four years before the SOR was issued. He proactively sought professional assistance at the first sign of his financial distress in 2018, before his debts became delinquent. Despite not receiving the full benefit from his creditors, he is credited with making payments totaling \$17,887 between June 2018 and December 2019, to address his debts. During that period, he was able to resolve three unalleged debts, which initially totaled \$10,997.

Since terminating the DRC's services for good cause, Applicant has worked diligently with his creditors to repay his remaining debts within his available means. Between April 2019 and January 2020, before the SOR was issued and despite the challenges of his single-income family, he made consistent monthly payments of unknown amounts to resolve three additional unalleged debts, which initially totaled \$5,745. In May 2022, after his wife became gainfully employed, he paid unknown amounts to resolve the debts alleged in SOR ¶¶ 1.l and 1.n, which initially totaled \$3,215. Between October 2022 and October 2023, he paid \$4,125 toward resolving his remaining State B tax debt, and at least \$9,919 toward resolving the remaining SOR debts. The debts alleged in SOR ¶¶ 1.a, 1.f, 1.g, 1.j, and 1.l through 1.o. have been resolved. Although not yet resolved, Appellant initiated and is adhering to good-faith efforts to address the debts SOR ¶¶ 1.b through 1.e, 1.h through 1.i, and 1.k; his State B tax debt; and the unalleged \$7,304 loan account.

In total, Applicant has paid at least \$31,931 toward resolving his indebtedness since 2018, not including the unknown amounts that he also paid. His testimony was sincere and credible. He demonstrated responsible actions to address his indebtedness, both before and since it became a security concern. His understanding about finances has evolved. He demonstrated a reformed approach to using credit cards. His decision to incur new debt to repay a large medical bill was reasonable under the circumstances. His recent credit report demonstrates that he lives within his means and manages his finances responsibly. The poor judgment and overspending that contributed to his indebtedness was not motivated by a willful violation of his financial obligations. His prolonged track record of payments and responsible actions lead me to conclude that he will follow through with his plan to fully resolve his remaining delinquent debts and to avoid any future indebtedness.

Applicants' finances became overextended due to circumstances that were both within and beyond his control. Since then, he has implemented a reasonable repayment plan and has made meaningful progress in implementing that plan over an extended period. Because the record lacked information sufficient for me to determine how much of the resulting indebtedness should be allocated to his poor judgment and overspending,

I am unable to conclude that his indebtedness largely resulted from circumstances beyond his control. For that reason, I find that AG ¶ 20(b) is not established. Conversely, considering the responsible way Applicant has addressed his delinquent debts, I am able to conclude that his finances are under control, unlikely to recur, and no longer cast doubt about his reliability, trustworthiness, and judgment. Accordingly, I find that AG ¶¶ 20(a), 20(c), and 20(d) apply to mitigate the Guideline F concerns.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the adjudicative guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude that Applicant has mitigated the security concerns raised by the debts alleged in the SOR. Accordingly, Applicant has carried his burden of showing that it is clearly consistent with the interests of national security to grant him eligibility for access to classified information.

Formal Findings

Formal findings 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.o:	For Applicant

Conclusion

I conclude that it is clearly consistent with the interests of national security to continue Applicant's eligibility for access to classified information. Clearance is granted.

Gina L. Marine
Administrative Judge