



Applicant responded to the SOR on July 11, 2015, and requested a hearing. The case was assigned to me on October 16, 2015, and was scheduled for hearing on February 3, 2016. At hearing, the Government's case consisted of eight evidentiary exhibits (GEs 1-8) and a hearing exhibit (HE 1) covering the listed debts in the SOR and their status. Applicant relied on one witness (himself) and 15 exhibits (AEs A-O). The transcript (Tr.) was received on February 10, 2016.

### **Procedural Issues**

Before the close of the hearing, Applicant requested the record be kept open to permit him the opportunity to supplement the record with the documented explanations of his credited payments on his student loan accounts, his creditor 1.a dispute, and his payment history regarding his listed medical debts prior to 2015. For good cause shown, Applicant was granted 14 days to supplement the record; Department Counsel was afforded 14 days to respond.

Within the time permitted to supplement the record, Applicant timely documented a cover email, a spreadsheet covering his student loan payments, a financial activity summary covering his student loan sequences (L1-L7), an unsigned, undated letter from Applicant, and a chart of Applicant's student loan accounts created by Applicant. Applicant's post-hearing submissions were admitted as AEs P-BB.

### **Summary of Pleadings**

Under Guideline F, Applicant allegedly accumulated 13 delinquent debts (mostly medical and student loan accounts) exceeding \$48,000. Allegedly, these listed debts remain outstanding.

In his response to the SOR, Applicant admitted all but one of the listed debts. He claimed that the debt covered by SOR ¶ 1.a of the SOR belongs to another person. He claimed that the remaining medical accounts are in good standing and are being paid monthly pursuant to an agreement with the collection agent for the medical creditors. He claimed arrangements were being made with the creditor covered by SOR ¶ 1.j to resolve the debt and he was awaiting a confirmation of payment from the creditor covered by SOR ¶ 1.k. And, he claimed that his student loan accounts are in good standing.

### **Findings of Fact**

Applicant is a 45-year-old network administrator for a defense contractor who seeks a security clearance. The allegations covered in the SOR that were admitted are incorporated by reference. Additional findings follow.

### **Background**

Applicant married in September 2002. (GE 1) He has no children from this marriage. He earned a bachelor's degree in June 2008, in information technology. (GE 1) Applicant claims no military service. Applicant has worked for his current employer as a

network administrator since June 2004. Previously, he was employed as a help desk technician in a series of temporary jobs without any breaks in employment. (GE 1)

### **Applicant's finances**

Between July 2008 and April 2014, Applicant accumulated a number of delinquent debts. Most of the smaller debts involved co-pays associated with surgical procedures performed on Applicant in 2010. (GEs 3-8)

Applicant documented a consolidated payment agreement with a collection agency covering his medical debts (creditors 1.a-1.i) totaling \$563. (AEs D, L, and N) The agreement calls for monthly payments of \$50. (AEs L, N, W, and AA; Tr. 53-54, 57-59, and 124-125) Three of the medical debts covered by Applicant's payment agreement have since paid in full: SOR ¶¶ 1.b, 1.d, and 1.i. (AE AA) Applicant's only other debts are consumer debts with creditor 1.j (\$435) and creditor 1.k (\$1,796) These debts have since been paid in full as well. (AEs K and O; Tr. 59-60, 64-70)

Besides his accrued medical debts, Applicant accumulated delinquent student loan debts. Based on the evidence compiled at the hearing, his student loan debts covered by SOR ¶ 1.l were broken down into five separate loan balances totaling \$45,249. Since his emergence from rehab program status on his loans in January 2012, Applicant has consolidated these loans and reduced the loan balances. Evidence compiled from the Government's hearing exhibits reported total loan balances on the listed five loans of \$37,752. (GEs 3-5 and H1)

Records confirm that Applicant became delinquent with his student loans in July 2008. (GEs 3-8 and H1) Afforded a post-hearing opportunity to address his delinquent student loan debts, Applicant traced the dates of disbursement of his student loans. Payment disbursements for sequences 0001-0003 are reported as follows: \$2,625 in September 1989 for loan sequence 0001; \$2,535 in July 2010 for loan sequence 0002; and \$6,625 in October 2003 for loan sequence 0003. (GEs 7-8 and AEs A-B, K, Q, T, and BB; Tr. 72-73) Loan activity for these loan sequences are covered more fully in the exhibits.

Payment disbursements for loan sequences 0004-0006 are reported as follows: \$6,625 in July 2004 for loan sequence 0004; \$7,500 in April 2005 for loan sequence 0005; and \$7,500 in July 2006 for loan sequence 0006. (AEs A-B, L, U, and BB) Loan activity for these loan sequences are covered more fully in the exhibits.

Payment disbursements for loan sequences 0007-0014 are as follows: \$10,500 in April 2007 for sequence 0007; \$6,625 in October 2003 for sequence 0008; \$10,500 in April 2007 for sequence 0009; \$7,500 in September 2006 for sequence 0010; \$7,500 in April 2005 for sequence 0011; \$6,625 in July 2004 for sequence 0012; \$2,535 in July 2010 for sequence 0013; and \$2,625 in September 1989 for sequence 0014. (GEs 3-8 and AEs A-B, Q, T-Z, and BB) Loan activity for these loan sequences are covered more fully in the exhibits.

Applicant's activity summaries for loan sequences 0001-0003 reflect monthly payments ranging between \$50 and \$64 from May 2003 and October 2003 for loan sequence 0001 and a zero loan balance; monthly payments ranging between \$34 and \$50 between April 2003 and October 2003 for loan sequence 0002 and a zero loan balance; and no loan payments for loan sequence 0003, which reports a current zero loan balance. (AE T) Applicant activity summaries for loan sequences 0004-0006 and 0007 reflect no monthly payments between 2003 and 2009. (AEs U-V) Each of the accounts for loan sequences 0004 through 0007 reflects a current zero loan balance. (AEs U-V)

Applicant's activity summary for loan sequence 0008 reflects monthly payments ranging between \$29 and \$87 from January 2012 to November 2015. The reported loan balance for this 2008 loan sequence is \$6,666. (AE W) Loan payments ranging between \$65 and \$167 from January 2012 to November 2015 are reported for loan sequence 0009. (AE X) The reported loan balance for the 2009 loan sequence is \$5,739. (AE W) Current principal balances for these 0008 and 0009 loan sequences reflect principal reductions of over ten percent.

Applicant's activity summaries for loan sequence 0010 reflect monthly payments ranging between \$48 and \$125 from January 2012 to November 2015. The reduced loan balance for the 0010 loan sequence is \$6,666. (AE X). Loan payments ranging between \$31 and \$95 from January 2012 to November 2015 are reported for loan sequence 0011. (AE X) The reduced loan balance for the 0011 loan sequence is \$5,739. (AE X) Current principal balances for loan sequences 0010 and 0011 have been reduced by over ten per cent for both years.

Applicant's activity summaries for loan sequence 0012 reflect monthly payments ranging between \$28 and \$86 between January 2012 and November 2015 for loan sequence 0012. ((AE Y). The reduced loan balance for this loan sequence is reported to be \$5,169. (AE X). Loan payments ranging between \$11 and \$26 from January 2012 to November 2015 are reported for loan sequence 0013. (AE Y) The reduced loan balance for this loan sequence is reported to be \$1,455. (AE Y) Current principal balances for loan sequences 0012 and 0013 have been reduced by over 12 per cent for both years. (AE Y)

Applicant's activity summaries for loan sequence 0014 reflect monthly payments ranging between \$11 and \$25 from January 2012 to November 2015. (AE Z) Loan balance reductions for this 0014 loan sequence total \$1,477. (AE Z) The current principal balance for loan sequence 0014 has been reduced by over 40 per cent. (AE Z)

Summarized, Applicant's documentation reflects defaults on his student loan accounts in 2008. (GEs 2-8 and AEs A-B and T-Z) Records reflect that Applicant fully satisfied his student loan balances for loan sequences 001-007. Under the terms of his 2011 consolidated student loan agreement, he committed to monthly start payments of \$227 between March 2012 and March 2014. Beginning in March 2014, his monthly payments increased to \$613 a month. (AE BB) Records reflect that Applicant is current

and in good standing with his student loan agreement. His February 2016 bank statement reveals regular monthly payments on his remaining student loan balances for loan sequences 0008-0014 that fully corroborate the current status of his remaining student loan accounts. (AEs A-C; Tr. 65-67)

### **Character references and civic contributions**

Applicant is well regarded by his supervisors and colleagues. His managers characterized Applicant as honest, hardworking, and dependable. (AE G) Both managers stressed Applicant's trustworthiness, dependability, and strong moral character. (AE G) A friend who has worked with Applicant in organizing and leading a local cub scout pack for the past year credited Applicant with strong leadership qualities and high moral character. (AE G)

Applicant's performance evaluations for 2014 and 2015 credit him with exceeding expectations in rated areas of honesty and integrity, effective communications with others, agility, innovative problem solving, customer knowledge, collaboration, and achieving results. (AE H) Applicant was assigned overall ratings of often exceeds expectations. (AE H)

### **Policies**

The AGs list guidelines to be used by administrative judges in the decision-making process covering security clearance cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns."

Each of these conditions must be considered before deciding whether or not a security clearance should be granted, continued, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c)

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person.

The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk. The following AG ¶ 2(a) factors are pertinent: (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 chances; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent in this case:

### **Financial Considerations**

*The Concern:* 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 . . . AG ¶ 18.

### **Burden of Proof**

By virtue of the principles and policies framed by the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995). As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Executive Order 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. "[S]ecurity-clearance

determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

### **Analysis**

Initial security concerns are raised over Applicant’s history of delinquent debts (mostly medical and student-loan debts) that accrued between 2008 and 2014. Applicant had not previously addressed all of his debts before January 2015. Since January 2015, Applicant has provided documentation of his paying or otherwise resolving his remaining debts.

Of the listed debts covered in the SOR, Applicant denied all of them, claiming he had paid the outstanding student debts and disputed the remaining two debts (i.e., creditors 1.a and 1.i). Based on the reported information supplied by Applicant and the credit reporting agencies, the evidence is sufficient to warrant the application of two of the disqualifying conditions (DC) of the Guidelines: DC ¶ 19(a), “inability or unwillingness to satisfy debts,” and DC ¶ 19(c), “a history of not meeting financial obligations.”

Holding a security clearance involves the exercise of important fiducial responsibilities, among which is the expectancy of consistent trust and candor. Financial stability in a person cleared to access classified information is required precisely to inspire trust and confidence in the holder of the clearance. While the principal concern of a clearance holder’s demonstrated financial difficulties is vulnerability to coercion and influence, judgment and trust concerns are also explicit in financial cases.

Applicant’s listed delinquent debts were reported in a series of credit reports issued between April 2006 and November 2015. (GEs 3-7) Credit reports do create presumptions of authenticity and accuracy. The Appeal Board has explained that credit reports can “normally meet the substantial evidence standard and the government’s obligations under [Directive] ¶ E3.1.14 for pertinent allegations.” ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010) Applicant does not dispute the accuracy of the admitted credit reports (save for the ¶ 1.a debt attributed to him)

Considering all of the circumstances surrounding the origination, delinquency, and good-faith payments of his listed medical, consumer, and student-loan debts, Applicant is entitled to the benefits of MC ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.” Applicant’s consolidated payment plans covering his listed medical and student loan debts entitle him to full mitigating credit of MC ¶ 20(d).

None of Applicant’s medical, consumer, or student-loan debts were based on any material circumstances that could be characterized as extenuating. As a result, application of MC ¶ 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), and the individual acted responsibly under the circumstances” is not available to mitigate security concerns.

From a whole-person standpoint, Applicant is highly regarded by his supervisors and colleagues as an honest, hardworking, and dependable network administrator. He provided excellent performance evaluations from his employer. Addressing his finances, Applicant has demonstrated substantial payment progress with his medical, consumer, and student-loan debts. His documentation covers pay-offs of several of his listed creditors and payment agreements in good standing with his remaining creditors. Favorable conclusions are warranted with respect to the allegations covered in ¶¶ 1.a-1.l under Guideline F.

### **Formal Findings**

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

GUIDELINE F (FINANCIAL CONSIDERATIONS): FOR APPLICANT

Subparagraphs. 1.a through 1.l: For Applicant

### **Conclusions**

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant’s security clearance. Clearance is granted.

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Roger C. Wesley  
Administrative Judge



