



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



In the matter of:)
)
) ISCR Case No. 24-00652
)
Applicant for Security Clearance)

Appearances

For Government: Sakeena Farhath, Esq., Department Counsel
For Applicant: *Pro se*

01/15/2025

Decision

HARVEY, Mark, Administrative Judge:

Guideline E (personal conduct) security concerns are mitigated; however, Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On July 29, 2013, January 20, 2021, and October 10, 2023, Applicant completed Electronic Questionnaires for Investigations Processing or security clearance applications (SCA). (Government Exhibit (GE) 1-GE 3) On April 2, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Specifically, the SOR set forth security concerns arising under Guidelines F and E. (HE 2) Applicant provided an undated response to the SOR. On August 26, 2024, Department Counsel was ready to proceed. On September 12, 2024, the case was assigned to me. On September 24, 2024, Applicant indicated in an email that October 30, 2024, was a good date for him for his hearing. (HE 1) On October 23, 2024, Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on October 30, 2024. (HE 1) The hearing was held as scheduled, using the Microsoft Teams video teleconference system. (HE 1)

During the hearing, Department Counsel offered 14 exhibits into evidence, and Applicant offered 19 exhibits into evidence. (Tr. 35-37, 40, 104; GE 1-GE 14; Applicant Exhibits (AE) 1-AE 19) All proffered exhibits were admitted into evidence. (Tr. 36-37)

On November 7, 2024, DOHA received a copy of the transcript. Applicant provided five post-hearing exhibits. (AE 20-AE 25) The record closed on December 30, 2024. (Tr. 100)

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

Findings of Fact

In Applicant's SOR response, he denied all of the SOR allegations. He also made some admissions of the underlying facts alleged in the SOR. For example, he admitted responsibility for most of the debts and other allegations, and he indicated they were not security significant because of his efforts to resolve the debts or the allegations were not recent. His admissions are accepted as findings of fact.

Applicant is a 40-year-old senior logistics specialist, and he has worked for the same employer since July 2022. (Tr. 7-9) In 2002, he graduated from high school, and in 2015, he received an associate degree. (Tr. 8-9) In 2016, he received a bachelor's degree, and he majored in electronics engineering technology. (Tr. 8) In 2020, he was awarded a master's degree in engineering management. (Tr. 8)

Applicant served in the Navy from 2002 to 2012, and he was a petty officer second class when he left the Navy. (Tr. 10-11) He received an honorable discharge. (Tr. 10-11) He has held a security clearance since 2003. (Tr. 41) There is no evidence of security violations. In 2003, he married, and his children are ages 10 and 13. (Tr. 11-12, 21)

Financial Considerations and Personal Conduct

Applicant's spouse did not work outside their home because she wanted to obtain academic credentials to enable her to obtain better employment. (Tr. 23-24) She had young children at home and was unable to obtain well-paying employment sufficient to pay for much more than daycare. She was not able to work during the COVID pandemic. (Tr. 24) In 2021, Applicant's mother-in-law was diagnosed with lung cancer, and his spouse needed to support family members. (Tr. 25) In 2023, his spouse completed her

nursing degree and obtained employment. (Tr. 30) She was earning about \$30,000 annually after she received her degree. (Tr. 30) She has recently returned to school. (Tr. 31) She has about \$40,000 in student loans, and she has an education deferment on repayment of her student loans. (Tr. 31) Applicant has a few hundred dollars in savings. (Tr. 84) Their financial plan is to pay their delinquent debts and then save for emergencies. (Tr. 85) Applicant has not had formal financial counseling; however, he has read books on finances. (Tr. 86, 91) In the summer of 2024, he obtained two new credit cards, and he has a balance of about \$300 on each card. (Tr. 87)

In Applicant's July 29, 2013 SCA, he disclosed five delinquent accounts. (GE 1 at 34-38) For credit cards with balances of \$559 and \$632 and a bank debt for \$997 he said, "I have not made an attempt to satisfy the amount written off due to the amount being more than 3 years delinquent, this would affect my credit negatively by paying this off now." *Id.* at 36-38. He denied responsibility for the other two debts. *Id.* at 34-36.

In Applicant's January 20, 2021 SCA, he disclosed 17 delinquent accounts and four civil lawsuits. (GE 2 at 34-53) Fifteen of the 17 accounts were listed on the SOR as delinquent accounts. *Id.* at 34-49. In the comments he said for most of the debts, "Had a lot of bills and could not afford to pay all of them so I had to choose to pay what I could afford." *Id.* On three debts he said he was making payments totaling about \$200 monthly. *Id.* Two of the three debts were not listed on his SOR, and one debt was included as SOR ¶ 1.b. He did not disclose the \$22,973 delinquent debt in SOR ¶ 1.r in his January 20, 2021 SCA. (GE 2)

In Applicant's October 10, 2023 SCA, he listed 17 delinquent accounts. (GE 3 at 32-51) Fifteen of the 17 accounts were listed in his SOR. In the comments he said for most of the debts, "Had a lot of bills and could not afford to pay all of them so I had to choose to pay what I could afford." *Id.* He said he was making payments on two debts. He said he was making \$50 to \$100 payments on the debt in SOR ¶ 1.b, and the balance listed was reduced to \$7,404. *Id.* at 38-39. He disclosed the \$22,973 delinquent debt in SOR ¶ 1.r in his October 10, 2023 SCA. (GE 3)

Applicant said his current annual gross income is \$106,000. (Tr. 42) About two years ago, his gross income was about \$96,000. (Tr. 42) Applicant's budget shows combined monthly income for himself of \$6,194, monthly expenses of \$5,857, and a net monthly remainder of \$338. (Tr. 45; AE 20) It is unclear from his budget whether it includes income from his spouse. He did not indicate any debt payments on his budget except for a vehicle loan with \$1,269 monthly payments. (AE 20) The SOR alleges a bankruptcy (¶ 1.a), misuse of a credit card (¶ 1.t) and 18 delinquent debts totaling \$44,829 (¶ 1.b to 1.s). The status of the SOR allegations is as follows:

SOR ¶ 1.a is a Chapter 7 bankruptcy discharged in March 2016. Applicant's stepfather had medical problems and passed away in 2015. (Tr. 21-22, 45) Applicant and his spouse traveled to assist his mother. (Tr. 21) His spouse lost her employment because of the requirements related to Applicant's stepfather's illness. (Tr. 22) She was unemployed for about 20 months. (Tr. 28) The bankruptcy docket indicates, "Assets Abandoned (without deducting any secured claims): \$253,000, Assets Exempt: \$20,000,

Claims Scheduled: \$433,000, Claims scheduled to be discharged without payment (without deducting the value of collateral or debts excepted from [2016] discharge): \$433,000.” (GE 14 at 6 (amounts rounded to nearest \$1,000)) Applicant said he had about \$400,000 in debt discharged in the bankruptcy. (Tr. 50) He said he has no intention to file for bankruptcy in the future. (Tr. 83)

SOR ¶ 1.b is a judgment filed in 2023 for \$7,611. In 2018, Applicant obtained a loan from the creditor to pay his credit cards. (Tr. 54-55) He did not remember which credit cards he paid. (Tr. 55) In his January 20, 2021 SCA, for this debt he said he owed \$7,611 and he is “Making payments toward loan, paying \$100 a month until satisfied.” (AE B at 44) In his October 10, 2023 SCA for this debt he said:

At time of delinquency [I] was having trouble making bill payments. Set up payment plan with [creditor] to make \$100 a month payment. I missed a few payments so they took me to court for judgement on debt. . . . They are currently awaiting court papers to be able to garnish wages to recoup monies owed to [the creditor]. (GE 3 at 33)

On February 6, 2024, the creditor offered to settle the \$7,611 debt for \$3,044 and suggested various payment options. (SOR response) Applicant made six \$381 monthly payments from May to October 2024 to the law firm handling the judgment. (Tr. 56-57; SOR response; AE 8 at 21-26)

SOR ¶¶ 1.c, 1.d, 1.h, and 1.p are accounts placed for collection with the same collection agent for \$2,190, \$1,825, \$709, and \$290, respectively. On April 26, 2024, the collection agent wrote that three accounts were resolved with a zero balance. (SOR response) On June 28, 2024, the collection agent said the \$2,190 debt could be settled for \$1,825, and \$58 monthly payments were scheduled to start on July 1, 2024. *Id.* Applicant said he paid all of the debts except SOR ¶ 1.d (\$1,825), which is in a payment plan. (Tr. 60-61, 65-66) The creditor wrote he made the \$58 payments in July, August, and September 2024. (AE 6 at 18-19) The reason he did not start payments before receiving the SOR was because he was relying on the three-year statute of limitations. (Tr. 61, 89) He resolved the last debt owed to this creditor on December 6, 2024. (AE 23)

SOR ¶ 1.e is a charged-off account for \$1,378. Applicant admitted responsibility for this debt. (Tr. 62) The creditor offered to settle the debt for a lump sum of about \$950, or he could make \$120 monthly payments to address the \$1,378 balance. (Tr. 63) At his hearing, he said he intends to allocate about \$120 monthly to pay this debt after he pays some other debts. (Tr. 62) After his hearing, he said he intended to make \$138 monthly payments beginning on February 1, 2025, until the debt is paid. (AE 22).

SOR ¶ 1.f is an account placed for collection for \$1,315. On April 15, 2024, the creditor acknowledged receipt of \$263 and wrote the account is resolved. (Tr. 63-64; SOR response)

SOR ¶ 1.g is a charged-off account for \$716. On July 1, 2024, the creditor wrote the debt could be settled for \$251. (SOR response) Applicant has not paid the settlement amount; however, he intends to pay it on March 1, 2025. (Tr. 64-65; AE 22)

SOR ¶ 1.i is an account placed for collection for \$706. On July 2, 2024, the creditor wrote that the debt could be resolved with \$59 monthly payments starting in August 2024. (SOR response) Applicant made the first five \$59 payments from August 2024 to December 2024. (Tr. 68; AE 3 at 4-6; AE 21)

SOR ¶ 1.j is a charged-off account for \$676. On July 1, 2024, the creditor offered to settle the debt for \$237. (SOR response) Applicant has not paid the settlement amount; however, at his hearing, he said he intends to pay it in the future. (Tr. 68-69) After his hearing, he said, "I am committed to resolving this debt and propose a one-time settlement in the amount of \$237 paid on February 1, 2025, at which time this account will be considered settled and paid." (AE 22)

SOR ¶ 1.k is an account placed for collection for \$664. On July 2, 2024, the creditor offered to settle the debt for \$421 with \$35 monthly payments starting on July 31, 2024. (SOR response; AE 4 at 7-12) Applicant made some payments starting in July 2024, as indicated in the reduction in the balance of the debt to \$493. (Tr. 70; AE 4 at 12)

SOR ¶ 1.l is a charged-off account for \$596. On June 28, 2024, the creditor offered to settle the debt for \$298 with \$50 monthly payments starting on July 1, 2024. (SOR response) He made some \$50 payments. (Tr. 71) On October 18, 2024, the creditor said the settlement balance was \$224, and in October 2024, he was scheduled to increase his monthly payment to \$75. (Tr. 71; AE 10 at 29-33)

SOR ¶ 1.m is an account placed for collection for \$587. On July 1, 2024, the creditor acknowledged receipt of a \$150 payment, and said the debt now has a zero balance. (Tr. 72; SOR response)

SOR ¶¶ 1.n and 1.o are accounts placed for collection by the same collection agent for \$554 and \$480. A judgment enforcing the debt in ¶ 1.n was filed in December 2020. (AE 11 at 34) The creditor agreed to accept \$15 monthly payments starting on August 1, 2024, for one account and \$69 monthly payments starting on September 1, 2024, for the other account. (SOR response; AE 5 at 14-16) Applicant said he is making payments on the debt in SOR ¶ 1.n. (Tr. 73-73) On August 6, 2024, the creditor wrote he paid the SOR debt in ¶ 1.o. (Tr. 73-74; AE 2 at 3)

SOR ¶ 1.p is an account placed for collection for \$290. The account has a zero balance. (Tr. 74; SOR response)

SOR ¶ 1.q is an account placed for collection for \$250. Applicant made some payments on the account before the SOR was issued. (Tr. 76) The creditor obtained a judgment. (Tr. 76) The debt was paid in August 2024, and the account has a zero balance. (Tr. 75-76; SOR response; AE 13)

SOR ¶ 1.r is an account placed for collection with a past-due amount of \$11,526 on a debt with a balance of \$22,973. In May 2017, Applicant borrowed funds to repair his roof. (Tr. 78) He and his spouse contacted the creditor to renegotiate the loan; however, the creditor failed to send a new contract with the reduced payment amounts. (Tr. 78, 95) They had several discussions over the years with the creditor; however, they were unable to reach a satisfactory agreement with the creditor. (Tr. 96) The creditor wanted \$400 monthly payments with interest continuing to accrue, and this was an unacceptable payment plan for Applicant. (Tr. 97) Applicant’s credit report indicates the last payment made on this home improvement loan with a balance of \$22,973 was on April 3, 2020, and it would be removed from his credit report in February 2026. (Tr. 80; SOR response) An attorney advised Applicant that if they resumed payments, it would restart the statute of limitations. (Tr. 79, 90) Applicant was willing to sign a new contract with the creditor if the payments were low enough. (Tr. 79; AE 18) He did not send the creditor a check to see if the creditor would cash it. (Tr. 90)

After his hearing Applicant provided a letter to me, which states:

This letter serves as a formal notification of my intention to fully repay the outstanding debt owed to [the creditor] in the amount of \$26,201. I am committed to resolving this debt and propose a repayment plan that includes \$380 per month, beginning on May 15, 2025 after first paying off another debt . . . then applying that same monthly payment amount to this account until paid in full. I am already making this \$380 payment so continuing to make this payment on another debt with allow me to maintain my budget plan. (AE 22 (amounts rounded to nearest dollar))

SOR ¶ 1.s is a charged-off debt for \$1,309. On July 3, 2024, the creditor wrote the debt was settled for \$250. (Tr. 80-81; SOR response)

SOR ¶ 1.t is a travel credit card, which was used for unauthorized purposes in June 2012. SOR ¶ 2.a cross-alleges the conduct in SOR ¶ 1.t under the personal conduct guideline. Applicant erroneously used this credit card for personal expenses such as gasoline for his vehicle and food, and the expenses totaled about \$300. (Tr. 27, 88, 98-99) When he noticed that he was using an unauthorized credit card, he notified his supervisor. (Tr. 27, 81-82) He paid the debt about one day after he notified his supervisor of the misuse of the credit card. (Tr. 82, 98) He did not receive any adverse action from his employer. (Tr. 82)

The following table shows Applicant and his spouse’s federal income tax status. Amounts are rounded to nearest \$100.

Tax Year	Adjusted Gross Income	Refund	Exhibit
2019	\$87,800	\$2,400	AE 24
2020	\$89,600	\$3,400	AE 24
2021	\$96,100	\$5,600	AE 24
2022	\$127,900	\$500	AE 24
2023	\$154,600	Owes \$5,600	AE 24

At his hearing, Applicant said he paid all of his state and federal income taxes. (Tr. 87) I requested he provide IRS tax records for the previous five years. After his hearing, he provided IRS tax transcripts that showed his tax returns for tax years (TY) 2019 to 2023 were timely filed. (AE 24) For TYs 2019 to 2022, Applicant received refunds. (AE 24) His tax on his TY 2023 federal income tax return was \$10,200; \$3,700 was withheld; \$1,000 was paid with his return; and he owed \$5,600. (AE 24) In August, September, and October 2024, he paid \$100 each month. (AE 24) He currently owes the IRS \$5,300. (AE 24) His tax debt will not be considered for disqualification purposes.

On February 8 2022, a law firm acknowledged that a bank debt resulting in a judgment was paid. (AE 9 at 27-28) A creditor with a judgment entered against Applicant thanked him for resolving his account by making payments totaling \$1,249. The account was satisfied on July 31, 2024, and he has no further obligation on this debt. (AE 1 at 1) In August 2024, a judgment from a creditor was satisfied. (AE 13 at 36)

On September 10, 2024, Applicant's homeowner's association wrote that his balance is \$566. (AE 7 at 20) In June 2019, a judgment from the homeowner's association was dismissed. (AE 12 at 35) He made payments on some other debts as indicated in his credit reports.

Character Evidence

In 2019, 2020, and 2021, Applicant received letters of appreciation from his employer for his contributions to various missions. (AE 14 at 36-40) The letters said in the concluding paragraph:

All of us [who work with you at your employment] would also like to add our gratitude for your dedication, hard work and tremendous efforts which led to the well-deserved accolades. Your superb accomplishments reflect [your employer's] and the Navy's tradition of always going "above and beyond." Thank you for a job extremely "well done!" (AE 14 at 36-40)

In 2023, Applicant received letters of appreciation from a Navy captain and his company leadership. (AE 14 at 41-42; AE 15) Friends and coworkers praised Applicant's reliability, diligence, professionalism, helpfulness, and trustworthiness. (AE 19)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is

clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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

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

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

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

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes two disqualifying conditions that could raise a security concern and may be disqualifying in this case, "(a) inability to satisfy debts"; and "(c) a history of not meeting financial obligations."

"[A] single debt can be sufficient to raise Guideline F security concerns." ISCR Case No. 19-02667 at 3 (App. Bd. Nov. 3, 2021) (citing ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016)). "Additionally, a single debt that remains unpaid over a period of years can properly be characterized as a history of not meeting financial obligations." *Id.*

The record establishes the disqualifying condition in AG ¶¶ 19(a) and 19(c). Additional inquiry about the possible applicability of mitigating conditions is required. Discussion of the disqualifying conditions are contained in the mitigation section, *infra*.

The financial considerations mitigating conditions under AG ¶ 20, which may be applicable in this case are as follows:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

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

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

AG ¶ 20(a) does not apply to the debts which were delinquent when the SOR was issued. "It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

Applicant's misuse of a credit card in 2012, and his bankruptcy discharge of their debts in 2016 are not recent. A bankruptcy discharge is a lawful process designed to

give debtors a fresh start. SOR ¶¶ 1.a and 1.t are mitigated under AG ¶ 20(a) by the passage of time since the conduct at issue and the unlikelihood of recurrence.

Applicant provided some important mitigating information under AG ¶ 20(b). Applicant's spouse did not work outside their home because she wanted to obtain academic credentials to enable her to obtain better employment. She had young children at home and was unable to obtain well-paying employment. She was not able to work during the COVID pandemic. In 2021, Applicant's mother-in-law was diagnosed with lung cancer, and his spouse needed to support relatives. These are circumstances partially or fully beyond his control. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the 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)). He did not establish that he acted responsibly under the circumstances because he has owed delinquent debts since 2020, and the connections to and financial costs of these circumstances to his delinquent debt are unclear.

"[U]ntil an applicant has a meaningful financial track record, it cannot be said as a matter of law that he has initiated a good-faith effort to repay overdue creditors or otherwise resolved debts. The phrase 'meaningful track record' necessarily includes evidence of actual debt reduction through payment on debts." ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007)).

On April 2, 2024, the SOR was issued. After the SOR was issued, Applicant made payments to address or paid 13 debts as follows: 1.b (\$7,611-made three payments); 1.c (\$2,190-paid); 1.d (\$1,825-paid); 1.f (\$1,315-paid); 1.h (\$709-paid), 1.i (\$706-made five payments); 1.k (\$664-making payments); 1.l (\$596-making payments); 1.m (\$587-paid); 1.n (\$554-making payments); 1.o (\$480-paid); 1.p (\$290-paid); and 1.s (\$1,309-paid).

Applicant made payments on some non-SOR debts as indicated in his credit reports and to address SOR ¶ 1.q before the SOR was issued. SOR ¶ 1.q is an account placed for collection for \$250. The creditor obtained a judgment. The debt was paid in August 2024, and the account has a zero balance

Applicant promised to pay four SOR debts in 2025: 1.e (\$1,378); 1.g (\$716); 1.j (\$237); and 1.r (about \$26,000).

In ISCR Case No. 17-03229 at 6 (App. Bd. June 7, 2019) the Appeal Board said:

As we have previously stated, the timing of resolution of financial problems is an important factor in evaluating an applicant's case for mitigation because an applicant who takes action to resolve financial problems only after being placed on notice his or her clearance is in jeopardy may lack the

judgment, and self-discipline to follow rules and regulations over time or when there is no immediate threat to his or her own interests. *Id.* (citing ISCR Case No. 15-06440 at 4 (App. Bd. Dec. 26, 2017)).

SOR ¶ 1.r is an account placed for collection with a past-due amount of \$11,526 on a debt with a balance of \$22,973. In May 2017, Applicant borrowed funds to repair his roof. His credit report indicates that last payment was made on this home improvement loan with a balance of \$22,973 on April 3, 2020, and it would be removed from his credit report in February 2026. Until 2024, Applicant relied on the statute of limitations of three years, which barred using a judgment and garnishment from collection of the funds owed from Applicant's pay after April 3, 2023. After his hearing Applicant provided a letter to me which states he intends to contact the creditor to propose a payment plan in May 2025, and the balance owed is now \$26,201. He did not prove he was unable to start making payments sooner.

Applicant's reliance on the state statute of limitations for security clearance purposes before the SOR was issued was misplaced. "[D]ebts remain relevant for security clearance purposes even if they are no longer enforceable due to the running of the statute of limitations. That is, a judge may consider the underlying circumstances of these uncollectable debts in evaluating whether an applicant demonstrated good judgment, trustworthiness, and reliability." ISCR Case No. 20-01618 at 3 (App. Bd. Sept. 29, 2022) (citing ISCR Case No. 01-09691 at 3 (App. Bd. Mar. 27, 2003)). See also ISCR Case No. 23-02885 at 2 (App. Bd. Dec. 30, 2024) (stating same). "[R]eliance on a state's statute of limitations does not constitute a good-faith effort to resolve financial difficulties and is of limited mitigative value." *Id.* (citing ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016)).

At his hearing, Applicant said he did not owe federal income taxes. After his hearing, he provided a federal income tax transcript for TY 2023 that showed he owed \$5,300 in federal income taxes for that tax year. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

Id. (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). This non-SOR allegation (misstatement about federal income tax debt at his hearing) will not be considered except for the five purposes listed above.

Financial considerations security concerns are not fully mitigated. Applicant's 2020 SCA listed 17 delinquent debts, and most of those same debts were listed on the April 2, 2024 SOR as unresolved. In TY 2023, he and his spouse's adjusted gross income substantially increased to \$154,600, and he should have resolved most of the SOR debts or started making payments in 2023. After the SOR was issued on April 2, 2024, Applicant paid, settled, or started payment plans on 13 SOR debts. He promised to start payments on four debts in 2025. I am not confident that he will pay these last four debts (one is about \$26,000) and maintain his financial responsibility based on his history of having financial problems.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

AG ¶ 16 includes two conditions that could raise a personal conduct security concern and may be disqualifying as follows:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct

includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

The record establishes AG ¶¶ 16(d) and 16(e). Discussion of the disqualifying conditions is in the mitigating section, *infra*.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns in this case:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

SOR ¶ 2.a alleges in 2012 Applicant misused a credit card. He paid restitution. Applicant's improper behavior occurred about 12 years ago; this type of unethical behavior has not recurred; and it is unlikely to occur in the future. I do not believe he would compromise national security to avoid disclosure of misuse of the credit card. AG ¶ 17(c) applies. Personal conduct security concerns are mitigated.

Whole-Person Concept

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

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

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

consideration of the guidelines” and the whole-person concept. My comments under Guidelines F and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 40-year-old senior logistics specialist. In 2015, he received an associate degree; in 2016, he received a bachelor’s degree, and in 2020, he was awarded a master’s degree in engineering management. He served in the Navy from 2002 to 2012, and he was a petty officer second class when he left the Navy. He received an honorable discharge. He has held a security clearance since 2003. There is no evidence of security violations. In 2003, he married, and his children are ages 10 and 13.

In 2019, 2020, and 2021, Applicant received letters of appreciation from his employer for his contributions to various missions. In 2023, Applicant received letters of appreciation from a Navy captain and his company leadership. Friends and coworkers praised Applicant’s reliability, diligence, professionalism, helpfulness, and trustworthiness.

The evidence against grant of a security clearance is detailed in the financial considerations section, *supra*, and this evidence is more substantial than the evidence of mitigation. Applicant did not establish that he was unable to make more timely and significant progress resolving his SOR debts especially in light of his increase in income in TY 2023. He waited until after he received the SOR to resolve most of his delinquent SOR debts. The financial evidence raises unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards resolution of his debts and maintenance of his financial responsibility, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

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

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a through 1.d:	For Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Subparagraphs 1.h and 1.i:	For Applicant
Subparagraph 1.j:	Against Applicant
Subparagraphs 1.k through 1.q:	For Applicant
Subparagraph 1.r:	Against Applicant
Subparagraphs 1.s and 1.t:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security of the United States to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge