



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



In the matter of:)
)
) ISCR Case No. 14-02597
)
Applicant for Security Clearance)

Appearances

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

04/09/2015

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant owes approximately \$26,308 in delinquent debt with no evidence of payment or current payment plans. Some documented progress toward resolving or settling these debts is needed before I can conclude that his financial difficulties are no longer of security concern. Clearance is denied.

Statement of the Case

On July 17, 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 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 responded to the SOR allegations on August 19, 2014 (Answer). He requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On October 2, 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. I issued a Notice of Hearing scheduling the hearing for November 18, 2014.

I convened the hearing as scheduled. The Government submitted five exhibits (GEs 1-5) and the Applicant submitted four exhibits (AEs A-D), all of which were admitted without any objections. A chart, which was prepared by Department Counsel as a supplement to his oral closing argument, was marked as a hearing exhibit, but not accepted as a formal exhibit in the record. Applicant and his department manager testified, as reflected in a transcript (Tr.) received on November 29, 2014.

At Applicant's request, I held the record open for two weeks after the hearing for him to submit additional documentary evidence. No documents were received.

Summary of SOR Allegations

The SOR alleges under Guideline F that Applicant owed delinquent debt totaling \$26,754 on 11 accounts (SOR 1.a-1.k) as of July 17, 2014. When Applicant responded to the SOR, he admitted all the debts. He explained that the \$17,160 debt (SOR 1.a) was for a repossessed vehicle that was sold at an auction. He "lost sight of the remaining amount due." The \$3,991 debt (SOR 1.b) was for utility services at a former residence incurred after he vacated the premises, and the utility company apparently failed to shut off the gas. The \$2,480 debt (SOR 1.c) was for data usage charges that he disputed without success. About his remaining debts (SOR 1.d-1.k), Applicant indicated he was looking into repayment options. He was working through a debt resolution firm to consolidate his current debt. (Answer.) Before the introduction of any evidence at his hearing, it became clear that he was disputing his responsibility for the utility service debt in SOR 1.b. In his testimony, he expressed his belief that the debt in SOR 1.f was referred for collection to the assignee in SOR 1.e. After reviewing the evidence, I accept that SOR 1.e and SOR 1.f are the same debt.

Findings of Fact

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

Applicant is a 32-year-old operations supervisor with a defense contractor. He graduated from a vocational and technical high school in June 2000, and has worked for his current employer since March 2003. He has been a salaried employee since late November 2004, when he became a supervisor at an annual wage of \$52,000. From August 2003 to December 2009, Applicant held a second job part-time with an automotive parts dealer as a parts and sales manager. Applicant seeks to retain the secret-level security clearance, which was granted to him around April 2003. (GE 1; Tr. 26-28.)

Applicant and his spouse have been married since October 2003. They have four sons, ages 6, 9, 11, and 13. (GE 1.) They also have a daughter, who was born in March 2013. (GE 5; Tr. 61.) Applicant and his spouse lived with his parents until April 2004, when they began renting their own home. The family has been in their current residence since March 2009. (GE 1.)

Applicant opened a succession of car loans over the years, which caused some strain on his family's finances. In March 2004, he paid off a \$12,732 car loan of only nine months, taking on a new loan of \$21,400. One year later, he paid off that loan and took on a loan of \$37,177 for a new 2004 model-year SUV. He was working substantial overtime and believed he could afford the car payment. In August 2006, his loan, with a balance of \$32,676, was sold to another creditor. By April 2008, he could no longer keep up with his \$653 monthly payment on that car loan. He voluntarily surrendered the vehicle, and it was sold at an auction, leaving a deficiency balance of \$17,160 on his loan (SOR 1.a). (GEs 3, 4; Tr. 29-32.) When Applicant paid off a June 2006 vehicle loan of \$22,762 in November 2012, he took on a car loan of \$29,280 for a 2011 or 2012 minivan for his spouse, to be repaid at \$655 per month. In September 2013, he paid off a \$13,965 auto loan opened in August 2010 and took on a \$15,500 loan for his 2007 model-year truck, to be repaid at \$405 per month.¹ (GEs 3-5; Tr. 28-37, 57-58.)

Between June 2007 and June 2013, Applicant had several other accounts referred for collection: a credit card debt of \$572 (SOR 1.i), which went to judgment in June 2011; a wireless phone debt (SOR 1.e); a \$78 Internet services debt (SOR 1.h); an auto insurance debt of \$207 (SOR 1.k); medical debts of \$174 (SOR 1.j) and \$346 (SOR 1.g); a \$3,991 utility (natural gas) debt (SOR 1.b); a phone/Internet/cable bundle debt for data usage over a wireless router of \$2,480 (SOR 1.c); and a wireless phone debt of \$832 with his current provider (SOR 1.d). (GEs 3, 4; Tr. 39-55.)

Around April 2012, Applicant and his spouse took a seven-day vacation cruise to the Caribbean. (GE 5; Tr. 73.) Applicant paid between \$5,000 and \$6,000 for the cruise. (Tr. 67-68.) He borrowed from his 401(k) to pay for the trip. (Tr. 67.)

On March 12, 2013, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP) to renew his security clearance eligibility. Applicant responded negatively to the financial record inquiries concerning any delinquencies involving enforcement, including any judgments entered against him in the last seven years. He answered "Yes" to any delinquency involving routine accounts. He disclosed that his 2004 SUV had been repossessed voluntarily for nonpayment and that the "remainder price" of \$17,160 had been charged off. Applicant listed no other debts. (GE 1.) As of March 16, 2013, Applicant's credit report showed several previously undisclosed delinquencies (SOR 1.d-1.k), including a \$572 judgment from June 2011 of "unknown" disposition (SOR 1.k). (GE 4.)

¹ Applicant showed a preference for making car payments on a newer vehicle rather than drive an older model that was completely paid for.

On March 28, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant admitted that around March 2008, he could no longer make the payments on the SUV that he had at that time. He contacted his creditor to negotiate a payment he could afford, but the creditor would not work with him. Applicant expressed his belief that the debt was satisfied through repossession and sale of the vehicle. Applicant indicated that he would make inquiry to determine whether any balance was owed, and if so, pay off the debt as soon as possible. At the end of his interview, Applicant was confronted about the other debts on his credit record. Applicant speculated that the debts might be medical because he had been injured on the job. The debt in SOR 1.g (balance \$373) was for ambulance charges incurred when he was on temporary duty (TDY) for his employer in 2011. He indicated that the debt should have been paid by worker's compensation. About the \$572 judgment on the credit card debt (SOR 1.i), Applicant explained that he gave his spouse access to his account for emergencies; that he made timely payments on the account; and that he paid it off in 2010. He described his current financial status as good and attributed his financial problems to unforeseen events, such as overtime becoming unavailable and hospital visits. (GE 5.)

Applicant's spouse had a complicated pregnancy and birth for their daughter in March 2013, resulting in approximately \$800 to \$900 of non-covered medical expenses. (Tr. 83.) In 2014, one of Applicant's sons had several dental procedures that cost Applicant at least \$1,500. (Tr. 84.)

As of April 7, 2014, Applicant had reportedly made no progress toward resolving the following delinquencies: \$17,160 charged off on his loan for the repossessed SUV (SOR 1.a); \$3,991 in past-due natural gas debt (SOR 1.b); \$2,480 for Internet services (SOR 1.c); \$832 in wireless phone services (SOR 1.d); \$446 in wireless phone debt from 2008 (SOR 1.e and 1.f); the \$373 ambulance debt (SOR 1.g); \$73 for cable services (SOR 1.h); and the \$572 credit card judgment from June 2011 (SOR 1.i). The \$174 medical debt (SOR 1.j) and the \$207 insurance debt (SOR 1.k) were no longer on his credit record as reported by Equifax, although there is also no evidence of repayment. Applicant had fallen behind 30 days on his current car loans in early 2014, although his accounts were up-to-date as of March 2014. (GE 3.)

Applicant provided various explanations about his failure to resolve the debts. After his vehicle was repossessed, he "kind of lost sight of [the loan]." (Tr. 32, 37.) Then, after his March 2013 interview, he was "swamped with work." Since late 2013, he has had separate TDY assignments of three months and 3.5 weeks and two trips of one week each.² (Tr. 38.) In July 2014, Applicant went on TDY for 20 days. (Tr. 98, 101-102.) About the natural gas bill in SOR 1.b, Applicant maintains that he paid the bill for the last month at the property and received no bills about the debt until after he contacted the creditor in 2014. He had no success in disputing it with the creditor. (Tr. 40-41.) As for the \$2,480

² About reimbursement for company employees on TDY, Applicant's department manager indicated that when the work assignment exceeds 31 days, the company provides an extended work package consisting of a 15% increase in usual wages and per diem in accord with the federal per diem rate for the location. Of TDY fewer than 31 days, the employee receives his or her normal wages and reimbursement for travel costs (hotel, car rental, etc.). (Tr. 99-100.)

Internet services debt in SOR 1.c, Applicant testified that he was billed approximately \$1,800 in data over-usage charges one month in 2012 through use of a “Jetpack” wireless router. He disputed the debt immediately and cancelled his service. The provider assessed him an early termination fee, but did not remove the charge because an alternative source for the data usage could not be determined. Applicant did not pay the debt because he does not believe that he incurred the balance. The creditor was unwilling to settle the debt for less than its full balance. (Tr. 44-47.) Applicant testified that he had paid the debt in SOR 1.d, and that he had been told by the provider that there is no \$832 outstanding balance on his account. (Tr. 48-49.) He provided no proof of payment. Applicant did not pay the debts in SOR 1.e (duplicated in SOR 1.f), SOR 1.h, SOR 1.j, and SOR 1.k because he did not know about them. (Tr. 49, 52, 55.) He asserts that the ambulance fee in SOR 1.g should have been covered by workmen’s compensation, and he did not realize that the debt was on his record. (Tr. 51.) About the judgment in SOR 1.i, Applicant maintains that he paid the debt by credit card when he received notice of the court action. (Tr. 53.) He presented no proof of payment.

After Applicant received the SOR, he contacted the creditor in SOR 1.a to obtain accurate information about any deficiency balance on his old auto loan. He got “the runaround,” so he contacted a debt consolidation company. He was advised that his credit report showed only the initial loan balance of his defaulted car loan. At the referral of the debt consolidation company, in mid-October 2014, he retained the services of a law firm to verify his debts. (Tr. 35-36, 63-64, 79.) As of mid-November 2014, the law firm had asked the creditor in SOR 1.a to validate the debt as a “charge off,” and a collection agency to validate another of Applicant’s debts. The law firm asked the creditor holding Applicant’s current minivan loan about its credit entry reporting the loan as 30 days past due. The law firm also sent out challenges to the three credit reporting bureaus to verify some of the debts, including SOR 1.e (duplicated in SOR 1.f) and 1.g.³ (AE C.) Applicant recently was billed for the old car insurance debt in SOR 1.k. He had not contacted the creditor about payment as of November 2014. (Tr. 55.)

Applicant’s salary at work increased over the years, most recently in July 2014 to almost \$93,000. (Tr. 27-28, 80.) His spouse is unemployed, although she plans to start working. (Tr. 59-60.) Applicant’s take-home income averages \$2,400 to \$2,500 every two weeks, depending on overtime. As a supervisor, he is entitled to overtime on those days that he works ten hours. (Tr. 57.) His monthly expenses include rent at \$1,650; car payments totaling \$1,060; natural gas and electricity around \$200; cell phone costs around \$250; cable and Internet fees of \$150; about \$800 for groceries; and unspecified commuting costs. He was paying \$60 a month to the YMCA for his sons’ martial arts classes. (Tr. 57-60.)

Applicant and his spouse received a federal income tax refund of almost \$12,000 for tax year 2013. (Tr. 61-62.) They bought bunk beds for their children and a sofa, and they paid some medical and other bills not in the SOR. (Tr. 63, 68-69.) Applicant also testified that he put money down for their current vehicles. The evidence shows that the car loans were opened in November 2012 and in September 2013 (GE 3), before he would have

³ Two of the collection agencies listed on AE C do not appear on the credit reports in evidence. (GEs 3, 4.)

filed his returns for tax year 2013, although he may well have used some of the tax refund for payments on his already established car loans.

Applicant and his spouse had both handled their household financial obligations until recently, when Applicant took them over to ensure that nothing is missed. (Tr. 69.) Applicant and his spouse had about a few hundred in their checking account as of mid-November 2014. They had no savings. (Tr. 70.) Attempts to save by buying more efficient appliances and reducing energy costs have been unsuccessful, given the needs of his growing children. (Tr. 72.) Applicant intends to pay his legitimate debts and to be more diligent about setting a fixed budget to ensure that he lives within his means. (Tr. 81.)

Applicant is actively involved with his children. He coaches youth sports and is concession manager for a local youth football league. (Tr. 81-82.)

From the start of his employment with the defense contractor, Applicant has demonstrated skill and commitment to fulfilling his duties. (AEs A, B, D; Tr. 87-89.) As a new supervisor from December 2004 to March 2005, Applicant met his employer's job requirements. His work output met and frequently exceeded job goals and objectives. One year later, he had demonstrated competency as a foreman to be rated overall as "Exceeds Job Requirements." By March 2008, Applicant had become a "very valuable asset" to his department. He continued to demonstrate versatility "across the boat," and he worked well with other departments. His performance evaluation for March 2010 to March 2011, when he was promoted from foreman to operations supervisor, shows that he spent most of the year on TDY in the Pacific Northwest on a project that was a great success for his employer. Applicant spent the majority of 2011 supporting activities at a shipyard in another state. Since March 2012, Applicant has excelled at his job requirements. His annual performance evaluation for March 2013 to March 2014 reflects that Applicant always gave "110% to ensure that the job gets done in a timely manner, usually meeting or exceeding schedule [and] always keeping quality at the top of his priority list." He has one disciplinary infraction noted in his annual reviews. During the latest rating period, Applicant was suspended without pay for five days from work for attesting work as complete "without verifying OQE."⁴ While his direct supervisor noted that such a situation was unacceptable in the department, he also noted that such situations could arise when an operations supervisor had such a significant workload. (AE D.)

Applicant's department manager confirmed that Applicant took the lead of some of their most challenging projects. (Tr. 89-90.) He has known Applicant for the past ten years and considers Applicant trustworthy. He "absolutely" believes Applicant should retain his security clearance eligibility. (Tr. 90.) This manager became aware around October 2014 that the issue of security concern involved "bill payment from sometime previous." (Tr. 91.) He knows Applicant was suspended from work in late 2013 for making an error on paperwork, for which he accepted responsibility. (Tr. 92-93.)

⁴ The acronym, OQE, is not defined in the record. Applicant's department manager described the violation as signing off on documentation when the work was not 100% completed. Apparently, the five-day suspension is of a typical length for salaried employees of their company. (Tr. 93.)

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.

Applicant disclosed his auto loan default (SOR 1.a) on his e-QIP and indicated that the debt had been charged off for \$17,160. A law firm is now attempting to verify the debt for him. He had no success contesting the \$3,991 utility debt in SOR 1.b, which he asserts was incurred after he vacated the apartment, and the company failed to turn off the gas services. He disputes whatever portion of the \$2,480 debt in SOR 1.c exceeds his usual monthly usage and early termination fee. He claims that he paid the \$832 debt in SOR 1.d with his current wireless provider and the \$572 credit card judgment in SOR 1.i when he received notice of the court action. He denies any knowledge of the telephone services debt in SOR 1.e (duplicated in SOR 1.f), the \$73 cable debt in SOR 1.h, or the \$174 medical debt in SOR 1.j. He was just billed for the insurance debt in SOR 1.k, but he has not yet made any payments. (Tr. 55.) Applicant does not dispute that he incurred the \$373 debt for ambulance service, but he submits that it should have been paid by workmen's compensation. Except for the \$174 medical and \$207 insurance debts, the delinquencies in the SOR were still on Applicant's credit record as of April 2014.

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that he is not responsible for the debt or that matters in mitigation apply.

(Internal citation omitted). For the most part, Applicant did not adequately rebut the credit report listing or submit documentation establishing 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.

AG ¶ 20(e) applies only in that the debt in SOR 1.e is a duplicate listing by the collection agency of the original debt in SOR 1.f. Two disqualifying conditions under AG ¶ 19 are established because of Applicant's record of delinquent accounts:

(a) inability or unwillingness to satisfy debts; and

(c) a history of not meeting financial obligations.

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,” partially applies in that some of the debts in the SOR are not recent. Applicant defaulted on his auto loan (SOR 1.a) around early 2008. The telephone debt in SOR 1.e (duplicated in SOR 1.f) is also from 2008. Applicant testified that the natural gas debt in SOR 1.b was incurred after he vacated a previous residence. He has lived at his current address since March 2009, so the utility debt was incurred some time ago. The ambulance debt in SOR 1.g is from April 2010. The financial judgment for a credit card delinquency was entered against him in June 2011. Even so, AG ¶ 20(a) does not fully mitigate the security concerns when the debts have not been resolved.

Applicant incurred unexpected medical costs around \$800 to \$900 for his daughter’s birth in March 2013 and \$1,500 in 2014 for his son’s dental care. The ambulance charge from 2010 was likewise not discretionary. However, for the most part, Applicant’s delinquencies were not shown to be the result of factors 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.

Applicant’s financial difficulties began after he took on monthly car payments of \$653 for the vehicle in SOR 1.a. He could not afford the payments without overtime earnings. He may not have foreseen the loss of overtime, but he exercised questionable financial judgment by counting on overtime to make his car payments. The evidence of subsequent Internet service and cell phone delinquencies suggests that Applicant has not always lived within his means. He had to borrow from his 401(k) to pay for a cruise to the Caribbean in 2012. Applicant is currently paying \$655 per month for a minivan bought in November 2012 and \$405 per month for a used truck bought in September 2013. His income tax refund of almost \$12,000 went toward furniture and other bills not included in the SOR. Even assuming that he did not know about several of the debts before his March 2013 interview, he knew that he had defaulted on his auto loan in 2008, and that the creditor was reporting a charged-off balance of \$17,160. He made no effort to verify a deficiency balance until after he received the SOR. TDY was a factor, but he was at home for most of 2013 and for some months in 2014. It is difficult to find that Applicant acted fully responsibly toward his creditors under these circumstances. AG ¶ 20(b) applies only to the extent that Applicant had some unexpected expenses that compromised his ability to repay debt incurred because of poor financial decisions.

When he was interviewed by the OPM investigator in March 2013, Applicant expressed his belief that his old car loan had been resolved through repossession and sale of his vehicle. He admitted that he was not certain whether he had any debt remaining on the loan. He expressed intent to investigate the debt and, if valid, to pay it off as soon as

possible. When confronted about other delinquencies on his record, he indicated he would look into the credit card debt and the ambulance bill. As of November 2014, a law firm had requested validation from three creditors of Applicant's balances, and verification from TransUnion and Equifax of four of their credit entries, and of Experian of three of its credit entries. Applicant testified that he paid the wireless phone debt in SOR 1.d and the credit card debt in SOR 1.i. However, he presented no evidence of debt satisfaction, despite the record being held open for two weeks after his security clearance hearing to prove they have been paid. His attempt to verify delinquent balances before paying on them is understandable. However, without some documented progress toward resolving them or proof they are not legitimate debts, neither 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," nor AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," fully 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 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 has made significant contributions to his employer over the last ten years, for which he has been rewarded with increases in his annual salary from \$52,000 to almost \$93,000 presently. Even so, he appears to be living largely from paycheck to paycheck. His estimated recurring monthly expenses total \$4,170 on net take-home pay of \$4,800 to \$5,000. At first blush, his income appears sufficient to meet his expenses and to make some payments toward his delinquencies. Yet, he did not include in his expenses the costs of commuting (e.g., gasoline, car insurance), or of many of the costs incurred raising his five children. His children's needs (e.g., clothing, personal care, and medical/dental expenses) and activities (e.g., youth sports) have left him unable to save for emergencies. Applicant has no savings and only a couple hundred in his checking account. His almost \$12,000 income tax refund for 2013 went for furniture for his sons but also for unpaid bills not in the SOR.

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). As of November 2014, a law firm was attempting to verify the outstanding debt balances on Applicant's credit record. While a credible first step, it is not a substitute for a record of payments. Had Applicant taken timely steps to address his debts, he would have had a stronger case in mitigation.

Applicant clearly needs his income to support his family and to make payments on his old and current debts. He indicated in March 2013 that he would investigate the past-due debts on his record and make payments when he could. At his hearing in November 2014, he acknowledged that he had made no payments and admitted that he should have been more proactive in addressing his debts. In closing, he guaranteed that his situation would be different going forward and that in the next few weeks, he would "do everything that's within [his] means" to identify his debts, contact his creditors, and provide documentation. Applicant need not resolve or satisfy all of his delinquent debts for security clearance eligibility. Nevertheless, his failure to submit any documentation showing some contacts with his creditors raises doubts about Applicant's commitment to resolving the issues of concern to the DOD.

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). Applicant may be a good candidate for a security clearance in the future should he be able to show that he has a plan to address his delinquent debts. Based on the record 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 continue Applicant's 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:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	For 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

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 continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge