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

| | | |
|---|---|---|
| In the matter of: | ) | |
| | ) | |
| | ) | ISCR Case No. 14-00240 |
| | ) | |
| Applicant for Security Clearance | ) | |

## Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: Chip Muller, Esq.

07/24/2014

_____

## Decision

_____

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant had some financial difficulties because of his divorce, a series of serious medical setbacks between 2010 and 2012, and a year of unemployment. As of March 2014, he owed approximately $24,355 of delinquent debt, which he has only recently started to address. More progress is needed toward reducing his delinquency before I can conclude that his financial problems are behind him. Clearance is denied.

## Statement of the Case

On March 25, 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 security clearance eligibility 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 April 21, 2014, and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On May 15, 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 May 27, 2014, I scheduled a hearing for June 17, 2014.

I convened the hearing as scheduled. Four Government exhibits (GEs 1-4) and 15 Applicant exhibits (AEs A-O) were admitted into evidence, GEs 1 and 4 over Applicant's objections. Applicant objected to the authenticity and factual accuracy of GE 1, Applicant's security clearance application. I admitted the document on Applicant's attestation that he signed it.[1] In response to Applicant's expressed concerns about GE 4 as initially marked, the Government submitted a redacted version, to which Applicant did not object. A chart prepared by Department Counsel was marked as a hearing exhibit (HE 1) and considered argument. Applicant and a union representative testified, as reflected in a transcript (Tr.) received on June 27, 2014.

## Summary of SOR Allegations

The SOR alleges under Guideline F that as of March 25, 2014, Applicant owed $29,030 in delinquent debt (SOR 1.a-1.u). Nine of the 21 alleged debts totaling $3,503 were owed to unidentified medical creditors (SOR 1.f-1.n). When he answered the SOR allegations, Applicant denied five of the 21 alleged debts: a $1,389 judgment debt (SOR 1.a) because it had been satisfied; a $917 consumer credit debt (SOR 1.b) because it was his ex-wife's obligation in their divorce decree; a $4,861 credit card debt in collection (SOR 1.e); a $94 debt in collection (SOR 1.p) because it had been paid; and a $772 revolving charge debt in collection (SOR 1.t). Applicant admitted the remaining 16 debts, which he attributed to his divorce and to his serious medical issues between 2010 and 2012.

## Findings of Fact

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

Applicant is a 50-year-old high school graduate with some technical training. He married his first wife in the early 1980s. They had a son and daughter before they divorced. In July 2008, Applicant and his second wife were divorced after 10 years of marriage. They had no children together. (GE 1; AE E; Tr. 43.) When they divorced, Applicant's ex-wife accepted repayment responsibility for the debts in her name, as well as one joint debt (SOR 1.b, 1.t same debt). Applicant was not required to pay alimony because his ex-wife was self-supporting. (AE E.)

[1] Applicant's objection to the accuracy of him being identified on the form as a blonde, blue-eyed female 5"7" in height was valid. These concerns went to the weight afforded the information. The form was accurate as to Applicant's name, social security number, and employment, etc., and Applicant signed it.

Applicant worked as an outside electrician for his current employer, a defense contractor, from April 1983 to July 1997, when he was laid off during a reduction-in-force. (GE 1.) He held a "green badge" or Secret security clearance for most of the 14 years and was promoted through the ranks from "the very bottom, actually six[th] step . . . to first class." (GE 1; Tr. 44-48.) At the time of his layoff, Applicant's hourly wage was $22. (Tr. 48.)

After six months of training in the telecommunications field (Tr. 49), Applicant went to work in the cable television/Internet industry as a telecommunications technician around December 1997. (GE 1.). He worked for one company for three years before switching employers. (Tr. 50.) In 2010, Applicant began experiencing a succession of medical problems, which led him to lose time for treatment and recuperation. He was out of work for three to four months following surgery in May 2010. A medical problem detected during a follow-up examination a year later led to another three to four months of medical leave. Complications from his treatment for that illness led to another six weeks of medical leave in 2012.[2] (GE 4.) Applicant received temporary disability pay "at the highest percentage" during his lengthy medical absences, but at $468 a week, it was less than his full wage, which rose to $29.00 an hour in 2012. (Tr. 51-53, 133-135.)

Applicant had medical insurance that did not cover the entire cost of his various treatments. (AE B; Tr. 54.) Available medical records show that Applicant incurred charges totaling approximately $32,816 at a local hospital between March 29, 2010, and February 26, 2012. After insurance payments and adjustments, Applicant was billed a total of $3,729.74 by the hospital on the charges. (AEs B, N.)

The week he returned to work from his medical leave in July 2012, Applicant was involuntarily terminated because of alleged falsification of his time sheet, which Applicant disputes.[3] (GEs 1, 4; Tr. 60-62, 120-121.) Applicant was unemployed for the next year. He

[2] Available information is insufficient to determine with specificity the dates of his medical leave. Applicant testified that he was out of work for six months following his first operation. The following year, a serious health problem was detected during an x-ray, which required surgery and led to "another six months or maybe less" of lost time. From that second operation, he received an infection that required daily antibiotic treatments at a local hospital for eight or nine weeks. He indicated he was out of work "three or four months, maybe." (Tr. 51-53.) When he returned to work from medical leave, he was fired for "a misunderstanding." The company claimed that he falsified his time sheet. He initially testified that his last day of work was in June or July 2010. (Tr. 60-61.) Applicant discrepantly indicated on his e-QIP that he was fired in July 2012, which is consistent with his account during his September 2013 subject interview. He indicated then that he took medical leaves of three to four months from the company in 2010 and in 2011, and of about six weeks in 2012. (GE 4.) The hospital records in evidence show laboratory work on March 29, 2010; an ultrasound and blood workup on April 7, 2010, a one-day inpatient stay for testing April 16-17, 2010, a MRI scan on April 22, 2010, and minor surgery during an inpatient stay May 3-7, 2010. Hospital records of care provided in 2011 are limited and show laboratory work on February 12, 2011, and March 1, 2011. Applicant had lab work on January 31, 2012; lab work, an x-ray, and an MRI on February 8, 2012; and an x-ray on February 26, 2012. The records also show total charges of $5,328 on February 15, 2012, but do not include the nature of the treatment. (AEs B, N.)

[3] There is no SOR allegation concerning his termination from his employment. No negative inference is drawn from the termination. It is mentioned because it had a negative impact on his finances. The DOHA Appeal Board has long held that the administrative judge may consider non-alleged conduct to assess an applicant's credibility; to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; to

collected unemployment compensation of $14,000 (Tr. 136-137), which the telecommunications company challenged unsuccessfully. (Tr. 62-63.) In mid-July 2013, Applicant began working for his defense contractor employer. (GE 1; Tr. 64.)

On August 13, 2013, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP). Applicant responded "Yes" to the inquiry concerning delinquencies involving routine accounts in the last seven years. He disclosed two past-due credit card debts of $5,000 each (SOR 1.e and 1.q) and a $900 credit card debt (SOR 1.b, duplicated in SOR 1.t)[4] that were still outstanding. Applicant indicated that he would make repayment arrangements on the $5,000 debts once he could confirm the creditors. He indicated (and AE E confirms) that the debt in SOR 1.b was his ex-wife's responsibility. Applicant explained that he was looking into paying off the debts, which were incurred because of his divorce, his medical problems, and his unemployment of over a year. (GE 1.)

As of August 30, 2013, Applicant's credit record showed that the three delinquent debts he listed on his e-QIP were no longer held by the original creditors but were in collection. In addition, a $1,389 judgment had been filed against him in September 2012 (SOR 1.a); 14 medical debts totaling $4,080 (SOR 1.c-1.d, 1.f-1.p, and a $221 debt not alleged) were in collection; and two previously undisclosed credit card debts, of $3,789 (SOR 1.r, duplicated in 1.s) and $4,694 (SOR 1.u), were in collection. The medical debts were placed for collection between October 2010 and June 2013. The five credit card accounts in collection were placed with their current account holders in March 2011 (SOR 1.b), June 2012 (SOR 1.c), April 2011 (SOR 1.q), in February 2012 (SOR 1.r), and in or before August 2013 (SOR 1.u). Applicant's credit report also showed that his mortgage lender had initiated foreclosure proceedings in February 2013 because he was seriously delinquent in his payments, but Applicant brought the loan current. (GE 3.) Applicant has not been late in paying his $1,669 monthly mortgage obligation since he started with his employer in July 2013. (Tr. 123.)

On September 3, 2013, Applicant obtained his credit report from Trans Union, which showed the delinquent accounts alleged in the SOR, including the judgment in SOR 1.a. Identified by name were the health care providers that had referred past-due balances for collection. The medical debts in SOR 1.c and 1.d were placed by two different radiologists, albeit on the same date in September 2012. The medical debts in SOR 1.f-1.n were shown as having been placed by the hospital where he was treated from 2010 to 2012. The medical debt in SOR 1.o was owed to a physical therapist. (AE O.)

---

consider whether an applicant has demonstrated successful rehabilitation; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for a whole person analysis under Section 6.3 of the Directive. *See*, *e.g.*, ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012).

[4] The account number listed by the assignee does not match that of the original credit card account. However, the original collection balance of $772 and the identity of the creditor (*see* AE O) lead me to conclude that SOR 1.b and 1.t allege the same debt, which, moreover, is his ex-wife's responsibility per their divorce agreement. (AE E.) Applicant testified that he contacted his ex-wife about the debt, and she agreed to pay it. (Tr. 74-76.)

On September 18, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM) about his delinquent accounts. Applicant indicated that the past-due credit card accounts in SOR 1.e and 1.q were from 2005. He expressed his intent to start repaying the debts now that he was employed. Whereas the credit card debt in SOR 1.b was his ex-wife's responsibility, he had little information about that debt. Applicant believed he owed hospital bills from his 2012 treatment that were over 120 days past due. He could not confirm whether the accounts were in collection, but his intent was to consolidate the bills to make one payment. When confronted about the $1,389 judgment on his credit record (SOR 1.a), Applicant denied any knowledge of the debt.[5] Applicant recognized some of the medical debts (SOR 1.h-1.n) were all owed a local hospital. He indicated that SOR 1.c and 1.d were owed a family physician, and SOR 1.o was owed a dentist, even though his September 2013 credit report showed the debts were respectively placed by a radiologist and a physical therapist. He admitted that the credit card debt in SOR 1.u was in collection. Applicant explained that his financial difficulties were caused by his unemployment, medical illnesses, and two divorces. He expressed his intent to resolve his verified debts and to incur no delinquencies in the future. (GE 4.)

Applicant did not respond to collection notices received from the hospital or from his consumer credit lenders. (Tr. 106.) On March 25, 2014, the judgment debt in SOR 1.a was satisfied through attachment of his wages. (AE D; Tr. 140.) After Applicant received the SOR, he looked into his other delinquencies. (Tr. 70.) In April 2014, Applicant satisfied the medical debt in SOR 1.p.[6] On May 1, 2014, he paid $30 to settle the medical debt in SOR 1.d (and perhaps SOR 1.c).[7] (AE F.) Applicant arranged to repay the credit card debts in SOR 1.q and 1.r at $50 each per month. (Tr. 90-91.) On June 11, 2014, Applicant made his first $50 monthly payment toward SOR 1.q to reduce the balance to $4,169.09. The debt was incurred with a furniture retailer. (AE I; Tr. 92.) Also on June 11, 2014, Applicant paid $50 toward the debt in 1.r (duplicated in SOR 1.s) to reduce its balance to $2,929.69. (AE J; Tr. 92, 136.) The debt was incurred on a revolving charge with a home improvement store to finish his basement. (AE J; Tr. 135.)

[5] The judgment is clearly shown on his Trans Union credit report, which predates his interview. Applicant testified that he was alerted to the judgment when the creditor attempted to attach his pay at work with his current employer. (Tr. 107.)

[6] AE H, dated April 11, 2014, does not confirm payment. Rather, it explains that the assignee would consider the debt satisfied on receipt of $94. Applicant indicated in handwriting on AE H that he paid $94 on April 10, 2014. (Tr. 88-89.)

[7] Handwritten entries on AE F indicate that a $70 debt was settled for $17.50 and a $50 debt for $12.50. The aggregate debt balance of $120 matches the amount in collection on the account alleged in SOR 1.d. Applicant nonetheless maintains that he also settled the debt in SOR 1.c by the $30 payment. (Tr. 79-80.) Applicant's August 2013 credit report shows two separate collection accounts, totaling $194. His September 2013 credit report shows that the debts were placed by two different radiologists, albeit on the same day. The letter confirming payment references the collection agency, but it does not include an account number. He may well have also settled the debt in SOR 1.c. Regardless; the debt balance is too small to raise significant financial concerns on its own.

As of June 17, 2014, Applicant had made no payments on the credit card delinquencies in SOR 1.e and 1.u, on the medical debts in SOR 1.f-1.n, which he believes are surgery-related charges (Tr. 86), or on the medical debt in SOR 1.o, which he claimed he could not verify through an Internet search.[8] (Tr. 87.) Around April 21, 2014, Applicant learned that the debt in SOR 1.e had been transferred. On June 16, 2014, he arranged to pay $25 per month toward its $4,861 balance. The current assignee agreed not to waive interest on the past-due debt. (AE G; Tr. 80-81, 84.) Applicant recently contacted the assignee collecting the credit card delinquency in SOR 1.u. He was informed that the assignee had filed a claim against him in court, and that interest of 12% (about $55 a month) continues to accrue on the debt. In response to an offer from the assignee to settle the reported $7,600 current balance for $4,000, Applicant indicated that he would make monthly payments of $30 or $40, and he asked for a waiver of the interest. The assignee rejected his offer and informed him that he had to go to court to have the interest dismissed. Applicant testified that he cannot afford to pay $200 a month on the debt. (Tr. 100-102.)

Applicant is not sure whether he owes all of the medical debt alleged in SOR 1.f-1.n. Sometime before March 2014, Applicant received notice of a proposed settlement of a class action lawsuit brought against the insurance company that covered him during his employment with the telecommunications company. The medical insurer was alleged to have made out-of-network reimbursement determinations that resulted in lower payments than entitled under law on partially paid claims for some subscribers between March 1, 2001, and August 30, 2013. (AE C.) On March 3, 2014, Applicant submitted a claim as a subscriber class member, seeking payment from the subscriber settlement fund (up to 5% of the allowed amount on each valid partially allowed claim supported by documentation). Applicant submitted the local hospital's invoices, which showed his financial responsibility for $3,729.74 on billed charges of $32,816 for care received between March 2010 and February 2012. Available documentation (AE N) does not show that he submitted any evidence of payment of the balances, even though evidence of his payment was required.[9] The claim form expressly stated that without the necessary supporting documentation, the claim would not be eligible for payment under the subscriber settlement fund. (AE N.) Applicant testified that if he owes the medical debts, he will pay them one at a time. (Tr. 86.)

Applicant testified that he earned about $40,000 in 2013. (Tr. 117.) He has been working seven days a week lately, and with that overtime, his take-home pay is $900 a week. Without overtime, he takes home $600 a week. (Tr. 119.) He recently received a

[8] Applicant's September 2013 credit report provides an address for the collection agency as well as the name of the original medical creditor. (AE O.) There is no evidence that Applicant attempted to contact the named physical therapist.

[9] For each partially allowed claim, Applicant was required to provide supporting documentation showing that he paid the balance billed. Valid supporting documentation was specified to be a copy of the bill from the out-of-network health care provider together with a cancelled check or credit card statement showing the subscriber's payment; or a receipt showing payment of the bill together with documentation showing the insurer's reimbursement; or records from the out-of-network health care provider showing the issuance and the subscriber's payment of the bill for a partially allowed claim. (AE N.)

raise to bring his hourly wage to $22. (Tr. 120.) Applicant fell behind in his electric bill in May 2014. He had not paid the past-due utility debt as of his June 17 hearing, although he testified it would be paid within the week. (Tr. 123-124.) After paying his monthly expenses, Applicant has "a couple hundred" in net income at the end of an average month. (Tr. 138.) He does not have a budget. (Tr. 139.) Applicant has about $800 in checking and $1,200 in savings account deposits. (Tr. 127.) He received a federal income tax refund of $1,000 to $1,500 for tax year 2013, $800 of which went to satisfy his state taxes. (Tr. 127.)

Since returning to work for the defense contractor in July 2013, Applicant has earned the trust and respect of his supervisor and co-workers. Applicant exhibited dedication, as evidenced by his round-the-clock coverage over the holidays in 2013, and by the "long arduous hours" he has worked. Organized and efficient, he learned his job duties "quicker than most." The company had such confidence in him to transfer him to third shift, where he works independently. He was promoted early to his current position of second class mechanic. (AEs A, K, L; Tr. 28-31.) Applicant was recently recognized by his employer for 15 years of commitment and dedication to the company. (AE M.)

## 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.

The SOR alleges 21 delinquent accounts, totaling $29,030 in outstanding debt as of March 25, 2014. When he answered the SOR, he denied the debts in SOR 1.a, 1.b, 1.e, 1.p, and 1.t. The evidence shows that the $1,389 judgment debt in SOR 1.a was paid before the date of the SOR, although it does not eliminate the financial concerns raised by the delinquency. The $917 credit card debt in SOR 1.b (and SOR 1.t, same debt) was his ex-wife's responsibility in their divorce agreement. As for the $4,861 credit card debt in SOR 1.e, Applicant listed the debt on his e-QIP, and he has arranged to make payments on the debt. Applicant's payment of the medical debt in SOR 1.p, which occurred after the date of the SOR, is regarded as an admission of its validity. AG ¶ 20(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," is satisfied only as to the alleged debts in SOR 1.b and 1.t (ex-wife's responsibility) and SOR 1.s, which he had admitted. That debt was shown to be the same debt as that alleged in SOR 1.r and not an additional delinquency. However, financial judgment concerns arise under AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations" because of the approximately $24,355 in delinquent debt for which he bears repayment responsibility (SOR 1.a, 1.c-1.r, and 1.u).

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," does not apply. While two of the credit card accounts became seriously delinquent in 2009 (SOR 1.e and 1.u), most of the delinquencies were incurred between 2010 and 2012.

Applicant attributes his financial problems to his divorce, his health problems, and a year-long unemployment. Any one of these three circumstances is potentially mitigating under AG ¶ 20(b), which provides as follows:

> (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 and his second wife were divorced in July 2008. Presumably, the divorce had a negative impact on his finances, but I cannot speculate about the extent. In their divorce settlement, Applicant did not have to pay alimony because his ex-wife was self-supporting. Applicant's ex-wife assumed responsibility for the debts in her name as well as for one joint account (SOR 1.b, 1.t same debt). She may well have been contributing to the household finances during their marriage. The evidence shows that Applicant stopped paying on the credit card debts in SOR 1.e and 1.u during the October to November 2009 time frame, so his default on those accounts may well have been due partially to his divorce.

AG ¶ 20(b) is established in that unexpected medical problems between 2010 and 2012 led to a significant loss of income, which negatively affected his ability to address the credit card delinquencies in SOR 1.e and 1.u and caused other accounts to become delinquent between 2010 and 2012. During three separate, lengthy medical leaves of absence, he received temporary disability pay that was less than his wages would have been had he been able to work. Applicant also incurred medical costs, although the financial strain caused by those expenses was not fully shown. Available hospital records indicate that he was billed $3,729.74, little more than ten percent of the total medical expenses incurred. As of June 2014, he owed the hospital at least $3,503 (SOR 1.f-1.n), so payments to the hospital, if any, have been minimal.

When he returned to work from his medical leave in late June or early July 2012, Applicant was fired by his then employer for allegedly falsifying his time sheets. Applicant disputes that he falsified his time records. The SOR does not allege any improper conduct relating to his employment termination. Applicant was awarded unemployment, which the company challenged unsuccessfully. Under these circumstances, I cannot concur with the Government's position that the unemployment was a factor within his control. Applicant collected about $14,000 in unemployment compensation over the next year, which was significantly less than his employment income of $29 an hour. AG ¶ 20(b) mitigates his nonpayment of consumer credit and medical debts during his unemployment. His income was not sufficient to cover living expenses and debt payments.

Yet AG ¶ 20(b) also requires that an individual act responsibly to deal with financial setbacks. Applicant regained full-time employment in July 2013. Applicant knew as of his e-QIP that the credit card accounts in SOR 1.e and 1.r (same debt in SOR 1.s) had been delinquent for some time. Even accounting for a reasonable amount of time to regain his financial stability, Applicant made little effort to contact his creditors before he received the SOR in April 2014. He did not respond to medical collection notices from the hospital or from his credit card lenders. (Tr. 106.) AG ¶ 20(b) does not mitigate the financial judgment concerns raised by the reactive manner in which he handled his debt obligations.

Applicant paid the judgment in SOR 1.a, about six months after he obtained his credit report showing the judgment. He claims he received no correspondence about the judgment from the court. Applicant's resolution of the judgment debt, albeit through wage garnishment, and the medical debts in 1.d (and perhaps 1.c) and 1.p implicate 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 to a lesser extent, AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts." Debts paid so belatedly or in response to wage garnishment are not accorded the same weight in mitigation as timely, proactive efforts to address debts.

As of June 17, 2014, Applicant had arranged to repay the credit card delinquencies in SOR 1.q and 1.r (SOR 1.s same debt) at $50 per month each, and he had made his first payments. He had just arranged to repay the credit card debt in SOR 1.e at $25 a month. These payment arrangements are credible evidence of his sincerity with respect to his intent to address his delinquent accounts. However, no payment plans are in place with respect to the credit card debt in SOR 1.u. Interest is continuing to accrue on the debt to bring the balance to approximately $7,600. He has made no payments on the medical debts owed the local hospital, three of which are under $100 (SOR 1.i, 1.j, and 1.n). When Applicant filed his settlement claim in March 2014, he did not submit any proof of payments required to substantiate a subscriber claim. So, it is unclear whether he will receive any funds under the settlement. AG ¶ 20(c) and ¶ 20(d) are not fully established.

## 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).[10]

[10] 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.

Applicant's financial problems started after his divorce in 2008. His financial stability was later compromised by serious medical problems, which led to lost income. However, once his medical issues and employment situation had stabilized, Applicant could reasonably be expected to address his delinquent debts.

In making the whole-person assessment required under the Directive, the DOHA Appeal Board has held that an applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve financial problems and take significant actions to implement the plan. *See* ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). Even assuming that he settled the debts in SOR 1.c and 1.d by one $30 payment, he has resolved only about $1,677 of his delinquent debts. After paying $50 each on the debts in SOR 1.q and 1.r, he owes respective balances of $4,169.09 and $2,929.69. He had yet to make the first payment of $25 toward the $4,861 credit card debt in SOR 1.e, and he had no plans in place to resolve the debt in SOR 1.u, which due to interest, has accrued to $7,600. Those debts are not likely to be resolved in the near future.

Applicant's work record with his defense contractor employer is unassailable. He has exhibited dedication on the job, and the quality of his work since July 2013 led to an early promotion for him. While recognizing that he needs a stable income to address his debts, it would be premature at this time to conclude that his financial problems are safely behind him. He has not demonstrated a track record of regular payments toward his past-due debts. Moreover, despite a reported $800 in checking and $1,200 in saving account deposits, Applicant was behind on his electric bill as of his security clearance hearing, which raises doubts about his ability to manage his finances responsibly.

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. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990.). For the reasons noted above, based on the facts 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 grant Applicant 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: | For Applicant |
| Subparagraph 1.b: | For Applicant |
| Subparagraph 1.c: | For Applicant |
| Subparagraph 1.d: | For Applicant |
| Subparagraph 1.e: | Against Applicant |
| Subparagraph 1.f: | Against Applicant |

| | |
|---|---|
| Subparagraph 1.g: | Against Applicant |
| Subparagraph 1.h: | Against Applicant |
| Subparagraph 1.i: | Against Applicant |
| Subparagraph 1.j: | Against Applicant |
| Subparagraph 1.k: | Against Applicant |
| Subparagraph 1.l: | Against Applicant |
| Subparagraph 1.m: | Against Applicant |
| Subparagraph 1.n: | Against Applicant |
| Subparagraph 1.o: | Against Applicant |
| Subparagraph 1.p: | For Applicant |
| Subparagraph 1.q: | Against Applicant |
| Subparagraph 1.r: | Against Applicant |
| Subparagraph 1.s: | For Applicant |
| Subparagraph 1.t: | For Applicant |
| Subparagraph 1.u: | 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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge