



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



In the matter of:	)	
	)	
-----	)	ISCR Case No. 10-05672
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Kathryn D. MacKinnon, Esquire, Department Counsel  
For Applicant: *Pro se*

November 8, 2011

**Decision**

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MARSHALL, Jr., Arthur E., Administrative Judge:

On August 11, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) enumerating security concerns arising under Guideline F (Financial Considerations). DOHA took 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.

In a September 7, 2010, response, Applicant admitted 2 of 14 allegations raised under Guideline F.<sup>1</sup> He also requested a hearing before a DOHA administrative judge. DOHA assigned the case to me on November 4, 2010. The parties proposed a hearing date of January 14, 2011. A notice setting that date for the hearing was issued on December 16, 2010. I convened the hearing as scheduled.

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<sup>1</sup> The SOR provided to Applicant only set forth allegations ¶¶ 1.a-m and 1.o; no allegation ¶1.n was noted. Tr. 62-65. The Government stated that it “would have to concede that for that reason we have to remove N from the allegations.” Tr. 64.

Applicant gave testimony and was given until January 18, 2011, to submit any additional documents. The Government introduced eight documents, which were accepted into the record without objection as exhibits (Exs.) 1-8.<sup>2</sup> The transcript (Tr.) of the proceeding was received on January 12, 2011. Applicant submitted nine sets of documents that were forwarded to me by the Government without objection. They were accepted into the record, as Exs. A-I on January 24, 2011, and the record was closed. Based on a review of the testimony, submissions, and exhibits, I find Applicant failed to meet his burden of mitigating security concerns related to financial considerations. Clearance is denied.

### **Findings of Fact**

Applicant is a 62-year-old coordinator who has worked for the same defense contractor since March 2009. He served this country as a Marine from 1974 until 1997, when he was honorably discharged at the rank of lieutenant colonel. Applicant is divorced, has one adult child, and is currently engaged to be married. He has earned a bachelor's degree and a master's degree in business.

After retiring from the military, Applicant found work in the civilian sector for about four years. In about 2001, he segued into a position with a defense contracting business. In March 2003, he was laid off from his job, was unable to find a new job for nearly a year, and lived off unemployment compensation payments. At the time, he was separated from his wife. His military retirement payments went to support his family in another part of the country. In early 2004, he was offered a stint as a business consultant, which ultimately led to nine-month position as a full-time employee. When that job ended, Applicant began full-time work for a major defense contractor. During this time frame, Applicant only had one credit card, which had a \$2,500 credit limit.<sup>3</sup> He was divorced in late 2004. As part of the divorce decree, Applicant agreed to continue maintaining his former's wife and child's household.<sup>4</sup>

In June 2009, Applicant submitted a security clearance application. An investigation ensued in 2010. As part of the investigation, Applicant completed interrogatories regarding his finances in July 2010. The following month, the SOR at issue was sent to Applicant. The SOR sets forth the following alleged delinquent debts:

- 1.a – Judgment from December 2005 (\$20,069) – Applicant does not know the origin of this alleged debt, nor does he recognize the name of the creditor. He did not take out any loans during his time of unemployment.<sup>5</sup> He was unaware of this alleged debt until

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<sup>2</sup> As noted in the Findings of Fact, Applicant was not provided with a copy of Ex. 8 until after the hearing was in progress. As discussed below, Applicant objected to the proffer as untimely. It was admitted on the condition it would be given limited weight after he expressed his willingness to "work with it." Tr. 55-58, 99.

<sup>3</sup> Tr. 25.

<sup>4</sup> Tr. 24.

<sup>5</sup> Tr. 23. Applicant is unaware whether his ex-wife, who is now deceased, might have been responsible for acquiring this debt. Tr. 24-25.

the mid-2010 investigation was undertaken.<sup>6</sup> He has not contacted the creditor or the court to find out what the alleged debt represents, or otherwise investigated the matter.<sup>7</sup>

●1.b – Judgment from December 2005 (\$9,937) – As above, Applicant does not know the origin of this alleged debt. He reaffirmed that he did not take out any loans during the time at issue. Applicant has not contacted the creditor or the courthouse to discover its origin, nor has he disputed the matter with any of the credit reporting bureaus.<sup>8</sup>

●1.c – Tax lien from March 2007 (\$2,301) – This debt is based on a state tax warrant levied against both Applicant and his former wife. Applicant did not check with the state at issue regarding this lien after receiving the July 2010 interrogatories or the August 2010 SOR. He turned the matter over to his daughter, who lives in the state at issue. He has not lived in that state since 2001. He was previously unaware of this lien.<sup>9</sup> After the hearing, Applicant drafted and mailed a check for \$2,301 to the county clerk.<sup>10</sup>

●1.d – Past due account (120 days or more) for \$2,146 – This account is related to an auto manufacturer’s credit company and appears to have been opened in October 2000. Applicant initially did not recognize the account. After the hearing, he provided evidence that his ex-wife assumed responsibility for a 2001 motor vehicle loan made by this company.<sup>11</sup> The facts indicate that this account is related to that auto.

●1.e – Charged-off account (\$2,146) – This credit union account was opened in 2004 and charged-off in 2005. Applicant concedes that he had a joint account with his wife at this credit union, but that he did not use the account during that time frame.<sup>12</sup> Applicant has not contacted the credit union to research the issue.<sup>13</sup> He understands the repercussions of a joint account in terms of liability.

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<sup>6</sup> Tr. 26. The debt was raised in a July 21, 2010, interrogatory. Ex. 2 (Interrogatory, dated Jul. 21, 2010). At the time, Applicant “did not appreciate the gravity of [the debt] and [he] did not really understand how to deal with the credit bureau because [he] had never had a reason to prior to that. . . .” He conceded that he “just didn’t follow through probably as well as [he] should have [with it]”.

<sup>7</sup> Tr. 27.

<sup>8</sup> Tr. 28.

<sup>9</sup> Tr. 38.

<sup>10</sup> Ex. E (Tax lien paperwork).

<sup>11</sup> Ex. A (Settlement Agreement). See also the Government’s Summary of Applicant’s Evidence. Notice is taken that 2001 model vehicles were available for purchase in late 2000.

<sup>12</sup> Tr. 45.

<sup>13</sup> Tr. 46.

●1.f – Judgment from December 2004 (\$2,272) – Applicant disputed this debt several years ago with the creditor, but the issue was apparently not resolved.<sup>14</sup> The alleged debt is for tennis lessons that were not provided. After the hearing, he contacted the club inquiring about the status of the alleged debt.<sup>15</sup>

●1.g – Collection account for telecommunications entity (\$610) – Applicant denies having had service with this entity. As of the date of the hearing, he had not investigated the matter or contacted the creditor.<sup>16</sup> After the hearing, he mailed it a check in the amount of \$610, but there is no evidence that the check was transacted.

●1.h – Past due account (120 days or more) for \$11,694 – Applicant first opened an account with this bank in 2010. He testified that he has contacted it to inquire about this alleged balance. The Government noted that Applicant's credit report now reflects a past due balance of zero, which "effectively nullifies allegation 1.h."<sup>17</sup>

●1.i – Collection account for computer company (\$100) – Applicant testified at the hearing that he had "just paid this."<sup>18</sup> After the hearing, he submitted a copy of a letter and an untransacted check for \$100 that was mailed over a week after the hearing. There is no evidence the check was accepted as payment in full. It is noted that his testimony is at odds with his post-hearing evidence with regard to the timing of payment.<sup>19</sup> This discrepancy appears to be the result of simple confusion or oversight.

With regard to allegations ¶¶ 1.j-1.m and ¶ 1.o, Applicant was not provided a copy of the credit report upon which those allegations were based until half way through the proceeding.<sup>20</sup> The Government conceded that it failed to provide him with the underlying credit report in a timely fashion.<sup>21</sup> Unlike the credit reports offered as Exs. 3, 4, and 7, this credit report was a summarized compilation of information from the three major credit reporting bureaus. It included fuller account numbers, account contact information, and more relevant account information than the other proffered reports. In light of the circumstances, the Government acknowledged that there may be issues

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<sup>14</sup> Tr. 48.

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<sup>16</sup> Tr. 49.

<sup>17</sup> Tr. 62.

<sup>18</sup> Tr. 50-51. ("I've just paid this. . . . I can go back and find the cancelled check I'm sure.")

<sup>19</sup> Ex. G (Related correspondence, mailing receipt, and copy of untransacted check).

<sup>20</sup> Tr. 51-59.

<sup>21</sup> Tr. 73.

regarding notice due to its error.<sup>22</sup> Applicant was provided a copy of the previously missing credit report and given an approximately 10-minute break to review 13-page credit report (Ex. 8, Credit report, dated July 30, 2009) with regard to the remaining five alleged debts. Applicant acknowledged that he was given the chance to review the credit report and was “willing to go through [the allegations] and answer questions,” but he noted his objection to not having been provided the credit report in a timely manner.<sup>23</sup> However, he agreed that “we need to go over [the remaining allegations].”<sup>24</sup> To accommodate Applicant under these circumstances, he was given two weeks after the hearing to submit any additional documents relevant to these or any other allegations. This situation is duly noted and the remaining testimony and evidence regarding allegations ¶¶ 1.j-1.m and 1.o are given appropriate weight in light of the circumstances.<sup>25</sup>

●1.j – Collection account for joint checking account (\$35,764) – This alleged debt has passed through multiple collection entities. The underlying account appears to have been opened in 2008. Applicant denies having opened such a joint account at the time. He believes that the account may have been related to the vehicle that was totaled in about 2003 or 2004.<sup>26</sup> The Government noted that there was conflicting information in the credit reports constituting the Government’s evidence regarding what appears to be this same account.<sup>27</sup> It concluded that “the trail between these creditors is insufficiently specific to sustain the SOR.”<sup>28</sup>

●1.k/1.l – Charged-off accounts (\$23,553 and \$28,969) – Applicant believes this is a fraudulent account opened or attributed to him without his permission or knowledge.<sup>29</sup> His initial card with this creditor was compromised in 1976 and the account was

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<sup>22</sup> Tr. 58-59, 100-101. While acknowledging its error, the Government also stated: “[t]o the extent that the Applicant was previously asked about these specific debts in Exhibit 2 [Interrogatory Responses signed July 21, 2010]. . . I would indicate that he at least had some indication as to the majority of these debts and the need to investigate.” Tr. 59. Ex. 2, *supra*, note 6, however, only notes alleged creditors/collection entities and alleged balances; no reference is made to underlying creditors, account numbers, contact information, or the source of the questioned account entries. Moreover, it does not reference the debt alleged at SOR allegation ¶ 1.o. Any references to allegations ¶¶ 1.j-1.m either acknowledge past disputes with the same creditor (Ex. 2, *supra*, note 6, at 5) or, in response to direct inquiries about specific alleged accounts, note that Applicant has no knowledge and “no documentation for these issues.” (Ex. 2, *supra*, note 6, at 9, 13).

<sup>23</sup> Tr. 57.

<sup>24</sup> Tr. 61.

<sup>25</sup> Moreover, it was specifically noted that the credit report provides more than just notice of the alleged debts at issue. Depending on the credit reporting bureau, it also can provide a valuable “starting point” for contacting alleged creditors that can greatly assist an applicant in researching various entries. Tr. 60-61.

<sup>26</sup> See SOR allegation ¶ 1.d.

<sup>27</sup> Tr. 67.

<sup>28</sup> Tr. 68.

<sup>29</sup> Tr. 68.

cancelled.<sup>30</sup> He testified that he was advised at the time that the cancelled charges were unsigned and “they were going to charge it off as, for lack of a better term, identity theft.”<sup>31</sup> A second card from this same issuer was a business card that Applicant stated was similarly compromised in about 2003-2004.<sup>32</sup> Applicant notes that he maintained a third card from this issuer through at least the 2007-2008 time frame, while working for a former employer. He testified that it was in good standing until he changed jobs and relinquished the card, raising the question why he would have been issued another card with this same issuer if such a tremendous amount of outstanding delinquent debt previously had been accrued and was still at issue. The accounts at issue are based on self-reporting by Applicant in his 2010 interrogatories, in which he explains the two compromised cards and denies knowledge of any cards with outstanding balances.<sup>33</sup> He does not affirmatively state an independent basis to conclude two other cards with outstanding balances remain unresolved. The Government notes that the accounts at issue are not contained in the Government’s exhibits (2010 credit reports), suggesting they may have been removed from the credit reports due to age (ie. over seven years old).<sup>34</sup> The same interrogatories reference the two compromised accounts with this creditor and Applicant’s disputes regarding the two accounts now at issue.<sup>35</sup> It is possible that the two past compromised and cancelled accounts are the ones noted in the SOR. The Government stated that the situation with these two entries is “sufficiently confusing.”<sup>36</sup>

●1.m – Collection account for telecommunications entity (\$208) – This debt dates to 2005 from the town in which Applicant’s former wife and daughter resided at the time. His daughter still resides in the same house and maintains the same cable company.<sup>37</sup> He “can’t imagine” the company letting her keep the cable service with a debt outstanding.<sup>38</sup> Consequently, Applicant is unsure of the basis for this alleged debt.

●1.o – State tax lien (\$2,616) – Applicant has consistently maintained that he disputes the tax calculation attributed to him for state tax withholding. He has been working with the state to find the proper valuation of his debt, but the matter had not been resolved by the time of the hearing. Until receiving Ex. 8 at the hearing, he was unaware that a

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<sup>30</sup> *Id.*

<sup>31</sup> Tr. 68-69.

<sup>32</sup> Tr. 69.

<sup>33</sup> Ex. 2 (Interrogatories, dated Jul. 21, 2010).

<sup>34</sup> The account ending –9913 for \$28,969, however, is attributed the date of 2008. Ex. 2, *supra*, note 6, at 5. Consequently, that account would not have been deleted due to its age.

<sup>35</sup> *Id.* at 4-5.

<sup>36</sup> Tr. 74-75.

<sup>37</sup> Tr. 77.

<sup>38</sup> *Id.*

lien for the taxes at issue had been entered. After the hearing, he provided evidence that he mailed a check to the county clerk for the full amount, although no evidence was provided showing that the check was transacted.

After the hearing, Applicant introduced an excerpt from his divorce decree regarding settlement of debts.<sup>39</sup> He noted that the agreement indicated that Applicant's wife agreed to hold Applicant harmless for all personal debts in her name alone, as well as a credit card ending – 9897, which is not at issue in the SOR and, according to Ex. 8, has no outstanding balance.<sup>40</sup> It showed that she took financial responsibility for a 2001 Dodge vehicle (as noted at SOR allegation ¶ 1.d). He also submitted a copy of a transacted check from 2010 for \$354 and a letter seeking verification in 2011 that a specific account was satisfied, but he failed to indicate to which SOR allegation this account may be related.<sup>41</sup>

Applicant earns about \$135,000 per year. He works a 40-hour week. His net weekly income ranges between about \$1,730 and \$1,885.<sup>42</sup> He receives about \$3,300 a month from the military for his past service. Consequently, he has a net monthly income of about \$10,500. He is no longer responsible for alimony or child support. Applicant rents at his current residence, where utilities are included, and he helps his current girlfriend with her mortgage payments, amounting to a combined expenditure of about \$2,183.<sup>43</sup> After applying about \$300 a month toward his girlfriend's utilities, he has net monthly disposable income between \$8,020 and \$8,300. Applicant has no car payments. His only other major regular expenses are a horse, for which he pays about \$800 to \$900 in boarding and associated costs, and meals, on which he spends about \$450 a month.<sup>44</sup> He spends about \$120 a month in transportation. After paying his umbrella insurance policy premium, he has a net monthly remainder of about \$6,500 to \$6,650. Applicant does not maintain credit cards, preferring to use his bank ATM card.<sup>45</sup> He has not received financial counseling.<sup>46</sup> To the best of his knowledge, the only debts he has are those acknowledged and verified debts set forth in the SOR.<sup>47</sup> He stated that his checking account usually has a "comfortable" cushion of about \$6,000 to \$8,000.

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<sup>39</sup> Ex. A (Property Settlement Agreement).

<sup>40</sup> See Ex. 8 (Credit report, dated Jul. 30, 2009) at 11 (marked by credit bureau as page 14).

<sup>41</sup> Ex. D (Letter and copy of a check). Neither the named collection agency, attributed creditor, nor the sum paid is the same as any of the accounts at issue in the SOR. Therefore, the identity of the debt for which this submission was made cannot be readily discerned.

<sup>42</sup> Tr. 82; Ex. 2, *supra*, note 6, at 10-11.

<sup>43</sup> Tr. 83-84.

<sup>44</sup> Tr. 86-87.

<sup>45</sup> Tr. 90.

<sup>46</sup> Tr. 86.

<sup>47</sup> Tr. 90.

When this cushion gets too high, he rolls it over to his savings account.<sup>48</sup> He does not maintain a 401(k) account, but has invested about \$50,000 in his employer's company.<sup>49</sup> In sum, Applicant stresses that he lives within his means.<sup>50</sup>

Until DOHA provided him with details about his financial situation, as represented by his credit reports and in his interrogatories, Applicant was unaware of the negative impression his finances gave.<sup>51</sup> However, he “didn’t appreciate or understand how to go about resolving” his situation.<sup>52</sup> He did, however, attempt to “individually attack certain ones” – ie. the tennis club balance (¶ 1.f) “and some of the others.”<sup>53</sup> He has not dealt with the credit reporting bureaus because “until now, it’s not been an issue.”<sup>54</sup> Applicant stated, “I’ve failed to this point to take apparently adequate proactive aggressive action. So, your comment about financial counseling is appropriate to learn how, to understand how to go identify these and how to respond to these and attack or pay them off as the appropriate case may be. So, that’s [sic] I’m sure [sic] my failure.”<sup>55</sup> At the same time, Applicant points out that there have been no recent instances of financial oversight or trouble, a fact he asserts to highlight that he was simply unaware of many of the alleged debts at issue.<sup>56</sup> However, he fully appreciates the gravity of his situation with regard to the SOR and the allegations.<sup>57</sup>

Applicant offered seven recommendations. They were submitted by both military and work peers.<sup>58</sup> Each speaks of Applicant in the highest terms with regard to loyalty, trustworthiness, integrity, and reliability.

## Policies

When evaluating an applicant’s suitability for a security clearance, an administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating

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<sup>48</sup> Tr. 92.

<sup>49</sup> Tr. 92-93.

<sup>50</sup> Tr. 93.

<sup>51</sup> Tr. 94.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> Tr. 94-95.

<sup>56</sup> Tr. 95.

<sup>57</sup> Tr. 96.

<sup>58</sup> Ex. I (References).



conditions. 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 overarching adjudicative goal is a fair, impartial, and commonsense decision. Under AG ¶ 2(c), this process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all 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.

The Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." <sup>59</sup> The burden of proof is something less than a preponderance of evidence. The ultimate burden of persuasion is on the applicant. <sup>60</sup>

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 those to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk 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). "The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."<sup>61</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information. <sup>62</sup>

Based upon consideration of the evidence, Guideline F (Financial Considerations) is the most pertinent to this case. Conditions pertaining to this AG that

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<sup>59</sup> See *also* ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

<sup>60</sup> ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

could raise a security concern and may be disqualifying, as well as those which would mitigate such concerns, are set forth and discussed below.

## Analysis

### Guideline F - Financial Considerations

Under Guideline F, “failure or an 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.”<sup>63</sup> It also states that “an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.”<sup>64</sup> At issue are 14 alleged debts. Applicant admits two of those debt, amounting to an approximate sum of \$2,716 (SOR allegations ¶¶ 1.i and 1.o). There is evidence of considerably more debt, including alleged accounts about which he has done little to investigate or validate.<sup>65</sup> Such facts are sufficient to raise Financial Considerations Disqualifying Condition (FC DC) AG ¶ 19(a) (*inability or unwillingness to satisfy debts*) and FC DC AG ¶ 19(c) (*a history of not meeting financial obligations*). With such conditions raised, it is left to Applicant to overcome the case against him and mitigate security concerns.

