



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



In the matter of:)	
)	
)	ISCR Case No. 12-00376
)	
Applicant for Security Clearance)	

Appearances

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

11/07/2013

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant fell behind on some consumer credit accounts due, in part, to unanticipated automobile repair costs. Since 2009, Applicant has been steadily repaying his delinquencies. His debt balance is currently around 40 percent less than what it was when he first started repaying his debts. Clearance granted.

Statement of the Case

On June 13, 2013, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, Financial Considerations, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DOD CAF took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant responded to the SOR allegations on July 11, 2013, and he requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. On August 12, 2013, 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 scheduling a hearing for September 5, 2013.

I convened the hearing as scheduled. Five Government exhibits (GEs 1-5) and five Applicant exhibits (AEs A-E), which included Applicant's response to the SOR (AE E), were admitted into evidence without objection. Applicant testified, as reflected in a transcript (Tr.) received on September 13, 2013.

The record was held open after the hearing until September 20, 2013, for Applicant to submit additional documents. On September 20, 2013, Applicant submitted 12 exhibits, which were marked as AEs F-Q. On September 27, 2013, I gave the Government a deadline of October 11, 2013, for comment. During most of this review period, Department Counsel was precluded from working because of the partial government shutdown. On October 15, 2013, I extended the deadline for comment or objections to October 29, 2013. The deadline passed without a response from the Government. I accepted the documents into evidence as AEs F-Q, and the record closed on October 29, 2013.

Findings of Fact

The SOR alleges under Guideline F that as of June 13, 2013, Applicant owed delinquent debt totaling \$23,773 on four accounts (SOR 1.a-1.d). In his response to the SOR allegations, Applicant admitted that the four accounts were delinquent, but he indicated that the charged-off balances totaled \$23,156.07. Applicant asserted that he has been making regular payments on the debts since they first became past due. His admissions to the delinquent accounts are accepted and incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 39-year-old engineer, who has worked full-time for his employer, a defense contractor, since March 2003. (GEs 1, 2; Tr. 37-38.) To pay for his first three years of college from September 1992 to May 1995, he took out student loans of \$9,625 from one lender, and also private loans through the school. (GEs 3, 5.) Applicant did not return to the university for the fall semester in 1995. For the next few years, he was a part-time student while working in supermarket bakeries and then for a parcel delivery service. (GE 2.)

In December 2002, Applicant completed college, majoring in engineering. While in college, he began working for his current employer as a part-time summer intern. He was granted a Secret clearance in 2001 or 2002, after he completed a July 15, 2000 security clearance application (SF 86). (GEs 2-3; Tr. 38-39.) After he graduated, he began working for his current employer full time. (GE 1.)

In April 2007, Applicant purchased a condominium relatively close to work with \$10,000 borrowed from his 401(k) account. (Tr. 57.) He took on a 30-year conventional primary mortgage of \$157,500, to be repaid at \$919 per month. Applicant also opened a 30-year second mortgage of \$39,400 with monthly payments of \$333. (GE 5.) Most of his income went to paying his mortgages and his condominium fees, a car loan of \$23,615 taken out in August 2005 for a 2002 model-year vehicle (AE Q.), and his student loans. He relied on consumer credit cards to cover living expenses, home furnishings, and unexpected vehicle repair costs. (GE 3; Tr. 33, 43, 53-54.) Applicant spent over \$8,000 in car repair and maintenance costs between March 2006 and November 2009. (AE Q.) Around 2008, he borrowed another \$5,000 from his 401(k) to cover some of the vehicle repair costs and living expenses. (Tr. 58.)

Applicant made only the minimum monthly payments on several credit card accounts. (Tr. 28.) Eventually, he could not keep up with those payments, and in 2008, he began defaulting on some consumer credit obligations. Accounts were turned over for collection or charged off, as set forth in the following table. (GEs 1, 3-5.)

Debt	Delinquency history	Payment status
\$14,569 charged-off credit card balance (SOR 1.a)	Account opened May 1996; high credit \$16,100; last activity Apr. 2008; \$14,403.33 charged off (AE E; Tr. 25.); Dec. 2009 default judgment (GEs 1, 3.); \$20,379.35 in collection (GE 1.); \$14,569 balance Feb. 2013. (GE 4.)	Paid \$6,180 Jan. 2010-Aug. 2013 at \$140 to \$150 per month to reduce balance to \$14,103.43. (GE 3; AEs D, O; Tr. 43-46.)
\$1,552 charged-off credit card balance (SOR 1.b)	Business credit card account opened Jul. 2007; \$3,971 high credit; \$2,565 charged off Apr. 2008 (GE 5.); \$3,449.91 balance May 2010 on cancelled account (AE N.); \$1,552 past-due balance Feb. 2013. (GEs 3, 4; AE D.)	Payments since May 2010 totaling \$2,492.35; Sep. 2013 balance \$1,002.62. ¹ (GE 3; AEs D, N; Tr. 26-27, 47-48.)
\$36 charged-off credit card balance ² (SOR 1.c)	Account opened May 2006; \$10,826 high credit; \$5,775 charged off May 2009 (GE	Payments of \$785 Aug. 2009-Aug. 2010; post-judgment payments totaling

¹ Applicant explained that he did not make a payment in August 2013 because the debt was being transferred, and he was in the process of determining who now held the debt. (Tr. 48-49.)

² On his e-QIP, Applicant indicated that he was making payments after judgment on a debt of \$7,027.89. (GE 1.) Applicant's credit report of May 24, 2011, showed a \$5,775 past-due balance in collection. (GE 5.) Applicant owed much more on that account than the \$36 balance reported by Equifax as of February 2013. (GE 4.)

	5.); \$7,021.09 judgment issued Sep. 2010 (GE 3; AEs D, M.)	\$5,100.09 since Sep. 2010; balance \$1,974 Sep. 2013. (AEs D, M; Tr. 49-50.)
\$7,316 credit debt in collection (SOR 1.d)	Account opened May 1998; \$8,867 high credit; last activity Jul. 2008; \$7,255 for collection Jul. 2009 (GEs 3-5.); principal balance \$6,272.58 as of Dec. 2009; \$5,426 balance in collection as of Sep. 2013. ³ (AEs D, P; Tr. 73.)	Payments totaling \$1,240.06 May 2010-Jan. 2012 ⁴ (GE 3; AEs D, P.); as of Sep. 2013 not making payments pending settlement; creditor wants about \$3,300 in lump sum to settle (Tr. 52, 73.); intends to settle by late Oct. 2013. (AE P.)
\$367 student loan balance in collection (not alleged)	\$4,000 student loan opened Jan. 1995; current on loan to Jul. 2008; balance 180 days past due Dec. 2008; \$367 for collection May 2010 (GEs 3, 5.); \$321.01 loan balance plus \$53.33 fees as of May 2011. (GE 3.)	Paid in full. (GE 3; AE D.)
\$8,030 credit card debt in collection (not alleged) ⁵	Last activity Apr. 2009; \$8,030 charged off; for collection Dec. 2009. (GEs 3, 5.)	Payments \$150 to \$500 per month; settled for less than full balance on payment of \$3,700 Feb. 2011. (GE 3, 5.)

During the 2007-2008 timeframe, Applicant sought the assistance of a credit counselor. He was advised to make every effort to live within his means, to eliminate unnecessary expenses, and to stay in contact with his creditors and make payments in good faith. (Tr. 67-68.) After debts began to be referred for collection, Applicant consulted with a lawyer for advice in November 2008. (AE K.) Applicant was encouraged to continue working with his creditors toward resolving his debts. (Tr. 68.) Around 2010, he began part-time employment in the insurance industry for extra income. (Tr. 71.)

³ Applicant indicated in April 2013 that he had been repaying the debt at about \$100 a month. (GE 3; AE D.) As of February 2013, the credit reporting agencies were reporting a \$7,316 past-due balance with a last payment on January 16, 2012, of \$100. (GEs 3, 4.) The collection agency is currently reporting a \$5,426 balance with no interest being assessed, but also no payment since January 3, 2012. (AE P.)

⁴ On September 20, 2013, Applicant indicated that his spouse would be settling the debt for him in the next 30 days. (AE P.)

⁵ Applicant's May 2011 credit report has separate listings for a VISA card opened in April 1999, with a high credit of \$12,127, which was charged off with a zero balance and transferred in December 2009, and for a collection debt placed by a creditor in December 2009, which was settled for less than its full balance in 2011. (GE 5.) Applicant's February 2013 credit report lists the amount of the collection debt as \$8,030 and paid for less than the full balance. The VISA card debt appears as a separate listing with a zero balance. (GE 4.) The VISA card account with the bank is the same debt as the collection account that Applicant settled in February 2011. (AE D.)

On June 18, 2010, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP), before his ten-year update, to inform his security department about his financial issues.⁶ (AE B; Tr. 28.) Applicant responded affirmatively to the financial record inquiries covering the past seven years concerning any financial judgments, loan defaults, debts turned over for collection, credit cards charged off, or any debts over 180 days delinquent. He also admitted that he had debts currently over 90 days delinquent. Applicant disclosed six past-due accounts: the debts in SOR 1.a-1.d involving a reported aggregate debt of \$36,625.34; a student loan delinquency of \$361.50; and a credit card debt of \$7,333.63. He indicated that he was making payments on all the debts. (GE 1.)

As of May 2011, Applicant reportedly owed outstanding collection balances of \$17,469 on SOR 1.a, \$2,565 on SOR 1.b, \$5,775 on SOR 1.c, \$7,125 on SOR 1.d, and \$367 on a student loan account. His credit record showed a history of late payments on other accounts, which had been paid off or brought current. A \$302 telephone debt was paid in December 2007, after it had been charged off. He fell behind 30 days before paying off an automobile loan in late 2010. He had been chronically late 30 days in his mortgage payments.⁷ A current credit card account, with a balance of \$5,140, had been past due 90 days eight times and 150 days once. (GE 5.)

On August 3, 2011, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM), partially about his delinquent accounts. Applicant explained that he had paid off the principal of the student loan account after defaulting on the loan, but he later learned that he owed interest. He expressed his intent to pay off that debt in the next year. Two court judgments, of \$20,379.35 in December 2009 (SOR 1.a) and \$7,027.89 in May 2010 (SOR 1.c), were each being repaid at \$140 per month. Applicant also indicated that he had been repaying the credit card debt in SOR 1.b at \$125 per month since 2010. After the credit card debt in SOR 1.d was placed for collection, Applicant began making payments of \$50 to \$70 every two months to reduce the balance of that account. He had settled another account for less than its full balance. Applicant explained that he fell behind in his financial obligations after he bought his condominium and relied on credit cards for expenses. While he did not pay his monthly condominium fee from August 2009 to January 2010,⁸ he satisfied the arrearage in February 2010. Applicant denied any ongoing financial problems. He reported monthly gross income around \$5,800 and monthly expenses around \$3,280. This estimate included \$280 in payments to his creditors, \$300 to charity, and \$150 toward his student loans. (GE 3; AE D.)

⁶ Applicant completed a second e-QIP on March 7, 2011, which was apparently his ten-year renewal. (AE C.)

⁷ Applicant's primary mortgage had been 30 days late 17 times in the four years since he purchased his condominium. It had been late as long as 150 days. His second mortgage had been 30 days delinquent 15 times. (GE 5.)

⁸ Applicant's monthly condominium fee increased from \$175.10 in 2008, to \$188.37 in 2009, and to \$210.30 in 2010. (AE I.)

As of February 2013, Applicant owed \$2,066 on a closed credit card account rated as current for the past 17 months. His consolidated student loan debt of \$14,809 had been rated as 90 days past due as recently as October 2012. His second mortgage was 60 days past due as of January 2013. His primary mortgage was current, although it had been past due 30 days several times in 2012. (GE 4.)

On April 13, 2013, Applicant responded to interrogatories from the DOD CAF about his finances. He presented a credit report, which showed outstanding balances on the debts in the SOR of \$14,269 (SOR 1.a), \$1,352 (SOR 1.b), \$2,910 (SOR 1.c), and \$7,316 (SOR 1.d). Applicant also provided a Personal Financial Statement (PFS) showing that his monthly expenses and debt payments exceeded his income by \$63.84, despite his income from a part-time second job in life insurance sales and with his student loans being deferred. His estimated \$1,268.96 in miscellaneous expenses covered charitable giving, business expenses, and condominium fees. Applicant volunteered that while some payments were late on occasion, he was able to meet his expenses with funds borrowed from his 401(k). He also indicated that his fiancée had made some payments for him, but he had repaid the funds. (GE 3; AE D.)

In late April 2013, Applicant and his fiancée married. (AE G; Tr. 39.) She is a physician (internist), who owns a home located about 105 miles from Applicant's place of employment. (AEs F, G; Tr. 69.) Applicant has been added to the insurance policy on the house, which has served as his primary residence since their marriage. (AE G; Tr. 40.) Plans to sell his condominium to resolve his old debts were placed on hold while the economy was in decline. He is now considering renting out his condominium for the additional income to address his debts, but he is still in the process of cleaning out his belongings. Applicant is in the process of modifying his mortgage to reduce his monthly payment so that more of his income can go toward his delinquent debts. (Tr. 29, 40.) Applicant has spent some nights in his condominium so that he can take advantage of overtime at work. (AE F.)

Applicant had 321,917 miles on his car as of March 2013. He had spent more than \$13,725 on vehicle repairs and maintenance since January 2010.⁹ (AE Q.) On September 16, 2013, he took the car off the road and gave it away. In July 2013, his spouse purchased a 2010 model-year economy car for him. (AE G; Tr. 58-59.) She is making the car payments. Applicant gave her his income tax refund for 2012 to cover some of the payments. (Tr. 59-60.) They have a joint checking account into which Applicant deposits a portion of his pay. He and his spouse also maintain independent bank accounts. (Tr. 65.)

In June or July 2013, Applicant received a cost-of-living raise at work. (Tr. 66-67.) Applicant's gross wages from his defense contractor employment total \$3,103.85 for 80 hours. Deductions from his pay include \$83.45 and \$32.66 to repay his two 401(k) loans. (AE J.) Applicant's income from his part-time insurance work fluctuates between \$300 and \$900 a month. (Tr. 61.) From July to September 2013, he earned \$442.58 from his part-

⁹ Service records for the vehicle indicate that he incurred costs (exclusive of sales taxes) of \$3,350 in 2006, \$1,780 in 2007, \$1,252 in 2008, \$1,705 in 2009, \$2,146 in 2010, \$11,270 in 2011, \$905 in 2012, and \$1,548 over the first nine months of 2013. (AE Q.)

time insurance work while his out-of-pocket business expenses totaled \$386.13. (AE L.) Applicant had business losses from this part-time work in 2012, so in 2013, he significantly reduced his travel and training expenses. (Tr. 70.) Under his present budget, which includes \$540 for tithing per month, he has \$179 in net monthly income. (AE H.) In October 2013, Applicant is scheduled to begin repaying his student loan debt around \$14,809 at \$100 a month. (GE 4; Tr. 57.) Applicant has not opened any credit card accounts since July 2007, when he opened the business card account in SOR 1.b. (GE 4.)

Applicant reports that he has an unblemished record concerning security at work, including the use of information technology. (Tr. 35, 67.) No evidence was presented to the contrary.

Applicant has been committed to his church and its ministry for the past 13 years. He has served as the head deacon since 2005. He leads the church's finance department, where he, along with another elder, is responsible for receipts, deposits, and disbursements of church revenue. (AE A; Tr. 75.) The church's senior pastor attests to Applicant's dependability and stability, and he endorses Applicant for a position of trust without reservation. (AE A.)

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 for Financial Considerations is set out 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 began to struggle financially after he bought his condominium in April 2007. He relied on consumer credit to furnish his new home, cover automobile repairs for a used vehicle purchased in August 2005, and pay living expenses. Between April 2008 and May 2009, he stopped paying on five credit card accounts (SOR 1.a-1.d and an \$8,030 debt not alleged). Aggregate debt around \$38,000 was charged off or placed for collection. The \$8,030 credit card debt cannot provide a separate basis for disqualification because it was not alleged, but it shows that Applicant’s record of delinquency was more extensive than the SOR indicates.¹⁰ AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” are established.

Applicant has the burden of mitigating the financial concerns. 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,

¹⁰ The DOHA Appeal Board has long held that the administrative judge may consider non-alleged conduct to assess an applicant’s credibility; to evaluate an applicant’s evidence of extenuation, mitigation, or changed circumstances; to consider whether an applicant has demonstrated successful rehabilitation; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for a whole-person analysis under Directive Section 6.3. See, e.g., ISCR Case No. 02-07218 (App. Bd. Mar. 15, 2004); ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012).

trustworthiness, or good judgment,” cannot reasonably apply. The credit card accounts in the SOR became delinquent in 2008 or later. As of October 2013, he still owed about \$22,506 in past-due balances, despite debt payments starting in 2009. Furthermore, Applicant was chronically late in his payments on both his first and second mortgages, and he did not pay his condominium fees between August 2009 and January 2010 because of a lack of funds. As of January 2013, Applicant was 60 days late on his second mortgage. His late payments of these home costs are indicative of recent financial struggles.

Applicant’s financial problems are largely of his own making. When he bought his condominium, he took on the financial burdens of monthly mortgage payments totaling \$1,252, a monthly condominium fee, and repayment of \$10,000 borrowed from his 401(k). Yet, AG ¶ 20(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,” has some applicability. Unexpected automobile repair costs and an increase in his condominium fees were factors in his failure to meet his financial obligations. Applicant had no control over the increase in his condominium fees, from \$175.10 in 2008 to \$188.37 in 2009 and \$210.30 in 2010. Applicant could not have reasonably foreseen the \$23,956 in approximate costs incurred since 2006 to repair and maintain a vehicle that was only three years old when he purchased it. Repair and maintenance records presented after his hearing show that he incurred costs (exclusive of sales taxes) of \$3,350 in 2006, \$1,780 in 2007, \$1,252 in 2008, \$1,705 in 2009, \$2,146 in 2010, \$11,270 in 2011, \$905 in 2012, and \$1,548 over the first nine months of 2013 before he gave the car away. The evidence shows that the mileage on the vehicle was 64,385 in mid-March 2006. Seven years later, the mileage was 321,917, which could explain the sizeable repair costs. Applicant or an authorized user drove the vehicle.¹¹ At the same time, Applicant’s choice was to either pay for repairs or purchase another vehicle, which would have meant another ongoing expense. Vehicle repair costs continued to compromise his ability to repay his credit card debts. Nevertheless, AG ¶ 20(b) does not completely mitigate the financial judgment concerns raised by Applicant’s mismanagement of his credit. He relied on consumer credit to furnish his residence and cover living expenses. Balances continued to mount because he made only the minimum monthly payments. AG ¶ 20(b) also does not mitigate Applicant’s failure to make any payments on the debt in SOR 1.d after January 2012. There is no evidence of ongoing settlement negotiations in 2012 that could justify his nonpayment.

AG ¶ 20(c), “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control,” and AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” address efforts to resolve financial problems. When Applicant fell behind in his debt payments, he consulted with a credit counselor. After accounts began being placed for collection, he sought legal advice in November 2008. Advised to work with his creditors, Applicant began making payments on his past-due accounts in August 2009, starting with the debt identified in SOR 1.c, albeit after the creditor had initiated judgment

¹¹ Applicant did not explain the excessive mileage. His fiancée’s home is about 100 miles from his area of residence and work, although it is unclear to what extent Applicant traveled to visit her.

action against him. Payments in response to court action or after collection do not carry the same weight in mitigation under AG ¶ 20(d) as had Applicant initiated repayment voluntarily. Yet, he has established a sufficient track record of repayment to apply both AG ¶ 20(c) and ¶ 20(d). Applicant made \$785 in pre-judgment payments and \$5,100 after the September 2010 judgment to reduce the debt in SOR 1.c from \$7,021 to \$1,974. Applicant made payments totaling \$6,180 on the debt in SOR 1.a. after a default judgment was issued against him in December 2009. By September 2013, Applicant had paid \$2,492 on his business card delinquency (SOR 1.b). In February 2011, he settled the \$8,030 credit card delinquency (not alleged) with a final payment of \$3,700. Applicant paid \$1,240 on the debt in SOR 1.d between May 2010 and January 2012. His failure to make any payments on that account since January 2012 raises some concern. However, Applicant credibly asserts his intent to settle the debt within the next month with the assistance of his spouse, who has paid debts on his behalf in the past.

Nothing in the Directive requires that Applicant completely pay off all his past-due debts to be eligible for a security clearance. Nonetheless, his overall debt burden must be considered in determining whether his finances are sufficiently stable to ensure that he can continue to address his old delinquencies without falling behind in his current debt obligations and his living expenses. Applicant has a history of chronically late payments on his mortgages, including as recently as late 2012. As of September 2013, Applicant still owed about \$22,506 in delinquent debt on the accounts in the SOR. In addition, Applicant is required to start repaying his student loan debt in October 2013. As of January 2013, his student loan account had a balance of \$14,809. As of August 2013, he had monthly net income of \$179, which gives him little leeway in his budget after he makes his student loan payment around \$100 a month. Applicant is currently seeking a modification of his condominium loan, which could lower his monthly mortgage payment, but there is no guarantee that his loan will be modified. Applicant intends to rent out his condominium, which could free up additional funds to put toward his debts. Although he could have taken some steps to obtain tenants in the six months since his marriage, Applicant stayed in his condominium overnight when working overtime for his employer because his marital residence is 105 miles from work. Any rent income would have been offset by the costs of a lengthy commute.

Applicant has shown an improvement in his financial habits in that he has not opened any credit card accounts since 2007. As of February 2013, he owed \$2,066 on a closed credit card account on which he had been making timely payments for 17 months. His present budget is tight, but his financial situation is not likely to deteriorate. While no information was presented about his spouse's income, she appears to be committed to helping Applicant address his debts. Since July 2013, she has been making the car payments for a vehicle purchased for Applicant. With her assistance, Applicant has made considerable progress since August 2009 toward reducing his overall debt burden to where he can reasonably be counted on to continue to address his debts. The financial judgment concerns are mitigated by his well-documented track record of payments, as detailed above.

Whole-Person Concept

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).¹²

Applicant became financially overextended after he bought his condominium in 2007, although not so much because his mortgage payments were unaffordable. He qualified for two mortgage loans. His financial problems resulted from his overreliance on consumer credit cards, but also from unexpected vehicle repairs. In making the whole-person assessment required under the Directive, the DOHA Appeal Board has held that an applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). Applicant has made 55 payments on the debt in SOR 1.c and 51 payments on the debt in SOR 1.a. His tithing is a discretionary expenditure which makes balancing his budget more difficult, and there is no indication that he intends to reduce this contribution. Nevertheless, his settlement of the \$8,030 credit card debt not alleged, and his consistent repayment of the debts in SOR 1.a and 1.c, lend credibility to his promise to continue working on his debts. Furthermore, Applicant has shown that he takes his security clearance obligations seriously by self-reporting his financial problems to his security officer and the DOD. Based on the facts and circumstances in evidence, I conclude it is clearly consistent with the national interest to continue a security clearance for him.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant

¹² The factors under AG ¶ 2(a) are as follows:

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Conclusion

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

Elizabeth M. Matchinski
Administrative Judge