

DATE: October 9, 2007

_____)	
In re:)	
)	
-----)	ISCR Case No. 06-22488
SSN: -----)	
)	
Applicant for Security Clearance)	
_____)	

**DECISION OF ADMINISTRATIVE JUDGE
ELIZABETH M. MATCHINSKI**

APPEARANCES

FOR GOVERNMENT

Fahryn Hoffman, Esq., Department Counsel

FOR APPLICANT

Pro se

SYNOPSIS

Applicant owes more than \$25,000 in delinquent debt incurred in his name or for which he is contractually liable. While his spouse was handling the family's finances, and he is presently in divorce proceedings in part because of the unpaid debt, Applicant failed to ensure that debts he knowingly incurred were paid on time. Efforts to resolve his financial situation, undertaken in response to court actions by his creditors, are not enough to overcome the financial considerations concerns. Personal conduct concerns exist because he falsely denied any financial delinquencies when he completed his November 2005 security clearance application. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by ¶ E3.1.2 of Department of Defense Directive 5220.6 (Jan. 2, 1992), as amended, DOHA issued a statement of reasons (SOR) on April 3, 2007, detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense effective September 1, 2006. The guidelines were provided to Applicant when the SOR was issued. Applicant answered the allegations in the SOR on May 8, 2007. By letter dated May 25, 2007, Applicant was directed to indicate whether or not he wished to have a hearing before a DOHA administrative judge. On June 6, 2007, Applicant declined a hearing.

On June 27, 2007, the government notified Applicant that it was requesting a hearing in his case. On July 30, 2007, the government moved to amend the SOR to add seven new allegations under Guideline F (SOR ¶¶ 1.s through 1.y), and to amend Guideline E to incorporate those debts among those allegedly concealed when he completed his November 2005 security clearance application (e-QIP). On August 3, 2007, the case was assigned to a DOHA administrative judge to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The case was transferred to me on August 6, 2007, because of Applicant's work location.

On August 7, 2007, Applicant requested a hearing at the earliest date available. I scheduled a hearing for August 23, 2007, near Applicant's duty station. Also on August 7, 2007, I ordered Applicant to inform me by August 17, 2007, of good cause to deny the proposed amendments to the SOR. Applicant was notified that in the absence of a timely objection, the SOR would be amended, and he would be expected to answer the new allegations, either admit or deny, at his upcoming hearing. Applicant filed no response by the due date.

The hearing was convened as scheduled on August 23, 2007. Before the introduction of evidence, the SOR was amended and Applicant filed his answers to the new allegations. The government submitted five exhibits (Ex. 1-5) and Applicant four exhibits (Ex. A-D) and testimony was taken from the Applicant, as reflected in a transcript (Tr.) received on September 5, 2007. Based on the evidence presented, the government withdrew SOR ¶ 1.s.

The record was held open until September 24, 2007, for Applicant to submit documentation of his divorce proceedings and/or other financial records. Applicant timely forwarded a letter from his divorce attorney (Ex. E), a statement of payments on the debt in SOR ¶ 1.a (Ex. F), and a letter showing the balance of the debt in SOR ¶ 1.f (Ex. G). The government had no objections, and the documents were admitted.

FINDINGS OF FACT

Under Guideline F, as amended, Applicant was alleged to owe 25 delinquent debts totaling about \$64,952 (SOR ¶¶ 1.a–1.y). Under Guideline E, as amended, Applicant is alleged to have falsified his November 2005 Electronic Questionnaires for Investigations Processing (e-QIP) by denying that he was over 180 days delinquent on any debt and that he was currently over 90 days

delinquent on any debt. Applicant initially admitted the debts in the SOR with the exception of SOR ¶¶ 1.b, 1.c, and 1.i, and averred he was working on resolving the debts. During the course of the hearing, it became clear that Applicant had admitted only some of the debts because they appeared on his credit report (“I mean if that’s what the credit report says, then I believe it to be accurate.” Tr. 75). He denied any knowledge of the debts in SOR ¶¶ 1.i, 1.p, 1.q, 1.r, 1.d, 1.u, 1.v, 1.x, and 1.y. Applicant also denied that he deliberately falsified his e-QIP, averring that he had been unaware of his financial situation until sometime after he completed his security clearance application.

After a thorough consideration of the pleadings, exhibits, and hearing transcript, I make the following findings of fact.

Applicant is a 44-year-old engineer who has worked for a defense contractor since December 2005. He came to his present location in March 2007 on loan from another subsidiary of the same corporation, but in July 2007 transferred to his present employer. Applicant held a confidential-level clearance when he worked for the “sister company.” His current duties in the engineering/planning of repair and upgrade of military vessels do not require access to classified information, but he will need a clearance for access to a classified area as the job progresses.

Applicant worked as a mechanic until his brother, a college professor, convinced him to pursue his undergraduate degree. In September 1998, he matriculated in a local community college. He worked as a janitor and tutor part-time. With the demands of schooling and work, his spouse took over the handling of the family’s finances. His spouse was employed as a receptionist in a medical office. In September 2000, he began engineering studies at the state university. That same month, he and his spouse lost everything in a house fire.¹ They were renting from his brother, and had insurance but it covered less than half of their personal property loss. His spouse was too emotionally distraught to work for about a year. She collected temporary disability payments for part of the time and then unemployment compensation until those benefits ran out.

From June 2001 until Applicant finished college, he held an internship with a local consulting firm that dealt in oceanographic matters. His spouse returned to work as a medical receptionist in about September 2001, but after about a year, she quit and has not been back to work. Applicant indicates he was unaware that her disability and then unemployment payments had stopped. (Tr. 94)

Applicant earned his bachelor of science degree in mechanical engineering in May 2003, and began working locally as an application engineer for a foreign-owned company involved in oceanographic instrumentation. His annual salary was about \$47,000. His job took him away from home at least 50 percent of the time, and as compensation, his employer gave him the money for a cruise that he took to Mexico in April 2004. In December 2004, Applicant got laid off when the company closed its U.S. operations. His unemployment compensation was about 65% of his previous base salary.

In June 2005, Applicant took what he considered to be a temporary position with a company doing oceanographic measurements. In November 2005, Applicant accepted a job offer from the

¹On his e-QIP, Applicant indicated he had been living at the same address since 1995. Assuming the home he lived in was destroyed by fire in September 2000, then the residency information he provided on his e-QIP is not accurate.

defense contractor at an annual salary of almost \$52,000. Needing a secret clearance for his expected duties with the defense contractor, Applicant completed an Electronics Questionnaire for Investigations Processing (e-QIP) on November 22, 2005. Applicant responded negatively to questions 28 a [“In the last 7 years, have you been over 180 days delinquent on any debt(s)?”] and 28 b [“Are you currently over 90 days delinquent on any debt(s)?”].

A check of Applicant’s credit on December 14, 2005, revealed several accounts had been charged off and/or placed for collection since 2003. Some of the accounts had been opened in Applicant’s name alone or jointly with his spouse (SOR ¶¶ 1.a, 1.d, 1.e, 1.g, 1.h, 1.k, 1.m, 1.n, 1.o, 1.p, 1.t) and others by his spouse with him as an authorized user (SOR ¶¶ 1.f, 1.i, 1.u, 1.w). They had a mortgage on a house that they owned jointly but did not live in, and that account was current. A financial history of the delinquent accounts is reflected in the following table.

Debt as alleged in SOR	Delinquency date	Payment Status
¶ 1.a. \$1,852 finance services debt in collection	Opened Apr 02, \$3,100 credit limit. \$1,852 bal for coll Sep 05, net bal with interests and costs \$2,127.86 Dec 05.	\$50 monthly payments starting Apr 06, balance \$1,481.31 Sep 07.
¶ 1.b. \$131 power services debt in collection	Last activity Oct 06, \$131 for coll Dec 06, unpaid Feb 07.	Assumed spouse had made the payments, learned she had closed the account with funds owed. Unpaid as of Aug 07.
¶ 1.c. \$440 gasoline credit card debt in collection	Last activity Aug 03, \$440 listed for coll May 06, \$454 bal Jan 07.	Assumed it had been paid. Not satisfied as of Aug 07.
¶ 1.d. \$231 home heating debt in collection	Last activity Apr 03, \$231 for coll Jan 04, unpaid as of Apr 04.	Assumed spouse had paid it. Not satisfied as of Aug 07.
¶ 1.e. \$5,971 retail revolving charge in collection	Opened Jan 86, last activity Aug 03, \$4,338 charged off Apr 05, \$4,735 coll bal as of Dec 05.	Purchases made by Applicant and his spouse after house fire. No payments on \$5,971 bal as of Aug 07.
¶ 1.f. \$3,001 credit card debt in collection	Opened Jun 94, authorized user, \$4,591 charge off Nov 02, \$3,891 bal Feb 07.	Spouse took out card in his name without his knowledge, paid \$700 (\$70 monthly) starting Nov 06, balance \$3,016.20 as of Aug 07.
¶ 1.g. \$458 wireless phone service debt in collection	Past due \$458 as of Mar 04, unpaid as of Feb 07.	Cell phone in his name used by spouse, no payments as of Aug 07.

Debt as alleged in SOR	Delinquency date	Payment Status
¶ 1.h. \$8,666 credit card debt in collection	Opened Dec 01, credit limit \$5,500, \$7,654 charged off April 04; \$10,156 bal in coll Jun 05, \$8,666 bal as of Sep 06.	Primary holder but not primary user, \$50 monthly payments in Jul 07 and Aug 07
¶ 1.i. \$2,733 electronics debt in collection	Last activity Apr 03, \$2,473 bal for coll May 05, \$2,733 bal Jun 06	Spouse primary, Applicant contractually liable. No payments as of Aug 07.
¶ 1.j. \$80 telephone debt in collection	Opened Jun 03, \$80 due since Jan 05	Discontinued landline service, unaware of debt. No payments as of Aug 07.
¶ 1.k. \$1,551 credit card debt charged off	Opened Jan 03, high credit \$893, last activity Aug 03, \$1,281 charged off, \$1,551 bal	No payments toward \$1,551 bal as of Aug 07.
¶ 1.l. \$3,891 credit card debt charged off	Same debt as ¶ 1.f	See ¶ 1.f
¶ 1.m. \$439 gasoline credit card debt charged off	Opened Jul 99, transferred Jun 06	Acknowledged as his card. Original bal less than \$300. No payments as not sure of current assignee.
¶ 1.n. \$480 retail credit card debt charged off	Opened Apr 02, \$480 charged off and sold Mar 04	Home improvement debt. No payments as of Aug 07.
¶ 1.o. \$2,832 credit card debt charged off	Opened Apr 98, \$2,934 charged off Oct 03, transferred	Authorized user, judgment sought for \$2,688.27; Payments at \$50 monthly from Jul 06, \$650 paid as of Aug 07.
¶ 1.p. \$1,546 credit card debt charged off	Opened jointly with spouse Feb 98, \$1,546 charged off Nov 03, \$1,607 bal Dec 03 charged off, \$1,546 listed bal Oct 04	Bal \$1,546 reported as unpaid on Mar 07 credit report, no effort to repay as of Aug 07.
¶ 1.q. \$169 debt charged off by bank	Amount of term payment on debt in ¶1.y and ¶ 1.u	
¶ 1.r. \$172 debt charged off by bank	Amount of term payment on debt in ¶ 1.h	
¶ 1.s. \$1,644 collection debt (withdrawn)	Same debt as ¶ 1.a	See ¶ 1.a

Debt as alleged in SOR	Delinquency date	Payment Status
¶ 1.t. \$506 retail credit card debt	Opened Apr 99, \$65 past due on \$506 bal Apr 04, account closed by grantor	Acknowledged bal \$506 reported as unpaid on Mar 07 credit report, unpaid as of Aug 07.
¶ 1.u. \$8,680 debt in collection	Opened Jun 98 as authorized user, \$2,601 past due Jun 04, bal \$8,060 charged off Dec 02	Disputes; spouse's primary responsibility.
¶ 1.v. \$2,934 debt in collection	Same debt as ¶ 1.o	See ¶ 1.o
¶ 1.w. \$1,366 debt in collection	Opened Nov 00, authorized user, last activity Jun 03, \$1,366 charged off	Acknowledged bal \$1,366 unpaid as of Aug 07.
¶ 1.x. \$7,654 debt in collection	Same debt as ¶ 1.h	See ¶ 1.h
¶ 1.y. \$7,525 debt in collection	Same debt as ¶ 1.u	See ¶ 1.u