The debts at issue are multiple in number (14). Most appear to have arisen in the mid-2000s, either during Applicant’s protracted period of unemployment or his marital estrangement. Applicant is a seasoned professional with a master’s degree in business. There is no indication that Applicant is currently experiencing any form of financial distress. Indeed, the facts show that he has significant disposable income that could be applied to any debts that might be verified as his and owing. To date, however, half of the debts at issue remain unknown, unaddressed, or unresolved. There is no evidence he has ever made even a cursory review of his credit report. He declined to seek much-needed financial counseling once he learned that allegedly delinquent debts were raising security issues. There is no documentary evidence that, following his responses to interrogatories in July 2010, he made more than token inquiries regarding the debts at issue (ie., SOR allegation ¶ 1.I) until after the hearing. This is particularly true with regard to the allegations set forth at SOR ¶¶ 1.a-1.i, which represent about \$50,000, of which he had more than adequate notice. In light of these facts, Financial Considerations Mitigating Condition (FC MC) AG ¶ 20(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*) does not apply.

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<sup>63</sup> AG ¶ 18.

<sup>64</sup> *Id.*

<sup>65</sup> e.g., SOR allegations ¶¶ 1.a through 1.i amount to approximately \$51,200. The remaining allegations amount to about \$90,000.

Applicant's credible testimony and circumstantial evidence indicate that a number of the debts at issue are attributable to Applicant's year-long period of unemployment. Similar evidence indicates that some of the financial issues noted in the SOR were or may be related to his estrangement and ultimate divorce from his ex-wife. Therefore, FC MC AG ¶ 20(b) (*the conditions that resulted in the behavior 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*) applies.

Applicant has a master's degree in business, but he concedes that practical, personal finances is not his forte. For example, he has little or no experience with credit reports or the formal dispute process for seeking validation of attributed debts. He admits that he was not adequately aggressive in addressing the alleged debts. More importantly, he concedes that he has not received financial counseling, a service from which he would greatly benefit. Therefore, FC MC AG ¶ 20(c) (*the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*) does not apply.

To his credit, there is evidence that Applicant mailed payments on the debts noted at ¶¶ 1.c, 1.g, 1.i, and 1.o, albeit after the hearing date. He similarly contacted the creditor noted at SOR allegation ¶ 1.f after the hearing to verify the debt alleged. Applicant provided sufficient evidence that the debt noted at SOR allegation ¶ 1.d, is related to a car retained by his ex-wife after their divorce and for which she was to have assumed all responsibility. Both Applicant and the Government noted that the debt alleged at SOR ¶ 1.h should be struck because the evidence shows that the current balance on the account is now zero. Furthermore, although the burden in these proceedings is squarely put on an applicant, this Applicant credibly raised facts about the debts noted at ¶¶ 1.k-1.l, which were self-reported by Applicant in 2010, to lead the Government to concede that existent evidence is "sufficiently confusing." Although the majority of effort exerted in raising such evidence occurred after the hearing, there is sufficient evidence to give rise to FC MC AG ¶ 20(d), (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) to a limited extent.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of an applicant's conduct and all the circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2 (a). Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based on careful consideration of the guidelines and the whole-person concept. In addition, what constitutes reasonable behavior in such cases, as contemplated by FC MC ¶ 20(b), depends on the specific facts in a given case.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, as well as the "whole-person" factors. Applicant is a mature, straightforward, and credible man who devoted over two decades of his life to serving this country in the military. He is well educated and has

earned a master's degree in business. He is exceptionally regarded among his professional peers as a trustworthy, reliable, and patriotic co-worker and friend. He helped raise his adult daughter and is currently in a supportive personal relationship. At the time most of his financial issues arose, Applicant was in his mid-50s. He lived in one part of the country while he supported his daughter and estranged wife in another region. During that estrangement, Applicant was unemployed for almost one year.

