DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 12-07204
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: *Pro se*

01/16/2015

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Decision

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MATCHINSKI, Elizabeth M., Administrative Judge:

After his divorce, Applicant was legally liable to repay approximately $24,093 in delinquent credit card debt incurred during his marriage and a home equity loan charged off with a balance of $89,991. He made small payments on three credit card debts in September 2014 after a collection agency filed for judgments. Applicant filed a Chapter 7 bankruptcy petition in October 2014, but his case was still pending as of the close of the record. The financial considerations concerns are not sufficiently mitigated. Clearance is denied.

Statement of the Case

On July 15, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, Financial Considerations, and explaining why it was unable to find it clearly consistent with the national interest to grant a security clearance for him. The DOD CAF took the action under Executive Order 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) effective within the DOD on September 1, 2006.

Applicant responded to the SOR allegations on August 1, 2014. He requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On September 11, 2014, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On September 24, 2014, I issued a Notice of Hearing scheduling the hearing for October 14, 2014.

I convened the hearing as scheduled. Five Government exhibits (GEs 1-5) and seven Applicant exhibits (AEs A-G) were admitted into evidence without objection. Applicant and his supervisor testified, as reflected in a transcript (Tr.) received on October 23, 2014. At Applicant's request, I held the record open for two weeks for him to submit additional documentary evidence. On October 21, 2014, Applicant submitted evidence of a Chapter 7 bankruptcy filing. Department Counsel filed no objections by the October 27, 2014 deadline, so the document was admitted into evidence as AE H. On October 27, 2014, Applicant forwarded three additional documents, which were entered without objection as AEs I-K.

Summary of SOR Allegations

The SOR alleges under Guideline F that as of July 15, 2014, Applicant owed charged-off credit card debts of $10,722 (SOR 1.a) and $5,729 (SOR 1.d); debts of $8,871 (SOR 1.b), $6,802 (SOR 1.c), and $3,089 (SOR 1.e) held by a collection agency; a $47 delinquent balance with a telecommunications company (SOR 1.f), and a $90,111 charged-off home equity loan balance (SOR 1.g). Applicant admitted the debts in SOR 1.b, 1.d, and 1.g, but explained that the home equity debt was supposed to have been resolved in a past foreclosure action. Applicant denied the debts alleged in SOR 1.a, 1.c, and 1.e in that the debts were his ex-wife's obligations. At his hearing, he testified that he could find no evidence to indicate that the debts in SOR 1.c and 1.e belonged to his spouse so he had assumed responsibility for them. (Tr. 33.)

Rulings on Evidence and Procedure

At the hearing, prior to the introduction of any evidence, the Government moved to withdraw SOR 1.a because Applicant had no legal liability as an authorized user of the account. Applicant did not object, and the motion was granted.

Findings of Fact

After considering the pleadings, exhibits, and transcript, I make the following findings of fact:

Applicant is a 41-year-old systems engineer, who has worked for his current employer, a defense contractor, since July 2000. His current position is that of systems

engineer field tech support associate manager at an annual salary of $108,000. Applicant was granted a secret clearance around September 2000, and it was upgraded to top secret in 2006. Applicant previously served in the United States military from January 1992 to December 1994, and he held a top-secret clearance and access to sensitive compartmented information (SCI) for his military duties. (GEs 1, 2; Tr. 39-41.)

Applicant earned his bachelor's degree in information technology in July 2008. (GEs 1, 5; Tr. 39-40.) He took out student loans totaling $30,625 between November 2003 and August 2007 for his education, although his employer reimbursed some of the cost. (GEs 4, 5.) He earned his Master of Business Administration degree in August 2013. (AE E.)

Applicant and his ex-wife married in June 1993 and divorced in June 2011. They share custody of their two sons and a daughter. (GE 5; AEs A, B; Tr. 42.) Applicant paid his ex-wife $600 a week in support from October 2009 until June 2011, when their divorce was finalized. For the next two years, he paid her allocated alimony and child support at $475 per week. (GEs 1, 2, 5; AE A; Tr. 35-36.) In June 2014, his support obligation was reduced to $375 per week ($250 in child support and $125 in alimony) because his ex-wife began working part time as a waitress. (AE A; Tr. 35-36, 59, 63-64.) Applicant has had to maintain health insurance coverage for his dependents as well. (Tr. 53.)

Applicant's ex-wife handled the finances during their marriage. (GEs 1, 5; Tr. 47.) In December 2003, Applicant and his ex-wife took on a joint mortgage of $166,250 for their home. In April 2005, they opened a home equity loan of $50,000. Around July 2007, Applicant refinanced the home equity loan through a larger loan of $90,111 taken out individually. Additionally, Applicant opened some consumer credit cards individually and some jointly with his ex-wife during their marriage. Applicant was an authorized user as well on some of her credit card accounts. (GE 4.)

Around July 2009, Applicant learned that his ex-wife was having an extramarital affair. He filed for divorce, although they continued to cohabitate while undergoing marital counseling. Applicant obtained his credit report and discovered that she had stopped paying on several of his consumer credit accounts. Additionally, his ex-wife had been using tuition reimbursement funds received from his employer for other expenses so his student loans were seriously past due. (GEs 1, 4, 5; Tr. 46.) They stopped paying on their mortgage in late summer 2010 as it became clear that they were not going to reconcile. (GE 4.)

In October 2010, Applicant moved out of the marital home into an apartment at rent of $950 per month. (GE 1; Tr. 44, 54.) He had to purchase household goods. (Tr. 53.) Additionally, he began paying his ex-wife $600 a week to cover her and their children's expenses while having to cover his own expenses. (Tr. 36, 44-45.) In 2011, Applicant was required by the court to attend counseling following a domestic violence incident involving his ex-wife. He attended 16 sessions at a cost to him of $125 per session. (GE 1; Tr. 55.)

As of December 2011, the primary mortgage on Applicant and his ex-wife's marital home was $24,177 past due on a balance of $151,118. The home equity loan balance of

$89,991 was charged off in March 2011 (SOR 1.g). (GE 4.) After the primary lender initiated foreclosure proceedings, Applicant's ex-wife entered into foreclosure mediation. (GE 5; Tr. 61.)

On January 23, 2012, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP). In response to the financial delinquency inquiries, Applicant disclosed the mortgage and home equity loans on the marital home, which totaled approximately $269,000. He explained that the loans were in foreclosure mediation because his ex-wife had not made a payment since July 2009. However, he had signed a quitclaim deed relinquishing his interest in the home. Applicant listed delinquent credit card debt totaling approximately $34,000 in his name or held jointly with his ex-wife;[1] a $1,600 line of credit; and a $10,000 credit card debt of his spouse on which he was an authorized user. Applicant indicated that he was in the process of filing for bankruptcy around February 2012 to resolve the debts. He added that his student loans were currently deferred because of his financial difficulties. (GE 1.)

As of February 11, 2012, Applicant had several delinquent consumer credit accounts on his credit record:

- A Visa card account opened individually in January 2003 had been charged off in the amount of $8,870 and sold in August 2010 (SOR 1.b).

- A Visa card account opened individually in October 2005 was in collection with a past-due balance of $6,405 with no payments after January 2010 (SOR 1.c).

- A MasterCard account opened individually in June 2007 was in collection with a $5,729 balance as of September 2010 with no payments after January 2010 (SOR 1.d).

- A retail charge account opened in January 1995 was placed for collection in the amount of $3,089 in October 2010 with no payments since January 2010 (SOR 1.e). As of January 2012, the assignee was reporting a $3,393 balance.

- The home equity loan opened in July 2007 had been charged off in the amount of $89,991 and was in collection as of March 2011 with no payments after October 2010 (SOR 1.g).

Applicant was listed as an authorized user on three other charge accounts with respective collection balances of $7,212 (on e-QIP as $8,500), $5,933 (not on e-QIP), and $10,722

[1] Applicant included a $2,500 MasterCard debt. The account was reportedly closed and current as of June 2004. (GE 4.) It is unclear whether Applicant owes a balance on that account. Applicant also listed on his e-QIP a delinquent Visa card debt of $8,500. His February 2012 credit report shows that he was an authorized user on that account. (GE 4.)

(on e-QIP as ex-wife's $10,000 debt). Applicant's student loan balances, totaling $37,642, were reportedly in deferment. They had been 180 days delinquent as recently as November 2011. (GE 4.)

On April 12, 2012, Applicant was interviewed by an authorized investigator from the Office of Personnel Management (OPM) partially about his finances. He indicated that he first learned of the delinquent accounts in July 2010, when he checked his credit. Moreover, he had direct deposit of his pay and he never saw the household bills, which were handled by his ex-wife during their marriage. Applicant surmised that his ex-wife had bought clothing, shoes, and expensive handbags rather than paid their bills. Applicant expressed his intent to file for bankruptcy at some future date. He indicated that the lenders holding the mortgage and home equity loans on his marital home were pursuing his ex-wife for the debts because he had quitclaimed his interest to her. (GE 5.)

Applicant consulted with a lawyer in 2012 about filing for bankruptcy, but he could not afford the quoted fee. (Tr. 50, 55.) He made no effort to resolve his delinquent credit card accounts at that time. (Tr. 50.) Between 2009 and 2013, Applicant incurred about $26,000 in legal fees related to his divorce. He worked overtime to pay the fees and also borrowed from his 401(k) and a savings plan account. (Tr. 51-52, 73.) Applicant is repaying the loans at $64 and $34-$35 per week. At his security clearance hearing, he did not recall the amount remaining to be paid on the two loans. (Tr. 63.) Sometime in 2013, a lawsuit was filed against Applicant to recover the balance of the home equity loan (SOR 1.g). (AE I; Tr. 57, 76-77.)

In February 2014, the agency collecting the debt in SOR 1.c offered to settle for 75% of the original $6,366.49 balance if payment was made by March 14, 2014. The assignee offered to settle the $3,088.58 original balance of SOR 1.e for 70% if paid by March 7, 2014, or for 80% if paid by March 28, 2014. (AE C.) Applicant did not make the lump-sum payments. (GE 3.)

As of May 2014, Equifax was reporting outstanding collection balances of $8,871 on SOR 1.b, $6,802 on SOR 1.c, and $3,089 on SOR 1.e; a charged-off credit card balance of $5,729 on SOR 1.d; a $47 telephone debt in collection since July 2013 (SOR 1.f). The lender of the home equity loan was reporting a zero balance on the account after a charge off in March 2011, although a lawsuit had been filed against Applicant in 2013 to collect the debt. (AE I.) The primary mortgage was still on Applicant's credit report. His ex-wife was paying $1,102 a month on the loan after a modification. (GEs 3, 4.) Applicant reportedly owed $40,000 on the student loans opened between November 2003 and August 2007, although his credit report also shows $35,187 in outstanding federal student loans opened in 2012.[2] (GE 3.) Applicant's student loans are currently deferred until July 2015. (Tr. 77.)

[2] Applicant's performance evaluation for 2012 reflects that he earned 20 credits in 2012 toward his Master in Business Administration degree. (AE E.) It is unclear whether the two loans totaling $35,187 are new student loans for his master's education or whether they are consolidations of his previous student loans. Applicant's May 2014 credit report (GE 3) shows that Applicant will have to make payments totaling at least $400 per month on his student loans. If the federal loans opened in March 2012 and December 2012 are new loans for his graduate study and not consolidations of his old student loans, then he will be required to make another $403 in payments per month. (GE 3.)

Applicant was paying $256 per month for his car, which he financed in November 2009 through a $13,053 loan. As of May 2014, his loan was current with a balance of $1,331, although it had been delinquent in September 2011. (GE 3.)

Around August 2014, the creditor holding the debts in SOR 1.b, 1.c, and 1.e filed for judgments against Applicant to collect SOR 1.b and 1.c. In September 2014, Applicant made three payments of $46.25 each toward the debt in SOR 1.b, five payments totaling $143 toward the debt in SOR 1.c, and five $25 payments toward the debt in SOR 1.e. (AEs C, D.) The creditor unilaterally withdrew the court cases against Applicant. (AEs J, K.) Applicant testified that he paid $47.75 by debit on September 2, 2014, to resolve the telephone debt in SOR 1.f. (Tr. 59-60.) Available bank records (AE D) do not corroborate the payment, but it is such a minor amount that it likely has been paid. As of October 2014, Applicant had not attempted to resolve the credit card debt in SOR 1.d. (Tr. 61.) Any correspondence for that account continued to be sent to his marital address. (Tr. 78.)

On October 6, 2014, Applicant paid $1,150 to an attorney to file a Chapter 7 bankruptcy for him. (AE G.) He borrowed $2,000 from a friend to cover the cost. (Tr. 73-74.) He is required to repay the private loan when he is financially able to do so. (Tr. 74.) Applicant stopped his payments on the debts in SOR 1.b, 1.c, and 1.e because of the pending bankruptcy. (Tr. 57.) Applicant completed the financial counseling required for a bankruptcy filing on October 9, 2014. (AE G.) On October 14, 2014, he filed a Chapter 7 bankruptcy petition. The filing of the petition stayed a lawsuit pending against him to collect the home equity loan on the marital home. (AEs H, I; Tr. 56.) Listed creditors have until January 20, 2015, to object to a discharge. (AE H.) Applicant did not present the schedules for my review, although his primary reason for filing bankruptcy was to alleviate the financial burden of the home equity loan. (Tr. 83.)

Applicant believes he owes no delinquent federal taxes, although he may owe state taxes for tax year 2011. (Tr. 64.) Applicant thought he had filed his state income tax return for tax year 2011 but learned in June 2014 that the state had no record of a filing. His state income tax refund for tax year 2013 was taken and applied to taxes owed for 2011. He received a federal income tax refund of $8,000 for tax year 2013. He apparently used the funds to catch up on bills (i.e., heating oil, car repairs), although he did not provide any documentation showing that the entire amount went toward debts. Applicant has requested a copy of his 2011 federal tax return from the IRS so that he can file his missing state return. (Tr. 65-69.)

Applicant no longer uses any credit cards. (Tr. 73.) As of October 14, 2014, he had $100 in his savings account, which is the minimum required to maintain the account. (Tr. 84.) Applicant has not been delinquent on his child support and alimony payments. As of October 2014, he was current on his rent and utility payments. (Tr. 70.) He paid off his car loan and received the vehicle title in early October 2014. (Tr. 77.)

Applicant works overtime when it is available if family obligations do not conflict. (Tr. 72.) Applicant and his ex-wife share custody of their children. He has his children every other weekend and every Wednesday to Friday (AE B) and incurs extra expenses of $150

to $200 per week for their care. For the past ten years, Applicant has also paid half of his daughter's gymnastics fees at $158 a month. (Tr. 80.)

Character reference letters (AE F), Applicant's work performance evaluations (AE E), and the testimony of Applicant's manager (Tr. 88-98) attest that he is a valuable employee with a strong work ethic. Applicant has committed no security violations. Nor has he been reprimanded or disciplined for his work performance. (Tr. 88.) Applicant recently had to step up and take on a leadership role with little notice. Applicant has continued to be one of his manager's top performers. (Tr. 89.) Applicant has worked many weekends to ensure a quality product on time for the U.S. military customer. (Tr. 95-96.) Applicant has not asked his manager for any financial advice, but he has advised his manager that his credit record is not in good shape. (Tr. 98.) His manager has no reservations about Applicant holding a security clearance. (Tr. 98-99.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to

classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern about financial considerations is set forth in AG ¶ 18:

> 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.

As of his divorce in June 2011, Applicant was legally liable to repay approximately $24,093 in delinquent credit card debt on four accounts. As of May 2014, the credit card balances had accrued to $24,491. The mortgage on Applicant and his ex-wife's marital residence went into foreclosure mediation, but it did not resolve the outstanding home equity loan, which was later charged off in March 2011 for $89,991. As of September 2014, Applicant was being pursued in court for the debt. He also owed a $47 telephone debt in collection since July 2013. Two disqualifying conditions under AG ¶ 19 apply:

(a) inability or unwillingness to satisfy debts; and

(c) a history of not meeting financial obligations.

Concerning the mitigating conditions, AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under circumstances that it is unlikely to recur and does not cast doubt on the individual's current, reliability, or good judgment," applies only in that the consumer credit debts were incurred during his marriage, which ended in June 2011. However, Applicant's failure to address the debts before September 2014 is recent evidence of questionable financial judgment that is not mitigated under AG ¶ 20(a).

Applicant's unrebutted testimony is that his ex-wife incurred the credit card debts during his marriage and that she spent his tuition reimbursements on consumer items for herself and their children. If so, Applicant still had an obligation to monitor her use of his credit and he failed in that regard. Yet, his divorce is a circumstance that implicates mitigating condition AG ¶ 20(b):

(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), and the individual acted responsibly under the circumstances.

Applicant incurred substantial costs to maintain a separate residence (i.e., housing, food, and household items), to pay a divorce attorney, and to support his ex-wife and children. Between 2009 and 2013, he paid his divorce lawyer $26,000. After his divorce, his weekly support payments dropped from $600 to $475, but he still had to cover the medical insurance costs for his dependents. Applicant's divorce negatively affected his finances.

On the other hand, AG ¶ 20(b) also requires that an individual act responsibly under the circumstances, and Applicant was not proactive in addressing known debts. Applicant learned about the credit card debts around July 2010. He did not follow through on his plan to file for bankruptcy in February 2012 because he could not afford the attorney's fees. There is no evidence that he tried to find a more affordable attorney or that he tried to negotiate repayment arrangements with his creditors until September 2014, when he was faced with the potential loss of his security clearance and with collection actions in court. Applicant received a federal income tax refund of $8,000 in 2014, which he explained went toward bills, such as for heating and car repairs, although he provided no documentation to corroborate that the entire $8,000 went toward existing bills. Around that time, his support obligation for his ex-wife and children was lowered by $100 a week because of his ex-wife's part-time work. It is unclear where the extra funds went. Applicant owes student loans, although the evidence shows that in recent years, they have been either delinquent or deferred. Applicant has paid $158 per month for the last ten years toward his daughter's gymnastics fees, but neither those fees nor his work obligations justify or mitigate his inattention until very recently to his $24,000 plus in delinquent consumer credit card debt. Applicant's explanation for not contacting the lender in SOR 1.d is that correspondence about the debt was mailed to his marital home, and he had changed his address. However, presumably his ex-wife would have received mail sent to him at that address since she still lives in the home. It is possible that she did not inform him about any correspondence. Even so, Applicant should have kept his creditors apprised of his current address. At least with respect to the creditor in SOR 1.d, he did not do so.

Mitigating conditions AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control," and AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," are implicated because of Applicant's October 14, 2014 Chapter 7 bankruptcy filing. As required for a bankruptcy discharge, Applicant attended an approved financial training program on October 9, 2014, so he satisfies the counseling component of AG ¶ 20(c). The concept of good faith under AG ¶ 20(d) requires a showing that a person acts in a way that shows reasonableness or adherence to duty or obligation. Reliance on a legally available option such as a Chapter 7 bankruptcy does not carry the same mitigating weight as repayment arrangements or negotiated settlements. Creditors covered by a bankruptcy discharge are left without a legal remedy. That being

said, absent fraud, all unsecured, non-priority debts are dischargeable in a Chapter 7 bankruptcy. However, the bankruptcy schedules were not submitted for the record, so it is unclear which debts are included. The creditors have until January 20, 2015, to file any objections to a discharge, so his bankruptcy is still pending.

Assuming that Applicant is granted a discharge of those debts in the SOR, concerns persist about his financial situation. Despite gross annual income of $108,000, Applicant had to borrow the money to pay his bankruptcy attorney. As of September 30, 2014, Applicant had $1,182.04 in checking deposits and $100 in a savings account. Most of those assets went to his bankruptcy attorney's fee of $1,150, which was paid on October 6, 2014. In Applicant's favor, he is not incurring any new delinquent debt. There is no set repayment schedule for the $2,000 personal loan at this point, and he would no longer have to make payments on the debts in SOR 1.b, 1.c, and 1.e if the debts are discharged. In September 2014, Applicant paid between $96 and $105 per week toward those debts. In addition, he recently paid off his car loan, so he should have another $256 per month in income for other expenses. However, Applicant's student loans come out of deferment in July 2015, and available credit record information shows that he will have to pay $400 a month, if not more, toward his student loans. With his bankruptcy still pending and the fact that he had to borrow from a friend to pay his bankruptcy attorney, it would be premature to conclude that his financial problems are safely behind him.

Whole-Person Concept

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).[3]

Applicant trusted his ex-wife to handle their debts during their marriage with little to no involvement or oversight on his part. He is now dealing with the adverse consequences of that decision through a Chapter 7 bankruptcy filed on the same day as his security clearance hearing. The pending nature of his bankruptcy does not necessarily bar a favorable security decision. At the same time, he has been consistently employed by a defense contractor since July 2000. Applicant indicated on his e-QIP that he planned to file for bankruptcy in February 2012 to resolve the debts that stem from his divorce. His inattention to his debts until September 2014 is inconsistent with the sound judgment that must be demanded of him, who holds a top-secret security clearance. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. *See Dorfmont v.*

[3] The factors under AG ¶ 2(a) are as follows:

> (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.

Brown, 913 F. 2d 1399, 1401 (9th Cir. 1990.). Indications of recent financial stress, such as his student loan delinquency in November 2013 and December 2013, the private loan in September 2014 to file for bankruptcy, and his $8,000 federal tax refund going to bills like home heating oil, make it difficult to conclude that his financial problems are behind him.

Applicant may be a good candidate for a security clearance in the future should he be able to show that his old delinquencies have been discharged in bankruptcy or otherwise resolved, and that his financial situation has improved to where he can be counted on to pay his current obligations on time. Based on the record before me and the adjudicative guidelines that I am required to consider, I am unable to conclude that it is clearly consistent with the national interest to continue Applicant's security clearance eligibility at this time.

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
Subparagraph 1.a:	Withdrawn
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

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge