



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



In the matter of: )  
)  
) ISCR Case No. 14-00597  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Richard Stevens, Esq., Department Counsel  
For Applicant: *Pro se*

04/09/2015

**Decision**

DUFFY, James F., Administrative Judge:

Applicant failed to mitigate the security concerns arising under Guideline F, financial considerations. Eligibility for access to classified information is denied.

**Statement of the Case**

On April 15, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F. This action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive); and the adjudicative guidelines (AG) implemented on September 1, 2006.

The SOR detailed reasons why DOD CAF could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national

interest to grant Applicant a security clearance. On August 3, 2014, Applicant answered the SOR and requested a hearing. This case was assigned to me on November 5, 2014. On November 24, 2014, the Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing scheduling the hearing for December 10, 2014. The hearing was held as scheduled.

At the hearing, Department Counsel offered Government's Exhibits (GE) 1 through 3, while Applicant testified and offered Applicant's Exhibits (AE) A through I. The record of the proceeding was left open until January 7, 2015, to provide Applicant an opportunity to present additional matters. The deadline for submitting matters was later extended to February 2, 2015, and then again to February 6, 2015. Applicant submitted documents that were marked as AE J through AP. All proffered exhibits were admitted into evidence without objection. The transcript (Tr.) of the hearing was received on December 22, 2014.

### **Findings of Fact**

Applicant is a 58-year-old partner in an electrical contracting business. On November 5, 2013, he submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance. He graduated from high school in 1974. He has never been married and has three children, ages 16, 24, and 27. This is the first time that he is seeking to obtain a security clearance.<sup>1</sup>

The SOR alleged that Applicant had 12 delinquent debts totaling \$96,744. In his Answer to the SOR, Applicant denied each allegation. A credit report dated November 28, 2013, contains substantial evidence of each alleged debt.<sup>2</sup>

Applicant started his business in 1980. Prior to encountering his financial problems, his business had about 30 employees. At its peak in the 1990s, his business had a gross income of about \$18 million. In the early 2000s, its average annual revenue was about \$2 or \$3 million. In 2006 and 2007, his business suffered during an economic downturn that resulted in the termination of a number of his longstanding electrical maintenance contracts. By about 2009 or 2010, he laid off virtually all of his employees and he ended up living in the company's building. To address his financial problems, he attempted to sell some of his real estate holdings, but was unsuccessful in doing so. He used credit cards to pay bills and keep his business running. At least one of his properties was foreclosed. In the last three years, his company rebounded when it obtained contracts to perform work at U.S. military bases overseas. The number of his employees grew to as high as 90. Its annual gross income grew to about \$18 to \$20 million for a couple of years. However, a major DOD contract ended in September 2014,

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<sup>1</sup> Tr. 5-7, 70-71; GE 1, 2.

<sup>2</sup> Applicant's Answer to the SOR; GE 3. "It is well-settled that adverse information from a credit report can normally meet the substantial basis standard and the government's obligation under ¶ E3.1.14 [of the Directive] for pertinent allegations." See ISCR 08-12184 at 7 (App. Bd. Jan. 7, 2010).

and the number of his employee was reduced to about 12 by the time of the hearing. He testified that about 90% of his business's gross income was recently attributable to DOD contracts.<sup>3</sup>

In 2012, Applicant's personal adjusted gross income (AGI) was \$2,549,228 and his federal income tax liability was \$822,829. In 2013, his AGI was \$1,136,776 and his federal income tax liability was \$346,966. In May 2014, he reported on a personal financial statement that he had \$2,509,776 in personal assets and a joint interest in his business that had a total value of about \$3,500,000. He testified that he did not prepay his 2012 federal income taxes and wrote a check to pay them. Because his company did not have credit, he maintained a large cash reserve to support its operations. He indicated that he was paying about \$500,000 per month to his employees as wages at one point.<sup>4</sup>

After his business rebounded, Applicant hired an attorney and a certified public accountant (CPA) to assist him with his financial problems. His goal was to resolve those problems so that his business could qualify for credit. He testified that, after 14 months, the attorney seemed to address only one of the alleged debts and some other debts that were not alleged. He was disappointed with their progress. Due to that disappointment, he indicated that he terminated the services of the attorney and CPA and hired a larger CPA firm to assist him. In his post-hearing submission, however, he provided letters from the attorney that indicated the attorney was still representing him in resolving the delinquent debts. He testified that he received financial counseling from the attorney and CPA.<sup>5</sup>

SOR ¶ 1.a – collection account for \$8,785. This was a bank account that had a date of last activity of November 2013. Applicant testified that this account was closed. He presented a letter from the collection company dated November 26, 2014, stating that it was a passive-debt buyer. The letter also indicated the debt was charged off by the original creditor, and its current status was listed as "Closed – Cancelled." Applicant testified that he had not received an Internal Revenue Service 1099-C for this debt.<sup>6</sup>

SOR ¶ 1.b – state tax lien for \$686. This lien was filed in January 2013. Applicant testified that this was a property tax for a boat slip on a lake and that it was paid. In his post-hearing submission, he provided a court record showing the lien was satisfied and ordered cancelled on November 27, 2013.<sup>7</sup>

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<sup>3</sup> Tr. 30-38, 65-72, 78-79; GE 2.

<sup>4</sup> Tr. 39-40, 70-83; AE M, N, O. AE M indicated that Applicant's estimated income for 2014 was \$1.6 million.

<sup>5</sup> Tr. 33-34 38-40, 85-87; AE I, N, O, W, AA-AD, AF, AH-AP.

<sup>6</sup> Tr. 27-29; GE 2, 3; AE A, Q.

<sup>7</sup> Tr. 29-30, 35, 55-56; GE 2, 3; AE R.

SOR ¶¶ 1.c and 1.d – state tax liens for \$231 and 73, respectively. These liens were filed in 2010. Applicant testified that these were for property taxes for undeveloped land he owned and that they were paid. In his post-hearing submission, he provided court records showing these liens were satisfied and ordered cancelled on October 23, 2012.<sup>8</sup>

SOR ¶¶ 1.e and 1.f – collection accounts for \$1,258 and \$8,199, respectively. These were business credit card accounts from the same creditor. The debt in SOR ¶ 1.e was opened in February 2005 and had a date of last activity of March 2011. The debt in SOR ¶ 1.f was opened in November 2003 and had a date of last activity of December 2010. At the hearing, Applicant testified that these accounts were closed and not paid. In his post-hearing submission, he provided documentation showing that he settled and paid the debts on February 9, 2015. The debt in SOR ¶ 1.e was settled for \$1,046, while the debt in SOR ¶ 1.f was settled for \$6,886.<sup>9</sup>

SOR ¶ 1.g – collection account for \$27,005. This was a credit card account. Records reflect that Applicant has owed the alleged amount since at least July 2011. At the hearing, Applicant provided an email exchange that indicated he was a defendant in a legal action concerning this debt and a settlement was being proposed. He testified that he was unaware that he was being sued concerning this debt. In his post-hearing submission, he provided documents confirming that he was sued for this debt. In his answer to the plaintiff's complaint, Applicant raised a number of challenges to the claim against him, including that it was barred by the statute of limitations and that the creditor failed to give him "all credits properly due." He also brought a counterclaim seeking, in part, payment of his attorney's fees and \$1,000 in damages for violation of debt collection laws. In the post-hearing submission, he also provided a Settlement Agreement and Release dated October 2, 2014. This document indicated that Applicant and the collection company released the other from any claims arising from this debt, its collection, or credit reporting. The agreement indicated that it did not constitute an admission by either party of any liability, violation of any law or regulation, or any civil wrong. Applicant signed the document, but the signature block for the collection company was blank. Nonetheless, the email chain presented at the hearing indicated the collection company had agreed to the release. The reason why the collection company agreed to release its claim is unknown.<sup>10</sup>

SOR ¶ 1.h – collection account for \$32,736. This was a charged-off second mortgage loan on a condo that Applicant purchased for \$300,000 in 2006. The condo was financed with an 80% first mortgage loan and 20% second mortgage loan. The account had a date of last activity of October 2010. The property was foreclosed and sold. Applicant did not know the sales price in the foreclosure proceeding. In his post-

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<sup>8</sup> Tr. 35-36, 52-56; GE 2, 3; AE F-G, S-T.

<sup>9</sup> Tr. 40-41, 47-48, 64; GE 2, 3; AE K, U-V, AG-AO.

<sup>10</sup> Tr. 48, 62-65; GE 2, 3; AE I, K, W, AC.

hearing submission, Applicant provided a letter from his attorney dated January 30, 2015, indicating that Applicant was disputing this debt and five other SOR debts, including the debts in SOR ¶¶ 1.e and 1.f that were settled for reduced amounts in February 2015. The letter indicated the collection attempts and credit reporting by the creditors gave rise to claims under the Fair Debt Collection Act, Fair Credit Reporting Act, and the state's Fair Business Practices Act. The letter further stated:

We have thoroughly investigated these matters and are prepared to file action on behalf of our Client for the legally deficient practices employed in attempting to collect and report on the aforementioned consumer accounts, as either 1) our Client paid all sums owing in connection with the alleged accounts to the original creditor for such accounts, before the current creditors' collection and reporting activities began; or 2) the Opposing Creditors failed to give our Client all credits properly due in connection with the alleged accounts. Of course no lawyer can guarantee the final outcome of a legal matter, and we have made no promises about the outcome of these matters, however we anticipate favorable outcomes and settlements. Since 2010, our firm has settled hundreds of similar cases whereby our clients paid nothing to the opposing creditors, the opposing creditors dismissed collection activity and reporting, and they removed the associated trade lines from our clients' credit reports. We anticipate a similar and consistent outcome in [Applicant's] cases. [Emphasis added.]<sup>11</sup>

SOR ¶¶ 1.i and 1.l – collection accounts for \$209 and \$9,266, respectively. The debt in SOR ¶ 1.i was a television service account that had a date of last activity of January 2012. Applicant testified that he never had an account with that television service provider. The debt in SOR ¶ 1.l was a bank loan that had a date of last activity of November 2013. These were listed as disputed debts in the attorney's letter discussed above in relation to SOR ¶ 1.h.<sup>12</sup>

SOR ¶ 1.j – collection account for \$614. This was a utility account that had a date of last activity of October 2011. In Applicant's post-hearing submission, he presented a receipt showing he paid this debt on January 10, 2014.<sup>13</sup>

SOR ¶ 1.k – collection account for \$7,682. This debt was a credit card account that had a date of last activity of November 2013. It was listed as a disputed debt in the attorney's letter discussed above in relation to SOR ¶ 1.h. His post-hearing submission also included an email exchange that initially indicated that Applicant believed he did

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<sup>11</sup> Tr. 57-62; GE 2, 3; AE K, AD.

<sup>12</sup> Tr. 34, 48-49, 64; GE 2, 3; AE K, AD, AF. In AE K, Applicant's attorney indicated that his office was negotiating settlements for these and other debts, but no settlement agreements were provided.

<sup>13</sup> Tr. 48-49, 64-65; GE 2, 3; AE Z.

not owe anything on this account because he already paid it, but it later indicated he was willing to settle this debt by paying \$2,234 and disputed the remaining balance of \$6,703. By the time the record closed, no evidence was presented to show this debt was resolved.<sup>14</sup>

At some point, the building that Applicant's business occupies was placed in a foreclosure status. This debt was not alleged in the SOR. He testified that, after his business began to recover, he was able to pay \$57,000 to satisfy the mortgage. He and apparently his partner now own the building.<sup>15</sup>

During an Office of Personnel Management interview in December 2013, Applicant indicated that, although he was unaware of the debts in SOR ¶¶ 1.a, 1.e-1.g and 1.i-1.k, he did not dispute them. During that interview, he also indicated that he disputed the debt in SOR ¶ 1.h and that he would contact the creditor of the debt in SOR ¶ 1.l and make payment arrangements for that debt. At the hearing, Applicant was informed that the documents that he presented (AE A through I) were inadequate and that his post-hearing submission was critical.<sup>16</sup>

## Policies

The President of the United States has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. *Department of the Navy v. Egan*, 484 U.S. 518, 527 (1988). The President has authorized the Secretary of Defense to grant eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch 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).

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These AGs are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are

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<sup>14</sup> Tr. 34, 49, 64-65; GE 2, 3; AE K, AA, AD, AF.

<sup>15</sup> Tr. 74-79; AE M, N. Conduct not alleged in the SOR will not be considering in applying the disqualifying conditions, but "may be considered (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular adjudicative guideline is applicable; or (e) to provide evidence for whole-person analysis under Directive Section 6.3 . . . ISCR Case No. 00-0633 at 3 (App. Bd. Oct 24, 2003)." ISCR Case No. 03-20327 at 4 (App. Bd. Oct 26, 2006).

<sup>16</sup> Tr. 85-88; GE 2.

applied in conjunction with an evaluation of the whole person. An administrative judge's adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, to reach his decision.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 of potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), Section 3. Thus, a clearance decision is merely an indication that the applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue [his or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern for financial considerations is set out in AG ¶ 18 as follows:

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 notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant accumulated a number of delinquent debts that he was unable or unwilling to satisfy for an extended period. Record evidence is sufficient to raise the above disqualifying conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (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;
- (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;
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (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 business lost a number of contracts during an economic downturn in the late 2000s. Due to the downturn, he laid off virtually all of his employees and struggled financially. This economic downturn was a condition beyond his control that caused his financial problems. AG ¶ 20(b) partially applies.



Although Applicant's financial problems were caused by conditions beyond his control, he has not shown that he acted responsibly in addressing his delinquent debts. In this regard, the evidence established:

a. Applicant's personal income was \$2.5 million in 2012 and \$1.1 million in 2013. At some point, this case transformed from a situation in which he was unable to satisfy his debts to one reflecting an apparent unwillingness or reluctance to satisfy them. He has had adequate time since his business rebounded to resolve all of the debts. He was put on notice that the debts were a security concern during his December 2013 OPM interview and in the April 2014 SOR. At the hearing, he was informed that the documents he presented there were not sufficient to mitigate the security concerns. He was given almost two months to submit post-hearing matters. Although he has the apparent means to resolve these debts, a number of them remained unresolved at the close of the record.

b. Applicant considers the \$8,785 debt in SOR 1.a resolved because it has been charged off. While the collection company is not actively pursuing this debt, his position on this debt does not constitute a "good-faith" resolution under AG ¶ 20(d).<sup>17</sup>

c. Before the issuance of the SOR, Applicant paid the relatively small tax liens in SOR ¶¶ 1.b through 1.d and the utility debt in SOR ¶ 1.j. He settled the debts in SOR ¶¶ 1.e and 1.f after the hearing was held. He receives credit under AG ¶ 20(d) for resolving the debts in SOR ¶¶ 1.b through 1.d and 1.j and receives credit under AG ¶ 20(c) for resolving the debts in SOR ¶¶ 1.e and 1.f.

d. A collection company sued Applicant to collect the debt in SOR ¶ 1.g. Applicant responded by raising a number of legal defenses, including that collection efforts were barred by the statute of limitations, and brought a counterclaim against the collection company.<sup>18</sup> This matter was settled by each party releasing the other from

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<sup>17</sup> The Appeal Board has stated,

In order to qualify for application of [the former version of AG ¶ 20(d)], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term 'good-faith.' However, the Board has indicated that the concept of good-faith 'requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.' Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) in order to claim the benefit of [AG 20(d)].

See ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. Jun. 4, 2001)).

<sup>18</sup> Although Applicant legally may rely on the running of the statute of limitations to avoid payment of a debt, such reliance does not constitute a good-faith effort to resolve debts within the meaning of the Directive. See ISCR Case No. 08-18900 at 5 (App. Bd. Jun. 6, 2008); ISCR Case No. 07-09966 (App. Bd. June 25, 2008).

any liability. Why this creditor decided to sign the release is unknown. However, it is well known that creditors decide not to pursue debts for many reasons, including a simple cost-benefit analysis. From the evidence presented, I am unable to find that full credit under AG ¶ 20(d) for a “good-faith” resolution of this debt is warranted. Whether he had a reasonable basis to dispute this debt under AG ¶ 20(e) is unknown. I find for Applicant on this debt under AG ¶ 20(c) because it is resolved.

e. The debts in SOR ¶¶ 1.h, 1.i, 1.k, and 1.l that total \$49,893 remain unresolved. Applicant submitted a letter dated January 30, 2015, from his attorney that indicated these debts were disputed. It further indicated the attorney was “prepared to file action on behalf of his client.” No actual dispute letters sent to the creditors were presented.<sup>19</sup> The attorney’s letter contains general assertions without any discussion of supporting facts. It falls short of establishing that Applicant has a reasonable basis to dispute the legitimacy of any of these debts. Insufficient evidence has been presented to show that AG ¶ 20(e) applies to these debts.

Applicant receives credit for hiring an attorney and CPA to assist him with his financial problems and for the financial counseling he received from them. Nevertheless, his financial problems are ongoing and significant. From the evidence presented, I am unable to find that his delinquent debts are being resolved in a responsible manner. His financial problems continue to cast doubt on his current reliability, trustworthiness, and good judgment. AG ¶ 20(a) does not apply.

### **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 the applicant’s conduct and all relevant 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.

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<sup>19</sup> AE AA contains a letter dated February 2, 2015, from the attorney to the collection company handling the debt in SOR ¶ 1.k. It is entitled “For Settlement Discussion Only.” It indicated that the collection company’s collection efforts give rise to claims under the Fair Debt Collection Act and other statutes. It does not set forth any specific legitimate basis for disputing that debt.

The ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. AG ¶ 2(c).

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant has owned a business for 34 years. Over the years, his business was successful and grew. In the late 2000s, his business suffered during an economic downturn, and he incurred delinquent debts. In at least the past three years, his business rebounded. In 2012 and 2013, he reported significant personal income, but failed to take responsible action to address his delinquent debts. Many of the steps he took to address his debts occurred after his receipt of the SOR or after the hearing was held. The timing of his actions impacts the degree to which the mitigating conditions apply. Furthermore, the Appeal Board has recognized that some attempts to settle debts at reduced rates may weigh against an applicant in determining whether he or she acted in a responsible manner. In this regard, the Appeal Board stated:

Applicant's attempts to settle outstanding debts at a reduced amount speak directly to an evaluation of the good faith nature of Applicant's effort to reduce indebtedness responsibly, given the record evidence of the fact that she had funds available to fully satisfy these debts, and the fact that Applicant's attempts to settle the debt for lesser amount resulted in their going unpaid. Thus, Applicant's attempts to settle the debts in the manner she did was an important aspect of the case affecting an evaluation in mitigation that warranted recognition and analysis on the part of the judge.<sup>20</sup>

The same rationale applies here. Applicant failed to show that he has a legitimate basis for disputing the debts in SOR ¶¶ 1.h, 1.i, 1.k, and 1.l. Despite having the resources to resolve these debts, he set himself on a course over the past year to either settle or dispute them, but those efforts have resulted in little verifiable progress in resolving them. His apparent prolonged effort to settle these debts for lesser amounts undermines a finding that he acted responsibly under the circumstances. As stated above, his financial problems continue to cast doubt on his current reliability, trustworthiness, and good judgment.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For all the above reasons, I conclude that Applicant failed to mitigate the financial security concerns.

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<sup>20</sup> ISCR Case No. 08-12144 (App. Bd. Jan. 7, 2010).

## Formal Findings

Formal findings 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:	Against Applicant
Subparagraphs 1.b-1.g:	For Applicant
Subparagraphs 1.h-1.i:	Against Applicant
Subparagraph 1.j:	For Applicant
Subparagraphs 1.k-1.l:	Against Applicant

## Decision

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

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James F. Duffy  
Administrative Judge