

Findings of Fact

Applicant admitted the SOR allegations, except for SOR 1.d-1.f, which he denied, claiming that the debts had been paid.³ He is a 32-year-old machine operator employed as a defense contractor since September 2010. He was previously employed with other defense contractors in similar positions from November 2006 to September 2010 and September 2003 to November 2006. He has been continuously employed since July 2001, albeit in lower paying jobs. He seeks to retain the security clearance he obtained in 2008, which he requires for building access, but not in the performance of his job.

The SOR alleges, and Government exhibits (GE 2-3), establish nine delinquent debts totaling over \$34,000. Applicant admits six debts totaling nearly \$27,000: one automobile repossession (SOR 1.a for \$16,778), two unpaid home electronics accounts (SOR 1.b for \$1,610 and SOR 1.g for \$38),⁴ an unpaid telephone account (SOR 1.c for \$590), and two unpaid education loans (SOR 1.h for \$3,500 and SOR 1.i for \$4,000). Applicant reported the repossession on his May 2012 clearance application (GE 1).

Applicant's financial problems really relate to the fact that he and his wife do not make enough money to comfortably manage their monthly obligations. They married in April 2007 and experienced some marital problems in 2008-2009 that eventually resulted in the voluntary repossession of an automobile (Tr. 29-30). They live in a home owned by his parents. About two years ago, Applicant took a pay cut at his job, when the contract he was working on expired and the contract he was moved to did not pay as much. He recently convinced his father to lower their rent. Their finances were also tight while his wife was in school and not working. She is now working and together they make \$57,000 annually. However, they have received no credit or financial counseling and have no budget (Tr. 47). They basically live paycheck to paycheck. He estimates they might have \$200-400 per week disposable income. In addition to the SOR debts, Applicant is on a repayment plan with the Internal Revenue Service for delinquent taxes (Tr. 44, AE B). Since at least 2007, they file every year but have not withheld enough taxes to pay what is owed. Applicant says they have increased their withholding as much as they think they can, but eating trumps taxes (Tr. 51). Applicant seemed

³Applicant submitted AE A, which documented the satisfaction of three judgments. The first judgment, for \$799, was paid in March 2013. The judgment was in favor of a local collection agent. The case number on the record of satisfaction exactly matches the case number listed in Applicant's June 2012 credit report (GE 2). While the amount of the judgment is close to the delinquent amount reported by the creditor for SOR 1.e, and both Applicant's June 2012 and November 2014 credit reports (GE 2, 3 respectively) report that the account was sold to another lender, none of the record evidence connects the original creditor to the collection agent. The second judgment, for nearly \$9,200, was paid in January 2011. The judgment was in favor of a local mortgage company. The case number and the judgment amount on the record of satisfaction exactly matches the case number listed in Applicant's June 2012 credit report, although the credit report lists the debt as a medical debt. In either case, none of the record evidence connects the debts at SOR 1.d-1.f. to the record of satisfaction or the judgment on the credit report (which was reported as satisfied). The third judgment was for a state tax lien, which was not alleged in the SOR.

⁴Applicant claimed (Tr. 39) that the debt was for unpaid magazine subscriptions, but no evidence supports that claim.

disinterested and unknowledgeable about his finances at hearing. It seems pretty clear that neither he nor his wife are financially sophisticated. Applicant stated that she had three education loans she was paying on. Applicant has not been in contact with any of his creditors, despite the fact that two of his debts are under \$600 each. Applicant provided no work or character references, and provided no evidence of community involvement.

Applicant claimed (Answer, Tr. 48) that these debts were discussed during a subject interview for his 2008 clearance. However, the debts were never taken to a hearing, possibly based on Applicant's assurances that he would address the debts in the near future.

The only potentially bright spot for Applicant appears to be that his educational loans (SOR 1.h for \$3,500⁵ and SOR 1.i for \$4,000⁶) were improperly alleged to be delinquent. They were delinquent in the past, but Applicant's November 2014 credit report (GE 3) reflects two current education loans. The figures alleged in the SOR come from loans held by the Government guarantor that were delinquent in the past, but

⁵Careful review of Applicant's June 2012 and November 2014 credit reports requires me to find that Applicant is not delinquent on this education loan. SOR debt 1.h is based on a credit entry in GE 3 from the Government's education loan guarantor that reflects the high credit for the loan, \$3,500. More likely, the amount corresponds to the amount of a loan disbursement. Although the entry reports the account as being delinquent in the past, the entry reports that the account was transferred or sold, and thus reports a zero balance. However, on GE 2, the same creditor reported that although the account had been delinquent in the past, it was current at the time it was transferred to a new lender with a \$2,188 balance. GE 2 also contains an entry by a known collection agent for the Government guarantor reporting an account with the same high credit limit as deferred, and thus considered current, although the balance had grown to \$4,055. GE 3 contains an entry from another known collection agent for the Government guarantor (the one that services rehabilitated loans) reporting a current account with a \$3,000 high credit limit, showing a current balance of \$963, with \$48 monthly payments. Although Applicant claimed he had no money to pay his education loans (Answer, Tr. 41), he also testified that he had a third education loan that he was paying on, where the balance was about \$400 (Tr. 43). Applicant is mistaken in stating he has three education loans. GE 2 and 3 are clear that there are only two loans, each reported twice: once by the Government guarantor and once by the Government collection agent.

⁶Careful review of Applicant's June 2012 and November 2014 credit reports requires me to find that Applicant is not delinquent on this education loan. SOR debt 1.i is based on a credit entry in GE 3 from the Government's education loan guarantor of the high credit for the loan, \$4,000. Although the entry reports the account as being delinquent in the past, the entry reports that the account was transferred or sold, and thus reports a zero balance. However, on GE 2, the same creditor also reported that although the account had been delinquent in the past, the entry reports that the account was transferred or sold, and thus reports a zero balance. GE 2 also contains an entry by a known collection agent for the Government guarantor reporting an account with the same high credit limit as deferred, and thus considered current, although the balance had grown to \$4,635. GE 3 contains an entry from the same collection agent for the Government guarantor reporting a current account with a \$4,000 high credit limit, showing a current balance of \$4,182, with \$59 monthly payments. Although Applicant claimed he had no money to pay his education loans (Answer, Tr. 41), he also testified that he had a third education loan that he was paying on, where the balance was about \$400 (Tr. 43). He testified he would start paying on this loan as soon as the smaller loan was paid. Applicant is mistaken in stating he has three education loans. GE 2 and 3 are clear that there are only two loans, each reported twice: once by the Government guarantor and once by the Government collection agent.

which had been sold or transferred to other lenders. Consequently, I find SOR 1.h and 1.i for Applicant.

Policies

The adjudicative guidelines (AG) list factors to evaluate a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, disputed facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the required judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels deciding any reasonable doubt about an Applicant's suitability for access in favor of the Government.⁷

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has delinquent debt dating back to at least 2008 that he has not addressed.⁸

The mitigating factors for financial considerations provide little help to Applicant. His financial difficulties are recent and not infrequent, and the stated cause cannot be considered unlikely to recur because living on a tight budget is hard when you take no steps to become better educated about your personal finances.⁹ Commonplace

⁷See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁸¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

⁹¶ 20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . . ;

occurrences such as Applicant's pay cut or his wife's being in school cannot be considered circumstances beyond his control, but even if they could be so considered, Applicant has not been responsible in dealing with his debts. He has had no contact with any of his creditors for several years.¹⁰ He provided no corroboration of the claimed payment of the January 2015 vehicle ticket. The only accounts that he is paying on are his education loans, which were delinquent at one time, but which are now current.¹¹

In addition, Applicant has received no credit or financial counseling. He has no budget. Consequently, it is clear that the problem is not being resolved.¹² Moreover, Applicant has not even credibly stated his intent to resolve his delinquent debt and avoid financial problems in the future. Further, Applicant provided no character or employment evidence to reasonably support a "whole person" analysis in favor of granting his clearance. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-g:	Against Applicant
Subparagraphs h-i:	For Applicant

Conclusion

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge

¹⁰ ¶ 20 (b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

¹¹ ¶ 20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;

¹² ¶ 20 (c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;