Although Applicant substantially admitted responsibility for the debt noted in the SOR at allegation ¶ 1.o, he was at a disadvantage with regard to SOR allegations ¶¶ 1.j through 1.m from an evidentiary standpoint due to the Government's untimely submission of Ex. 8. In the end, however, some relevant status information regarding those allegations was raised. Allegation ¶ 1.j was withdrawn. The self-reported debts noted at ¶ 1.k-1.l were left unresolved (although, as conceded by the Government, the facts surrounding these allegations are "sufficiently confusing"). Moreover, while the debt set forth at ¶ 1.m remained unidentified and uninvestigated, it appeared that the payment for the debt noted at ¶ 1.o was remitted. Had Applicant been timely provided with a copy of Ex. 8, he might have made additional progress based on that document's specific inclusion of helpful and relevant account information (e.g., creditor contact information) – information lacking in both the other credit reports (Exs. 3, 4, 7) and the 2010 interrogatories. Therefore, while I acknowledge the status of those debts as presented and take them into consideration, I will focus on those debts regarding which he had fair notice, ¶ 1.a-1.i.

On the one hand, Applicant provided evidence that, after the hearing, he issued and mailed checks for the debts noted at SOR allegations ¶ 1.c (\$2,301), ¶ 1.g (\$610), and ¶ 1.i (\$100). It is noted that he failed to provide evidence that those payments were received, accepted, and transacted. However, in light of the ultimate disposition of this case and given Applicant's highly credible testimony throughout, evidence of such remittances are accepted as actual payments. Moreover, Applicant provided evidence that his ex-wife was responsible for the car-related debt at SOR allegation ¶ 1.d (\$2,146) and offered evidence that he made a post-hearing inquiry regarding the basis for the debt noted at allegation ¶ 1.f (\$2,272). Furthermore, with the corroboration of the Government, the debt noted at SOR allegation ¶ 1.h (past due account) was struck from the allegations upon evidence that the balance on the account is now zero.

On the other hand, Applicant's overall neglect of his finances and how they are represented has been unnecessarily protracted. Applicant realized that he needed some form of financial guidance in addressing the alleged debts, but made no effort to obtain assistance. Scant action was undertaken until after the hearing was concluded, at which point some effort was exerted. When the record closed, for example, there was no evidence of any documented attempts to identify or verify the debts noted in SOR allegations ¶¶ 1.a and 1.b, which represent over \$30,006 in delinquent debt. Those accounts remain unknown, uninvestigated, and unresolved. In addition, the joint account held with his ex-wife, noted at SOR allegation ¶ 1.e and representing an additional \$2,146 of debt, remains unknown and unaddressed. Without even addressing the remainder of the allegations, the fact that over \$32,000 in delinquent debt continues to go virtually unaddressed is worrisome. In conjunction with Applicant's overall negligence of his accounts, it represents a neglected sum that, by itself, gives

rise to significant security concerns. The significance of these debts was stressed at the hearing and acknowledged by Applicant. They remained unaddressed after the hearing, at which time even cursory inquiries could have helped demonstrate some form of action plan that might tend to help mitigate security concerns, given Applicant's income and savings. In light of such factors, Applicant's pattern of neglect sustains financial considerations security concerns.

Applicant testified that he has not received much-needed financial counseling. Given his income, savings, and business background, such counseling should be sufficient to expeditiously guide him through the process of addressing these three significant debts. It should also help clearly establish the status of the debts noted at SOR allegations ¶¶ 1.k-1.m. The AG does not require that an applicant satisfy all of his delinquent debts. It only asks that an applicant show that he or she has developed a workable strategy for addressing the debt at issue, and a demonstration that such a strategy has been implemented. Applicant's 12<sup>th</sup> hour and piecemeal approach does not meet that criteria, especially in the presence of such a significant amount of unaddressed debt. Clearance is denied.

### **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 <sup>66</sup>
Subparagraphs 1.a-1.b:	Against Applicant
Subparagraphs 1.c-1.d:	For Applicant
Subparagraph 1.e:	Against Applicant
Subparagraphs 1.f-1.j:	For Applicant
Subparagraphs 1.k-1.m:	Against Applicant
Subparagraph 1.o:	For Applicant

### **Conclusion**

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

ARTHUR E. MARSHALL, JR.  
Administrative Judge

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<sup>66</sup> As previously noted, no allegation for 1.n was applicable. Therefore, there is no subparagraph 1.n finding.