



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



In the matter of: )  
)  
) ISCR Case No. 14-03048  
)  
Applicant for Security Clearance )

**Appearances**

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

10/20/2015

\_\_\_\_\_

**Decision**

\_\_\_\_\_

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant and his spouse have struggled financially since she resigned from a job for health reasons in September 2009. He has satisfied some judgments, settled some delinquent credit card balances, and modified his home loan. Medical expenses for his four adopted children still living at home have exceeded state subsidies, and he has incurred unexpected home repair and vehicle expenses. While he has made no payments on a credit card debt in collection since March 2013, he is not likely to jeopardize the job he needs to support his family by engaging in any illegal activity to resolve his delinquent debt of approximately \$12,343. Clearance is granted.

**Statement of the Case**

On November 24, 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 or continue his security clearance eligibility. 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 answered the SOR allegations on December 18, 2014, and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 24, 2015, 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 April 30, 2015, I scheduled the hearing for May 27, 2015.

At the hearing, six Government exhibits (GEs 1-6) were admitted into evidence without objection. A chart, prepared by Department Counsel as a supplement to his oral closing argument, was accepted into the record as a hearing exhibit (HE 1). Applicant submitted two exhibits (AEs A-B), which were received into the record with no objections. Applicant testified, as reflected in a transcript (Tr.) received on June 3, 2015. After Applicant testified, Department Counsel withdrew the allegations in SOR 1.b and 1.c based on the evidence showing that Applicant was only an authorized user on those accounts.<sup>1</sup>

At Applicant's request, I held the record open for two weeks for him to submit additional documents. On June 10, 2015, Applicant submitted two character reference letters (AEs C-D). The Government filed no objections by the June 26, 2015 deadline for comment, and the exhibits were accepted into evidence.

### **Findings of Fact**

The SOR alleges that Applicant owed five delinquent debts totaling \$18,117 as of November 24, 2014 (SOR 1.a-1.e). When he answered the SOR, Applicant admitted the debts in SOR 1.b (\$583), 1.c (\$3,351), and 1.d (\$10,478) without explanation. He denied the alleged debt in SOR 1.a (\$3,555) on the basis that it had been paid. He also denied that he owed the \$150 medical debt in SOR 1.e in that the insurance claim was not submitted properly. With the withdrawal by the Government of SOR 1.b and 1.c, Applicant's admission to only the delinquency in SOR 1.d is accepted and incorporated as a factual finding. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact:

Applicant is 64 years old, and he has worked for the same defense contractor since October 1981. He has held the position of senior resource coordination specialist since 2006. He has held a secret security clearance since April 2004. Applicant served on active duty in the United States military from April 1971 to April 1974, when he was granted an honorable discharge. He also served in the enlisted ranks in the National Guard from May 1981 to May 1989. Applicant has an associate's degree, which was awarded in May 1993. (GEs 1, 5; AEs A-D; Tr. 28-30.)

---

<sup>1</sup> With the withdrawal of the allegations, those debts no longer provide a basis for disqualification. They are mentioned in the context of providing an accurate picture of Applicant's household finances.

Applicant and his spouse wed in September 1976. They have two biological children: a daughter now age 36 and married and a son age 38. They also have seven adopted children. They had been foster parents for the children. The three oldest children, now ages 26, 22, and 21, were adopted in 1999. They no longer live at home. Applicant and his spouse adopted the other children, now ages 17, 13, 9, and 7, in 2010. The children were already in their home when the state terminated the children's parental rights and approached Applicant and his spouse about keeping the children. (GEs 1, 5; Tr. 30-31, 35-37.)

Applicant and his spouse bought their present residence in August 1991. (Tr. 28.) In recent years, they refinanced their mortgage to pay their household expenses. In April 1998, they took on a home loan of \$112,350. In April 2002, they took on a second mortgage of \$54,200. They consolidated their mortgage debt in January 2004, borrowing \$187,959, to be repaid at \$1,662 per month. They paid off that mortgage in May 2005 with a new loan of \$195,700 from another lender. Their monthly mortgage payments were \$1,604. With a refinancing in September 2007, they took on a \$265,168 mortgage. Six months later, Applicant and his spouse took on a new loan of \$269,145. They had a history of making their mortgage payments on time through 2008. (GE 4; Tr. 53.)

In September 2009, Applicant's spouse had to stop working as a crossing guard with some janitorial duties at a local public school because of her medical issues. She had been a part-time employee, not exceeding 35 hours per week, with no benefits. She was ineligible for unemployment compensation because she had resigned. (Tr. 31-33.) With the four adoptions in 2010, they lost their state subsidy for the youngest child, a boy, who was considered healthy. They continued to receive state subsidies for their 17, 13, and 9-year-old daughters,<sup>2</sup> who have behavioral issues, although they had some medical co-pay costs for the girls. (Tr. 36-40.) The youngest child had difficulty sleeping and was eventually diagnosed with a protein allergy and with a sensory disorder. (Tr. 40-41.) They struggled to keep up with their son's mounting medical bills and with their household expenses, including their mortgage. (GE 4.) Applicant continued to make timely payments of \$452 per month on a seven-year, \$26,488 motorcycle loan. (GE 2.)

The motorcycle was totaled in an accident. With the funds received in insurance settlement, Applicant paid off the loan in July 2012. (GE 2; Tr. 55.) Applicant received about \$11,000 from a second insurance claim around June 2014 that went to pay off some debts, including some hospital bills. (Tr. 55, 84-85.)

In January 2011, a \$536 judgment was issued against Applicant for a medical debt. Applicant satisfied the judgment through monthly payments of approximately \$70 with a final payment in May 2012. In February 2013, a credit card lender placed a \$421 debt from July 2012 for collection. Applicant paid the debt in December 2013. Applicant was making

---

<sup>2</sup> Applicant indicated that the subsidy is about what it cost to raise a child. When they have extra money from the state, they use it to buy clothing or extras, such as prom clothing, "just all the normal stuff for raising kids." (Tr. 81.)

timely payments of \$515 monthly on a vehicle lease for his spouse opened jointly in July 2012 for \$20,106. (GE 2; Tr. 54-57.)

On January 12, 2014, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP) to renew his security clearance eligibility. In response to financial record inquiries into any delinquency involving routine accounts, Applicant disclosed seven credit card accounts with past-due balances totaling \$22,132, consisting of the debts in SOR 1.a (\$3,555),<sup>3</sup> SOR 1.b (\$583), 1.c (\$3,351), and 1.d (\$8,639), and three debts not alleged (VISA credit card debts of \$1,901 and \$2,698 and a revolving charge debt of \$1,405 with a home improvement retailer). Applicant explained that the debts were incurred because his spouse became unemployed. He indicated that he was making payments on the \$2,698 credit card balance. (GE 1.)

A check of Applicant's credit on January 17, 2014, revealed that Applicant and his spouse were \$14,765 past due on their mortgage balance of \$260,361, but also that they were making partial payments under terms accepted by their lender. The credit card debt in SOR 1.a had been charged off for \$3,555 in May 2013 due to nonpayment since November 2012. The credit card debt in SOR 1.b had been in collection for \$583 since November 2008. The credit card debt in SOR 1.c had been charged off for \$3,351 in 2008, but Applicant was only an authorized user of that account. Applicant owed \$10,478 on the credit card debt in SOR 1.d, which had no activity since August 2009 and was assigned for collection in March 2013. A \$150 medical debt (SOR 1.e) from 2013 was in collection. A clothes and home goods retailer had charged off a joint account for \$519 in December 2013 (not alleged). His credit report showed that \$1,405 debt with the home improvement retailer had been charged off in February 2013. Timely payments were being made on the 2012 vehicle lease (balance \$11,076), on a \$1,546 line of credit, and on a \$1,378 credit card debt. (GE 4.)

On February 12, 2014, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant indicated that his and his spouse's financial difficulties began in September 2009, when his spouse lost her job. Without her income, they fell behind on several accounts. He had obtained his credit report in February 2014 and discovered that the card debt in SOR 1.d had been placed for collection and accrued to \$10,478. Applicant contacted his creditors when he fell behind and told them that he could not afford to pay them. He later learned that the accounts in SOR 1.a and 1.c and some unalleged debts (\$1,405, \$1,904, and \$519) were charged off. Applicant admitted that he and his spouse owed \$583 on a joint credit card account that was \$20 past due (SOR 1.b). Applicant expressed his intent to satisfy within the next two to three years those debts that had not been charged off, but he was not currently able to make payments on the debts. About his and his spouse's mortgage loan, Applicant related that they applied for a modification in June 2013, which lowered their mortgage payment from \$2,168 to \$1,905 per month.<sup>4</sup> For the next six months, their mortgage payments were

---

<sup>3</sup> Applicant testified that his spouse kept using the account to buy clothing for their children, after he told her that they needed to pay their bills as they came in. (Tr. 44.)

<sup>4</sup> Applicant admits that he and his spouse were late on their mortgage at the time and that their lender was

placed in an escrow account. He explained that the \$150 medical collection debt was a counseling bill for two sessions for his daughter in late 2013. His insurance company would not cover the cost because the therapist had failed to code the sessions correctly. Applicant gave the provider the correct billing information that should have resolved the issue. Applicant described his current financial situation as “not good.” (GE 5.)

In March 2014, Applicant or his spouse paid \$519 to satisfy the charged-off balance owed the clothing and home goods retailer. In February 2014, Applicant settled the \$1,405 balance on his credit card account with the home improvement retailer. (GEs 3, 6.) Also in May 2014, he opened an auto loan a 2010 model-year vehicle for \$16,231, to be repaid at \$327 per month for 72 months. (Tr. 55.) He did not have the \$2,600 that was needed to fix the transmission in his old vehicle. (Tr. 68.) Around July 2014, the state acknowledged their adopted son’s medical needs and changed his status to a subsidized adoption. The state began paying them a monthly stipend for their son’s care and also began covering some of their son’s medical expenses. Applicant and his spouse were not reimbursed for any previous costs. (Tr. 40-41.)

Applicant continued to rely on consumer credit for some expenses. He opened low-limit credit card accounts in September 2014 (\$1,000 credit limit) (GE 3) and in mid-December 2014 (\$500 credit limit). As of February 2015, the respective balances were \$816 and \$109 as of February 2015. (GE 2.) In response to a settlement offer, Applicant paid \$1,800 to the creditor in SOR 1.a in October 2014 with his income tax refund.<sup>5</sup> Applicant understood that he would not be pursued for the \$1,706 remaining balance (Tr. 45-47), but it is still on his credit record. He made no payments on the \$10,478 credit card balance in collection (SOR 1.d). (GE 6.) Applicant incurred almost \$6,000 in out-of-pocket costs to replace his roof. He had friends help him over the summers in 2013 and 2014 to keep the costs down. (Tr. 66-67.)

Applicant’s current salary is \$91,000 annually. (Tr. 29.) His spouse works 12 to 15 hours a week at \$13 an hour as a personal care aide for a handicapped person. She started that job in the fall of 2010. Her income is around \$9,000 annually, less than what she had earned as a crossing guard at the school. (Tr. 34, 77-78.) As of late May 2015, her application for social security disability was pending. (Tr. 33, 61.) Applicant pays their major bills online, such as the mortgage, utilities, telephones, cable, and car payments. (Tr. 50-51.) Applicant and his spouse were making \$1,945 monthly payments on their modified mortgage to reduce its balance to \$250,532 as of May 2015. (GEs 2, 6.) Their home is currently worth approximately \$220,000, so Applicant has had no success in obtaining a home equity loan. (Tr. 52-53.)

---

threatening foreclosure. The lender agreed to refinance at a lower interest rate, from 6.5% to 4.25%, but not to reduce the principal balance. (Tr. 53-54.)