On December 20, 2005, the creditor owed the debt in SOR ¶ 1.a placed a \$2,127.86 balance for collection. (Ex. F). In March 2006, the assignee filed for a judgment in small claims court. Applicant paid \$50 per month (\$850 total) toward the debt beginning April 20, 2006.

From March to May 2006, he was on an extended work assignment at a shipyard located more than 3,000 miles from his home. In May 2006, Applicant was interviewed by a government investigator about his finances. He provided a personal financial statement estimating a net monthly remainder of \$260 after payment of living expenses, \$435 in a mortgage loan, and \$150 to lawyers towards debts in collection. He now claims he was unaware of the delinquencies until his May 2006 interview, and that the \$150 in claimed payments did not represent actual payments but rather anticipated payments based on what he could afford.

In or before June 2006, the assignee collecting the debt in SOR ¶ 1.o sought a legal judgment in the amount of \$2,688.27 (\$2,583.27 plus costs, *see* Ex. 2, Ex. D). Applicant offered to repay the debt at \$50 per month before the formal judgment was entered, and his offer was accepted by the collection agency. As of August 2007, Applicant had paid \$650 towards the debt (Tr. 161).

On July 31, 2006, an arbitrator ordered Applicant to pay \$8,666.22 on the debt in SOR ¶ 1.h. On October 10, 2006, the assignee collecting the debt filed for an order and judgment confirming the arbitration award plus costs. By letter dated November 22, 2006, Applicant offered to pay \$50 per month toward the debt, representing that it was all that his finances would allow (Ex. 2). Applicant made his first payment on the debt on July 10, 2007. He made a second payment approximately one month later.

The assignee collecting the debt in SOR ¶ 1.f filed a small claims action to recover a \$3,211.23 balance. On October 31, 2006, Applicant offered to repay the debt at \$70 monthly, starting November 20, 2006. As of August 27, 2007, Applicant had paid \$700 towards the debt bringing the balance with interest to \$3,016.20 (Ex. 2, Ex. G).

By September 2006, Applicant and his spouse were having marital problems, in part due to her handling of their financial affairs, including that she had kept delinquency information from him. While he was out of state on temporary duty, he told her he wanted a divorce. He continued to give her \$500 per week to cover their expenses, including rent, and for the mortgage on the home they own.

In late November or early December 2006, DOHA forwarded financial interrogatories to Applicant, requesting proof that he was working with a debt solutions firm allegedly named by him during his May 2006 interview. DOHA also asked Applicant what he was doing to satisfy the debts in SOR ¶¶ 1.u, 1.o, 1.e, 1.f, 1.p., 1.w, 1.k, 1.t, 1.m, 1.h, 1.i, 1.g, 1.d, and why he had not listed those debts on his security clearance application. On December 14, 2006, Applicant responded he was unfamiliar with the debt resolution firm that DOHA claimed he had said he was working with.² Instead, he indicated he was dealing with the creditors individually, and he provided correspondence confirming efforts to resolve the debts in SOR ¶¶ 1.a, 1.f, 1.h, and 1.o. Applicant attributed his financial difficulties to the house fire in September 2000 when he was a full-time student, his spouse's subsequent inability to work, their use of credit to cover living costs, and his spouse's disability status. Applicant indicated that he was "working slowly and diligently to pay off the financial obligations that [he has] while making sure [he did] not put [himself] in the same situation again." Concerning his failure to disclose his debts on the e-QIP, Applicant indicated without explanation that he misunderstood the questions and he was not trying to deny his responsibility.

In February or March 2007, Applicant's spouse filed for divorce, although she and Applicant had agreed previously to share the same attorney.³ She obtained a court order that required him to pay alimony of \$500 every two weeks, but in April 2007 it was reduced to \$400 per week. About \$445 of those funds is to cover the monthly mortgage payment on the home they own.

A check of Applicant's credit on March 6, 2007, showed progress in satisfying the debt in SOR ¶ 1.a, but it also showed a recent utility company debt placed for collection in December 2006 in the amount of \$131. Applicant was out of state at the time working and his spouse had run up the bill, and disconnected the service only to open a new account in her name. The credit bureau reported delinquent debt totaling \$38,388.

²DOHA is not likely to have inquired about specific contacts with a debt resolution firm unless Applicant told the government about it. Yet there is nothing in the record to confirm that Applicant had claimed to be working through a debt resolution company. The discrepancy was not resolved at the hearing.

³Applicant initially testified he asked for a divorce in October 2006 (Tr. 63), and his spouse filed for divorce in March 2007(Tr. 57). He later testified he asked for the divorce in September 2006, and she filed in February 2007 (Tr. 95).

In March 2007, Applicant's services were loaned out to his present employer. He was paid about 10 percent more while on this temporary assignment through June 2007. On his transfer to his current employer in July 2007, Applicant's base annual salary increased almost 25 percent, to \$66,000 annually. He supplements his income with a catering business on the side, from which he earns about \$500 per month. As of August 2007, he was on a housing relocation package so had no rental obligation, but he had signed a lease to rent a residence at \$600 per month effective mid-September 2007. He estimates he will have about \$400 left over each month after payment of expenses and the \$220 towards his old debts. For the last three to four seasons of winter hockey, Applicant has held season tickets to attend American Hockey League games.

Applicant had a court hearing for his divorce scheduled for September 19, 2007, after which he hoped to provide information regarding the distribution of assets and liabilities in the divorce. On September 19, 2007, the matter was continued to November 1, 2007. Applicant has proposed that he and his spouse split the marital debts and equity in the home equally, and that he pay alimony for about four years until his spouse qualifies for social security benefits. Applicant estimates his share of the equity in the home to be about \$30,000 minus any realtor commission from the sale. In the alternative, Applicant proposes that he assume responsibility for the debts that are in his name individually, or jointly with his spouse, in return for paying no alimony and waiver of his interest in the home.⁴

Applicant has not incurred any new credit card debt since 2004. In July 2007, his brother purchased a 2007-model year pickup truck for him. Applicant is repaying his brother \$510 per month for the vehicle.

Applicant conducted himself in a very professional manner in his work for a defense contractor since December 2005, including while on temporary duty in 2006 into 2007. A diligent and motivated employee, he demonstrated a high degree of accountability and ethical behavior on the job. He is held in high regard by those who have had the opportunity to work with him or observe his work.

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 occupy a position . . . that will give that person access to such information." *Id.* at 527. The President 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." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

⁴Applicant testified he is going to assume \$25,000 of the marital debt (Tr. 60). His attorney's letter does not indicate any dollar limit as to the amount of the debt Applicant will assume (see Ex. E).

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It 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.

CONCLUSIONS

Guideline F—Financial Considerations

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. (AG ¶ 18)

Finances were tight after Applicant started college in 1998. Applicant or his spouse in his name opened several credit card accounts over the next three years to pay for living expenses, and to reestablish themselves after a house fire in 2000. Several accounts were charged off in the 2003/04 time frame due to nonpayment. Of the \$64,952 in delinquent debt alleged in the SOR, Applicant has delinquent debt on his record totaling about \$32,363.50,⁵ not including an additional \$8,680 owed on an account opened by his spouse on which he was listed as an authorized user. While it is not clear that he incurred the charges, the debt is reported on his March 2007 credit record as a past due balance. While some of the debts were apparently incurred by his spouse without his knowledge (SOR ¶¶ 1.b, 1.d, 1.f, 1.g, 1.i, 1.k, 1.p, 1.u), other accounts were actively used by him or known to him (most notably SOR ¶¶ 1.c, 1.e, 1.h, 1.j, 1.m, 1.n, 1.o, 1.t, 1.w). Applicant knew that after their house fire, they had incurred significant credit card debt for living expenses and refurbishing their home. Disqualifying conditions (DC) ¶ 19(a), *inability or unwillingness to satisfy debts*, and ¶ 19(c), *a history of not meeting financial obligations*, apply.

The house fire is an extenuating factor that explains the reliance on credit in 2000/01 (*see* ¶ 20(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, or a death, divorce or separation), the individual acted responsibly under the circumstances*), although concerns are raised by the extent to which they took on new debt when she was out of work and he was a full-time student. For ¶ 20(b) to apply in his favor, Applicant must have acted reasonably to address his indebtedness once he was in a position to do so. On earning his bachelor’s degree, he took a job paying \$47,000 per year. Given the significant travel involved with that job, he left the family’s finances to his spouse, and he contends she failed to apprise him of their financial situation (“I trusted her.” Tr. 97). Yet on occasion he handled some of the debts (“I did on occasion write

⁵Some of the debts were likely alleged twice, under the names of the original creditor and the subsequent assignee (SOR ¶¶ 1.f and 1.l, ¶¶ 1.a and 1.s, ¶¶ 1.o. and 1.v, ¶¶ 1.h and 1.x, ¶¶ 1.y and 1.u). Of the debts that the government added in the amendment, the evidence was sufficient to prove the additional delinquency in SOR ¶¶ 1.t and 1.w only.

some [checks] or, you know, go online and make a payment.” Tr. 101) Failure to adequately monitor repayment of known financial obligations is itself financially irresponsible behavior.

Since he began working for a defense contractor in December 2005, Applicant has paid \$850 on SOR ¶ 1.a, \$700 on SOR ¶ 1.f, \$100 on SOR ¶ 1.h, and \$650 on SOR ¶ 1.o. While these payments weigh in his favor, they were not initiated by him, but were in response to creditor assignee action to recoup payment, including through court proceedings. Applicant made his first payment on the debt in ¶ 1.a after the creditor had initiated action in small claims court. In June 2006, Applicant stipulated to a court judgment being entered against him and for him to repay the debt in ¶ 1.o at \$50 monthly. Applicant knew that an arbitrator had found against him in the amount of \$8,666.22 on July 31, 2006, but he made no payments on the debt in ¶ 1.h until the creditor went to court in October 2006 seeking an order to enforce the arbitration award. He offered to pay \$50 per month in November 2006, but the first payment was not made on the debt in ¶ 1.h until July 2007. Similarly, the creditor assignee collecting the debt in ¶ 1.f had to file in court before Applicant started paying on it. These recent payments, although made on agreed upon terms, are not enough to apply MC ¶ 20(d), *the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*, especially considering his lack of any effort to contact his other creditors. Following his interview of May 2006 with a government investigator, Applicant was clearly aware of the seriousness of his financial situation, and he made no effort to contact the creditors who had not resorted to legal action. When asked about his failure to address the \$80 debt owed the telephone company, he explained he wanted to make sure that his financial situation will allow him to make the payments on the debts he has worked out with attorneys (“I’ve been trying to make sure that my finances will allow me to pay the debts that I’ve worked out with these other attorneys without putting me in any other financial situations so I don’t go deeper.” Tr. 98) At the same time, he apparently found the money to afford season tickets for minor league professional hockey games for the past three or four years (*see* Ex. A).

Although the Directive does not require that Applicant be debt free, the risk of undue financial pressure persists where the delinquent debt in his name and/or for which he is contractually liable amounts to as much as half of his annual salary. As of September 2007, there had been no final order either requiring his spouse to sell their home, which would give him the equity to devote to the debt, or making his spouse responsible for a significant amount of the delinquent debt listed on his credit record. It is premature at this juncture to conclude that his financial problems are safely in the past. Even though he has not personally incurred any new credit card debt in the last couple years, he is paying his brother \$510 monthly for a new truck that his brother bought for him because of his poor credit rating.

Guideline E—Personal Conduct

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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. (AG ¶ 15)

On his November 22, 2005 e-QIP, Applicant responded negatively to questions 28.a [“In the last 7 years, have you been over 180 days delinquent on any debt(s)?”] and 28.b [“Are you currently over 90 days delinquent on any debt(s)?”]. His December 2005 credit report disclosed more than

\$25,000 in bad debt on his record, most of it charged off and/or placed for collection in 2003/04. Applicant has consistently denied the intentional concealment of his delinquent debt. In his December 2006 response to interrogatories, Applicant indicated he misunderstood the questions and was not trying to avoid his responsibility. He provided a different explanation when he answered the SOR, indicating for the first time that he had been unaware of his financial situation when he completed his clearance application. A good faith misunderstanding or a lack of knowledge of his financial situation would negate the willful intent required under DC ¶ 16(a), *deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities*. Several character references consider Applicant to be honest and a person of integrity. But the inconsistencies in his explanations, when coupled with the extent of his debt, make it especially difficult to accept his denial of intentional concealment.

Considering only those revolving charge accounts opened in his name and/or knowingly used by him, \$7,654 had been charged off in April 2004 on ¶ 1.h, \$4,338 had been charged off in April 2005 on ¶ 1.e, \$2,934 had been charged off in October 2003 on ¶ 1.o, \$1,851 had been charged off on ¶ 1.a in January 2004, \$1,281 had been charged off in May 2004 on ¶ 1.k, a \$506 balance was 180 days past due as of April 2004 on ¶ 1.t, \$480 had been charged off in March 2004 on ¶ 1.n, and \$439 had been charged off in September 2003 on ¶ 1.m. Applicant admitted at his hearing that he knew some of the accounts might have been late (“I knew some of them might have been late but I didn’t know anything was past 90 days and that type of situation, no.” Tr. 103). Had he acted in good faith, it stands to reason that he would have at least checked on the status of his financial accounts. At a minimum, he had an obligation to determine the status of those debts that he thought might be late before he answered the e-QIP. An inference of intentional falsification may reasonably be drawn in this case. The personal conduct concerns are not mitigated when Applicant has yet to provide a consistent, credible explanation for his clearly false answers to the financial delinquency questions on his e-QIP. None of the mitigating conditions apply.

Whole Person Analysis

The adjudicative process is an examination of a sufficient period of a person’s life to make an affirmative determination that the person is eligible for a security clearance. (AG ¶ 2(a)) Although extenuating circumstances (house fire, spouse’s unemployment) explain Applicant’s overuse of credit, he did not ensure that debts were paid once he began working. Efforts to address his delinquent debt were prompted by the creditors taking court action and not initiated by him, and he has not done enough on his own to resolve the financial considerations concerns (*see 2(a)(6), the presence or absence of rehabilitation and other pertinent behavioral changes*). Applicant has shown himself to be a very dedicated, reliable coworker for the defense contractor, but those with a clearance must also be counted on to be fully candid at all times, even if it comes at personal cost. Concerns persist as to whether Applicant’s representations can be relied on, given his failure to provide a consistent, credible explanation for the clearly false denials of any delinquent debt on his e-QIP.

FORMAL FINDINGS

Paragraph 1. Guideline F:

AGAINST APPLICANT

Subparagraph 1.a:	For Applicant ⁶
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	Against Applicant
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	Against Applicant
Subparagraph 1.l:	For Applicant
Subparagraph 1.m:	Against Applicant
Subparagraph 1.n:	Against Applicant
Subparagraph 1.o:	For Applicant
Subparagraph 1.p:	Against Applicant
Subparagraph 1.q:	For Applicant
Subparagraph 1.r:	For Applicant
Subparagraph 1.s:	Withdrawn
Subparagraph 1.t:	Against Applicant
Subparagraph 1.u:	Against Applicant ⁷
Subparagraph 1.v:	For Applicant
Subparagraph 1.w:	Against Applicant
Subparagraph 1.x:	For Applicant
Subparagraph 1.y:	Against Applicant

Paragraph 2. Guideline E: AGAINST APPLICANT

Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	Against Applicant

DECISION

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Elizabeth M. Matchinski
Administrative Judge

⁶Favorable findings are returned as to SOR ¶¶ 1.a, 1.f (1.l same debt), 1.h (1.x same debt), and 1.o (1.v same debt), because of his payments, even though the past due balances were proven.

⁷Applicant has not shown that he is not legally responsible for the debt (¶ 1.y same debt) if his spouse does not pay.