<sup>5</sup> Applicant recalls that he settled the debt in March or April 2014. (Tr. 49.) However, available credit reports show the date of last payment as October 2014 on the account. (GEs 2, 6.) Applicant testified that he paid the \$1,800 after the expiration date in the settlement offer, but also that he contacted the creditor and was given an additional week. (Tr. 46-47.) Applicant presented no documentation of the settlement offer or of his payment, although the creditor is now showing a balance of \$1,706 after it was charged off for \$3,555. (GEs 2, 6.)

Applicant is repaying their 2012 car lease (balance \$2,655) and 2014 car loan (balance \$14,550) on time. He had not fallen behind in his credit card payments on the accounts opened in October 2009 (balance \$1,774) and September 2014 (balance \$707). The credit card account opened in December 2014 had a zero balance. Equifax was reporting only two past-due balances, of \$1,706 (SOR 1.a) and \$10,478 (SOR 1.d) on Applicant's credit record. (GE 6.) The \$583 and \$3,351 credit card delinquencies were on Applicant's credit record as of October 2014 (GE 3), but as reflected on his January 2014 credit report (GE 4), Applicant is only an authorized user on both accounts. His spouse is responsible for making the payments on her accounts. She has told him she is working on resolving them, but Applicant has seen no indications that she has done so. (Tr. 50.) Applicant understands that his insurance company will cover the \$150 debt in SOR 1.e, but only if his daughter's therapist files a claim using the correct code. (Tr. 58.) He has had no success contacting the collection agency about the debt in SOR 1.d. When he calls the number listed on notices from the collection agency, he gets a recording, and his call is not returned. He has not tried to contact the original creditor based on his experience with the creditor in SOR 1.a. That creditor would not help him resolve the issue of a reported balance remaining after his \$1,800 payment because the account had been turned over for collection. Applicant is willing to make repayment arrangements for the debt in SOR 1.d. (Tr. 59-60.)

Every November, Applicant borrows \$2,000 from his savings plan at work and gives it to his spouse for holiday shopping.<sup>6</sup> In either 2013 or 2014, Applicant borrowed an additional \$4,000 to keep up with their expenses. He had about \$12,000 in his account as of late May 2015. (Tr. 52.) His septic system needs repair. He had hoped to be able to cover the cost with his income tax refund of \$9,000 for 2014. The lowest estimate for the repair is \$11,000, so he expects he will have to make a withdrawal from his 401(k) to repair his septic system. (Tr. 65.) He can withdraw the funds and pay the tax on the amount withdrawn or take a loan of up to \$6,000. (Tr. 83-84.)

Applicant has an outstanding therapy bill of \$270 for his son that was not covered by his insurance due to a coding issue. He has contacted the therapist repeatedly to resubmit the claim with the proper code. (Tr. 69, 82.) He testified that his spouse is planning on having surgery next month. (Tr. 33.) He has been behind on his utility bill within the last year, but not more than 30 days. He arranged with his utility provider to pay extra each month to reduce the balance caused by high bills over the winter months. (Tr. 60-61.)

Applicant's performance appraisal for March 2013 to March 2014 indicates that Applicant exceeds at his job requirements. Applicant develops and maintains computer databases involving manpower statistics. He has exhibited a mastery of computer systems, and he works well with all levels of management. Cooperative and responsive, he works independently requiring little direction from his supervisors. (AE B.) Applicant's immediate supervisor since January 2006 has known Applicant for approximately 20 years. He has found Applicant to be trustworthy and reliable. Applicant has earned the respect of other

---

<sup>6</sup> Applicant testified that he can take out a loan against his savings plan or withdraw funds at a fee. About repaying the \$2,000, he testified that instead of making a payment for 12 months, he pays it off the next year and he takes another loan. (Tr. 51-52.)

design managers and of engineering managers. (AE D.) Likewise, a co-worker of Applicant's for the past eight years attests to Applicant's personal integrity and his dedication. (AE C.)

## **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 articulated 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.

The Guideline F concerns are established primarily by Applicant's record of credit card delinquency, as evidenced by the debts in SOR 1.a and 1.d. The revolving charge debt in SOR 1.a was incurred by his spouse, but as a joint account holder Applicant is also liable for repayment. Available credit records indicate that the account became initially delinquent in November 2012. A \$3,555 balance was charged off in May 2013 for nonpayment. Applicant stopped paying on his individual account in SOR 1.d when his spouse resigned from her employment in September 2009. An \$8,886 balance was placed for collection in March 2013, and it has accrued to \$10,478.

Concerning the medical debt in SOR 1.e, it has been in collection since October 2013. Applicant contends that the debt is covered under his insurance, but the treating provider persists in coding his child's therapy erroneously. He presented no corroborating documentation that would satisfy AG ¶ 20(e):

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

Applicant's and his spouse's mortgage and some other revolving charge accounts went delinquent, such as his card with the home improvement retailer, but they modified their home loan and either satisfied or settled his credit card debts for less than their full balances before the SOR was issued. Disqualifying conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations," are nonetheless implicated because of the debts in SOR 1.a, 1.d, and 1.e.

Applicant's credit card problems are relatively recent and therefore not mitigated under 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." Applicant's largest credit card debt (SOR 1.d) has been delinquent since September 2009, and he has yet to make any payments on that debt.



Applicant's financial problems can reasonably be attributed in large part to circumstances contemplated within 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.

Although Applicant's spouse left her job voluntarily, it was for medical reasons that were not within her control. She was unemployed for approximately a year before becoming a part-time home health aide. Due to her limited hours, Applicant's spouse earns only about \$9,000 a year, which is less than her previous income at the school. As foster parents from the mid-1990s to 2010, Applicant and his spouse received state subsidies for the children in their care that were equivalent to the cost of raising the children. After they adopted their four youngest children in 2010, they continued to receive subsidies for their three daughters. They lost the subsidy for their son because he was considered healthy. Over the next few years, Applicant and his spouse incurred unreimbursed medical costs for their son, who was eventually diagnosed with medical issues that warranted a change in his status to a subsidized adoption. The state began paying a subsidy for his care in July 2014, but Applicant and his spouse were not reimbursed for his care or medical expenses for the previous four years. Additionally, Applicant has incurred some home repair expenses, such as for a new roof, which took funds that could have gone to paying his old credit card debt. His children have continued to incur medical costs that have not been fully reimbursed by the state. Applicant provided little detail about those expenses. In addition to the \$150 medical debt in SOR 1.e, Applicant has a \$250 medical claim that was not paid by his insurer, again for a reported coding problem.

For AG ¶ 20(b) to fully apply, Applicant is required to have acted responsibly toward his creditors. Applicant provided little detail about his efforts to address the debt in SOR 1.d apart from the fact that he called the number on notices of collection and reached a recording each time. While Applicant has not attempted to contact the credit lender directly, it is because he assumed that the credit lender would not work with him on repayment based on his experience with the creditor in SOR 1.a. As for the debt in SOR 1.a, it remains on his credit record as a \$1,706 past-due balance as of November 2014, after a claimed \$1,800 payment. Available documentation does not corroborate his testimony that the \$1,800 payment was accepted in full settlement of the \$3,555 charged-off balance. While a lump-sum payment could indicate a settlement, Applicant also admitted that he made the payment after the date specified in the offer letter. He testified that the creditor verbally extended the deadline for payment, but he submitted no proof. Applicant did not seek clarification about the balance after he was told by the original creditor that his account is in collection.

However, the reduction of the account balance from \$3,555 to \$1,706 tends to substantiate Applicant's claim of a \$1,800 payment with his income tax monies, even if it does not disprove his liability for the \$1,706 reported balance. His payment provides a basis to apply AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue

creditors or otherwise resolve debts.” Applicant has made no payments toward his \$10,478 credit card delinquency (SOR 1.d), and the \$150 medical debt (SOR 1.e) is still unresolved. It is difficult to fully apply 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.” Yet, he paid other debts when he was able to do so, as evidenced by his settlement of the \$1,405 credit card delinquency in February 2014. He obtained a modification of his home loan to lower the monthly payment. He expressed a credible intent to make payments on the debt in SOR 1.d when he can afford to do so. The financial considerations concerns are mitigated under AG ¶ 20(b) and AG ¶ 20(d).

### **Whole-Person Concept**

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

(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.

The financial analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant is a longtime employee of a defense contractor with a very good work record. He and his spouse opened their home to foster children starting in the mid-1990s, and they have adopted seven of their foster children. At least two of their four children adopted in 2010 have required ongoing counseling and present challenges beyond financial co-pays or non-covered costs for counseling. Even with state subsidies, Applicant and his spouse have relied heavily on the equity in their home to meet their expenses over the years. In the last decade, they have taken on increasing mortgage debt. Their mortgage went from \$187,959 in January 2004, to \$195,700 in May 2005, to \$265,168 in September 2007, and to \$269,145 in March 2008. The increase of almost \$65,000 in their mortgage with the refinancing in September 2007 was after Applicant had taken his present salaried position. Applicant did not provide information about his and his spouse’s income at that time, although their new lender considered them an acceptable financial risk.

Applicant and his spouse had a record of timely payments on their obligations before September 2009, when his spouse had to resign from her job for medical reasons.

They began to struggle to meet all their expenses, and Applicant's spouse continued to rely on the credit card account in SOR 1.a to pay for their children's clothing, even after Applicant told her that they were struggling to make payments on all their credit cards. They eventually could not keep up with their mortgage payments. However, after they were threatened with foreclosure, Applicant and his spouse obtained a modification of their mortgage, which lowered their monthly payments by approximately \$300. Applicant has been able to make their mortgage payments on time since March 2014.

Applicant has not provided a budget detailing all the expenses which, despite a household income around \$100,000 annually, have taken priority over repayment of the undisputed debt in SOR 1.d. He pays extra each month to a utility service to address high balances from the winter that he could not pay in full when due.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases, stating:

[A]n applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has . . . established a plan to resolve his financial problems and taken significant actions to implement that plan. The Judge can reasonably consider the entirety of an applicant's financial situation and his actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) (Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.) There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted).

Applicant has addressed some charged-off debts and judgment debts that were not alleged in the SOR, presumably because they were paid before the SOR was issued. His \$9,000 income tax refund from 2014 was largely unspent as of late May 2015 because he faces needed repairs to his septic system. Applicant may have to borrow against his savings plan at work to pay the full cost of the repair. Applicant owes at most \$12,343 in delinquent debt on which he is making no payments. He expressed a credible intent to resolve the \$10,487 credit card debt in SOR 1.d when he is able to do so. Applicant has shown that he can be counted on to pay his debts, provided he has the income to do so. He is making their vehicle payments on time. He opened two low-limit credit card accounts in 2014, which have respective balances of \$707 and of zero. He is not taking on excessive credit card debt. A \$26,488 loan for a motorcycle may reasonably be considered an extravagance, but Applicant bought it when his spouse was working at the school. He paid off the loan with an insurance settlement received after an accident that totaled the motorcycle.

Applicant is not presently in a position to satisfy SOR 1.d in full without avoiding the nondiscretionary repair to his septic system. At the same time, he is also not likely to jeopardize his employment by engaging in criminal activities for the funds to address the delinquent debts in SOR 1.a, 1.d, and 1.e. The Government can re-validate Applicant's financial status at any time through credit reports, investigation, or interrogatories.<sup>7</sup> After considering all the evidence, including the impact of circumstances beyond Applicant's control, I conclude that it is clearly consistent with the national interest to continue Applicant's security clearance eligibility.

### **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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Withdrawn
Subparagraph 1.c:	Withdrawn
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

---

Elizabeth M. Matchinski  
Administrative Judge

---

<sup>7</sup> The DOHA Appeal Board has held that the Government has the right to reconsider the security significance of past conduct or circumstances in light of more recent conduct that has negative security significance. See ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012).