



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



In the matter of:	)	
	)	
Redacted	)	ISCR Case No. 15-01516
	)	
Applicant for Security Clearance	)	

**Appearances**

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

03/16/2017

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant co-signed on a loan for his spouse to purchase a salon business. They defaulted on the loan, which was charged off for \$41,591. Some payments have been made toward the debt since his spouse was contacted for collection in December 2015, but payments have been inconsistent. More progress is needed toward resolving the debt. Clearance is denied.

**Statement of the Case**

On November 19, 2015, 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 (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG) effective within the DOD on September 1, 2006.

On December 2, 2015, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 22, 2016, the case was assigned to a DOHA administrative judge to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On May 23, 2016, the case was transferred to me. On May 31, 2016, I scheduled a hearing for July 12, 2016.

I convened the hearing as scheduled. Four Government exhibits (GEs 1-4) and six Applicant exhibits (AEs A-F) were admitted into evidence without objection. Applicant and his department manager testified, as reflected in a transcript (Tr.) received on July 20, 2016. I held the record open for one month for Applicant to supplement the record. Over the next few weeks, Applicant submitted AEs G through L. Department Counsel filed no objections by the respective deadlines for comment, and I accepted AEs G-L into evidence. The record closed on August 19, 2016.

### **Findings of Fact**

The SOR alleges that Applicant owed a charged-off debt of \$41,591 (SOR ¶ 1.a) as of November 19, 2015, and that a \$10,000 lien was against his home for the balance owed on the purchase of a salon business (SOR ¶ 1.b). Applicant admitted the debt and the lien, which he attributed to his unemployment. He indicated that he and his spouse are repaying the debt in SOR ¶ 1.a but the lienholder refuses to accept partial payments. After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 47-year-old licensed electrician, who has worked for a defense contractor since September 2014. He has been in his present position as a construction planner since June 2015, and he seeks a DOD secret clearance for his duties. Applicant served honorably in the U.S. military from August 1992 to August 1996. (GEs 1, 4; AEs A, D, G; Tr. 35.)

Applicant and his spouse married in March 1993, and they have two children now ages 17 and 14 that they adopted as infants. (GE 1; Tr. 36, 85.) After he was discharged from the military, Applicant worked for a local casino, where he became a supervisor. From 1998 to 2003, he learned the electrical trade through an apprenticeship with a local union. (AEs A, G.) During this time, he and his wife adopted their daughter in 2000 and their son in 2003. After a short layoff, Applicant worked as a maintenance electrician for the casino for over six years starting in August 2003. (GE 1; AE A.)

In July 2003, Applicant obtained a \$121,500 mortgage on his then residence. In November 2003, Applicant took on a home-equity loan. He made the payments on time, and in April 2005, the loans were paid off when he and his spouse bought a new home. They obtained a mortgage loan of \$275,400. In November 2005, Applicant co-signed on a \$48,000 secured home-equity loan for his spouse to purchase a hair salon business. (GEs 3, 4.) In late February 2006, Applicant's spouse bought a hair salon for \$50,000. She gave the seller \$40,000 of the home-equity loan and the seller retained a mortgage interest for \$10,000. (AE H; Tr. 40, 48.) Applicant's spouse promised to pay the \$10,000 in 2010. (GE

4; AE A.) Her salon business was negatively affected by the economic downturn in 2008, and some of Applicant's income went to supplement her business. It strained their ability to remain current on their debt obligations, and they began falling delinquent on some consumer credit debts. (GE 3.)

Applicant returned to union work in February 2010 because of the prospect of higher income. He worked as a union electrician when jobs were available until August 2014. His first union job was at a nuclear power plant, but after only two months, he was laid off. (Tr. 44.) During a lengthy unemployment from April 2010 to February 2011, he renovated his spouse's salon business. Applicant collected unemployment compensation when he did not have union work (AE G), but he and his spouse defaulted on their home-equity loan (SOR ¶ 1.a). The loan was placed in collection for \$41,591 in October 2010. (GE 3.) Applicant and his spouse could not pay her \$10,000 debt (SOR ¶ 1.b), and the seller of the salon business placed a \$10,000 lien against their home. (GE 4; AE A; Tr. 48.)

According to Applicant, he and his spouse also began falling behind on their mortgage in 2010. He asked their mortgage lender for assistance without success. He testified that he met with a financial counselor, who advised him to stop paying their mortgage because they were behind on the loan, and lenders do not help until they go to foreclose. This financial counselor also advised him how to negotiate with his credit card lenders to settle his debts. (Tr. 45-46.) The financial counselor corroborates that he met with Applicant, but in the spring of 2008, and that they discussed Applicant's cash-flow problem, including the damage that Applicant was doing to his credit rating by paying some expenses after their grace period. (AE I.)

Applicant had work for most of 2011 and 2012 (AE G),<sup>1</sup> but his spouse's salon business was not profitable. He was delinquent on his home loan and in arbitration, but the lender would no longer accept any payments. (Tr. 68.) As of July 2012, their home mortgage was 180 days or more past due. Applicant and his spouse managed to avert foreclosure of their home loan by refinancing under the government's Home Affordable Modification Program. (GE 3; AEs A, D; Tr. 38-39, 41, 46, 67.) They resumed repaying their mortgage in April 2013 after approximately 1.5 years of no payments. (GEs 2, 3; Tr. 69.)

Applicant was unemployed from January 2013 to April 2013, and again in June 2013. He left his family and worked in another region of the country from July 2013 to February 2014. He was able to support his family and pay off some debt with the income

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<sup>1</sup> Applicant testified that he worked three months a year. (Tr. 69.) However, after his hearing, Applicant submitted a chronology of his work history that indicates more consistent employment. After his lengthy unemployment from April 2010 to February 2011, he reportedly was employed at a nuclear power plant until August 2011 and again from October 2011 to November 2011. From December 2011 to June 2012, he worked as a technician at a telecommunications company. From June 2012 to August 2012, he worked for an electrical company. From September 2012 to November 2012, he was back at the nuclear power plant. From November 2012 to January 2013, he did wiring jobs for a local electrician. He was then unemployed until April 2013, when he returned to the nuclear power plant through June 2013 before leaving his family for work in the Midwest. (AE G.)

he earned. On his return home, he had a job waiting for him at the nuclear power plant from March 2014 to August 2014. (GE 4; AEs A, D, E, G; Tr. 42.)

On August 1, 2014, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86) for his current employment. In response to financial record inquiries concerning any delinquency involving enforcement in the last seven years, Applicant disclosed that there was an unresolved \$10,000 lien (SOR ¶ 1.b) on his home from 2010 related to a loan for his spouse's business. In response to inquiries concerning delinquency involving routine accounts, Applicant listed three credit cards that had been written off for \$4,494; two unresolved collection debts totaling \$983; and the \$41,591 home-equity loan that he claimed had been resolved through a write-off in June 2014. (GE 1.)

A check of Applicant's credit on August 12, 2014, showed that Applicant had settled for less than their full balances or paid the five delinquent credit card accounts listed on his SF 86. He used his income tax refund to make the payments. (Tr. 64.) However, the loan in SOR ¶ 1.a was reportedly \$43,025 past due as of July 2014. (GE 3.) In September 2014, Applicant started working for his employer at \$23 an hour. (Tr. 38.)

On November 11, 2014, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant volunteered the existence of a \$10,000 lien against his home related to his spouse's purchase of her hair salon. He explained that they could not pay the debt because the business was not profitable. After the lien was placed, Applicant offered a partial payment that was refused. Applicant did not dispute the balance of the home-equity loan he co-signed for his spouse. As for the debts that had been settled, Applicant explained that he had negotiated lower payments with his creditors on his own. He indicated that he no longer had any credit cards and that he was paying off his debt. (GE 4.)

In the summer of 2015, Applicant and his spouse were behind on at least one utility bill. Applicant does not now recall the reason for the delinquency. (Tr. 55.) Since then, Applicant's spouse's salon business has seen some financial improvement. When his spouse started the business, she initially hired employees, which led to her having to pay taxes and fees as an employer. She changed her business model in that she now charges rental fees for chairs to stylists. (Tr. 52, 82.)

As of October 2015, Applicant's modified mortgage was rated as current. The home-equity loan (SOR ¶ 1.a) had a reported zero balance after being charged off for \$41,591. (GE 2.) Yet, a collection entity was pursuing Applicant and his spouse for \$43,025 as of December 2015. (AE L.) Applicant had only two outstanding balances on his credit report. In addition to the mortgage on his home, he owed \$2,371 on a student loan acquired in December 2011. Applicant had a record of timely payments on the loan, which he obtained for some online technical training. (GEs 2, 4.)

Applicant and his spouse's monthly mortgage obligation for their home is currently \$1,139. A transaction record from their loan servicer shows that their payment due on

February 1, 2016, was not received until March 11, 2016. Their payment for April 1, 2016, was not received until May 2, 2016, when Applicant made two payments to catch up on the mortgage. He apparently tried to make his payment for April 2016 online and typed in the wrong number. (AE K; Tr. 47.) Applicant and his spouse's monthly household expenses are \$3,627, which include \$50 for his student loan, \$60 for the debt in SOR ¶ 1.a, and \$50 for a credit card. His spouse's income varies based on her business. During those months when she earns \$1,000, Applicant and his spouse have \$235 in monthly discretionary income. (AE J.) Applicant is in an entry-level salaried position at \$55,300 a year. (Tr. 22-23, 38.) Applicant testified that he and his spouse "have been pretty much going paycheck to paycheck for a long time." (Tr. 63.)

Applicant's spouse had a car accident in 2015. Applicant borrowed \$3,000 from his 401(k) account at work to pay for the repairs. (Tr. 61.) In June 2016, he traded in the car for a 2010 model-year vehicle that he financed. (Tr. 56.) His monthly car payments are \$253. (AE J.) He opened a new credit card account in the spring of 2016. As of July 2016, its outstanding balance was \$1,000. He bought a motor for his washing machine and paid for the family's hotel on a vacation trip in June 2016. (Tr. 57-58.) He and his spouse received a federal income tax refund of \$4,000 or \$5,000 for tax year 2015 that they used for household bills and a new water heater for her hair salon. (Tr. 58-59.)

Applicant and his spouse have made some payments on the loan in SOR ¶ 1.a since they were contacted by a collection entity in December 2015. (Tr. 51.) The collection agency was willing to accept \$1 each month toward the principal, but past-due amounts on the loan raised the monthly repayment obligation to \$60. They made payments of \$57 and \$58 in December 2015 and \$60 in February 2016 to bring the loan balance to \$42,850. They made no payment in March 2016, and a payment of \$62 was due by April 28, 2016, to bring their loan current. That payment was not made, but his spouse paid \$200 in June 2016. (AEs B, C, L; Tr. 50-51.) Applicant does not know why his spouse paid \$200. (Tr. 52.) She handles the accounts related to her business. (Tr. 81-82.)

Applicant's spouse has paid nothing toward her \$10,000 debt so the lien remains on their property. Applicant testified that they are paying one bill at a time and that debt will be last. (Tr. 53-54.)

## **Character and Work References**

Applicant transferred to his current position in 2015.<sup>2</sup> For his first six months in that position, he received acceptable ratings in all areas of his performance. He planned and organized most aspects of his work, had adequate knowledge of his job assignments, acted on his own initiative in usual circumstances, worked steadily, and generally met established goals and objectives for the quality and quantity of work performed. (AE F.) Applicant has not committed any security infractions. (Tr. 25.)

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<sup>2</sup> According to Applicant, he transferred to his current position as a construction planner in June 2015. (AE G; Tr. 37.) However, his performance evaluation and his department manager gave a date of September 2015. (AE F; Tr. 23.)

Applicant's department manager has held a secret clearance during his entire 31 years with the defense contractor. He testified that it takes a long time "to build a proficient construction planner." Applicant has shown him that he is dedicated to their employer. He looks forward to Applicant being part of his team "for a long, long time." Applicant informed him that he has had some financial issues associated with his spouse's hair salon but not the details of his finances. He considers Applicant to have high integrity and "absolutely would have the highest degree of confidence that [he poses] minimal risk to the security of the nation." (Tr. 18-27.)

Applicant's brother works a senior engineer for a defense contractor and holds a DOD secret clearance. He corroborates that Applicant's spouse's hair salon business was "hit very hard by the recession of 2008." She barely earned enough to pay herself a salary. Applicant's brother has never felt that Applicant would engage in illegal activity to improve his financial situation, citing Applicant's work in extreme conditions away from his family for the income to pay his bills. He indicated that since Applicant has had a steady job with a defense contractor, he has been making financial progress on paying off past debt and restoring his credit. (AE D.)

Applicant has a close friend who works as a correctional officer. This friend has known Applicant since 2009. He understands that Applicant had a history of being laid off while working as a union electrician because of lack of seniority and that Applicant worked his way out of a difficult financial situation by working hard and not asking for financial assistance. He considers Applicant to be trustworthy. (AE E.)

## **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 EO 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 concerns about financial considerations are set forth in AG ¶ 18:

Failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The Appeal Board explained the scope and rationale for the financial considerations security concern as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant’s financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant’s self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant’s security eligibility.

See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted).

Applicant and his spouse defaulted in 2010 on a home-equity loan that he co-signed in November 2005 for her to purchase a hair salon acquired in February 2006. The debt was charged off for \$41,591 before they were pursued for collection in December 2015. A \$10,000 tax lien was filed against their home after Applicant's ex-wife failed to pay a \$10,000 mortgage held by the person who sold her the salon. Applicant has no legal liability for that debt in that he was not a party to the promissory note. Nevertheless, disqualifying conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations," apply because of the home-equity loan for which he is contractually liable as a co-signer.

Financial delinquency may be mitigated under AG ¶ 20 by one or more of the following conditions:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is resolved or is under control;
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

AG ¶ 20(a) is difficult to apply. The home-equity delinquency cannot reasonably be considered infrequent, given Applicant's financial problems went beyond the loan incurred for his spouse to purchase her own business. Applicant allowed some of his credit card accounts to become seriously past due, although, in his favor, he settled them for less than their full balances. The mortgage on his residence was in foreclosure proceedings before he and his spouse successfully obtained a loan modification.<sup>3</sup> Furthermore, Applicant and

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<sup>3</sup> 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 Section 6.3 of the Directive. See, e.g., ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012). As to whether an applicant has demonstrated a reasonable debt resolution plan, the DOHA Appeal Board has also indicated that there is no requirement that

his spouse began repaying the home-equity loan (SOR ¶ 1.a) only recently, in December 2015. With \$375 in payments made as of early June 2016, they owe a sizeable balance of \$42,650. While the original default occurred in 2010, which is some time ago, the delinquency persisted with no action on the debt for the next five years. A debt that became delinquent several years ago is still considered recent if it evidences a continuing course of conduct.

Applicant and his spouse first defaulted on the home-equity loan for her salon when he was unemployed after being laid off. AG ¶ 20(b) is implicated in that neither Applicant nor his spouse had any control over economic conditions that led to her salon business being unprofitable or to his unemployment from April 2010 to February 2011. Even if Applicant's financial problem arose in whole or in part to circumstances outside of his control, I must still consider whether Applicant has since acted in a reasonable manner when dealing with the financial issue. See e.g., ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan 12, 2007). Applicant gave priority to addressing his delinquent credit card debts, which he settled for less than his full balances, but most of those debts were resolved by 2011. Applicant and his spouse made no payments on their home mortgage for over a year. When asked to account for that portion of his income that would otherwise have been used to pay the mortgage, Applicant indicated that he worked three months a year. (Tr. 69.) Applicant's detailed account of his employment (AE G) reflects more consistency in his employment after February 2011. Applicant also testified that he "get[s] a little confused with the salon aspect of [his and his spouse's] finances because [his] wife keeps that for herself. It's kind of like, well, she's the boss." (Tr. 81-82.) It is somewhat understandable for Applicant to regard the home-equity loan as a liability of his spouse's salon and by extension have her handle the payments on the debt. The statements on the home-equity loan are addressed solely to his spouse. Even so, Applicant knew that he was contractually liable as a co-signer and that his spouse's business was struggling. He did not act responsibly by taking a hands-off approach and ignoring the debt.

Applicant's spouse has been making payments on the home-equity loan since a collection entity contacted them in late 2015, but AG ¶¶ 20(c) and 20(d) have limited applicability. The transaction history shows that a \$62 payment due on April 2016 was missed. His spouse made a \$200 payment in June 2016 to catch up. Applicant was seemingly unaware of the missed payment. He did not know why his spouse paid \$200. Four payments over six months are not a lengthy track record of repayment when compared to the years of disregard of the debt. At the \$60 monthly rate of repayment, it is going to be years before the debt, which had a balance of \$42,650 as of June 2016, will be fully resolved. Concerning AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," the Appeal Board has explained what constitutes a good-faith effort to repay creditors or otherwise resolve debts:

In order to qualify for application of [the "good-faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the

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the first debts paid in furtherance of a reasonable debt resolution plan be the debts listed in the SOR. See ISCR Case No. 07-06482 (App. Bd. May 21, 2008).

applicant's debts. The Directive does not define the term 'good-faith.' However, the Board has indicated that the concept of good-faith 'requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.'

ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. Jun. 4, 2001)) (internal citation and footnote omitted). A component of good faith is whether Applicant maintained contact with his creditor and attempted to negotiate repayment terms. Applicant cannot avail himself of the full mitigating weight of AG ¶ 20(d) when he failed to ensure timely payments, especially once affordable repayment terms were in place.

AG ¶ 20(e) applies in that Applicant is not legally liable for the \$10,000 debt in SOR ¶ 1.b. He did not sign a promissory note and was not a party to the purchase of the hair salon.

Applicant is not required to fully satisfy every one of his debts before he can be granted security clearance eligibility. However, there must be adequate assurances that the financial considerations concerns will continue to be addressed without compromising Applicant's financial stability. He and his spouse have been living from paycheck to paycheck "for a long, long time." Applicant testified that his spouse's salon business has improved since she changed her business model in the summer of 2015. Yet, Applicant had to borrow \$3,000 from his 401(k) to pay for car repairs after his spouse was in an accident in 2015, which suggests that they have little money in reserve for emergencies. Based on his income of \$2,862 and his spouse's income of \$1,000 a month, Applicant reported \$235 in monthly discretionary income after paying monthly household bills, including \$60 toward the home-equity loan. However, he also admitted that they had recently been past due on a utility bill. He has managed some accounts responsibly, including his modified home loan and his student loan. In June 2016, he bought an older model vehicle rather than a current year model to keep his payments affordable. He has made some progress toward stabilizing his financial situation, and he has no intention of repeating the questionable financial judgment that he exhibited in taking on jointly or as a co-signer debt beyond what he and his spouse could reasonably afford. Even though none of the AG mitigating conditions fully applies, there is some evidence to counter the security concerns that arise from the financial burden of a \$42,650 past-due debt.

## **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).<sup>4</sup> The analysis under Guideline F is incorporated in my whole-

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<sup>4</sup> 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

person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

A determination of eligibility for a security clearance should not be made as punishment for specific past conduct, but on a reasonable and careful evaluation of all the evidence of record to decide if a nexus exists between established facts and a legitimate security concern. Applicant and his spouse risked their own credit by taking on debt to purchase a business with no guarantee of success. It appears that they went into the business venture without fully appreciating the risks or understanding all the costs involved. His financial situation was already stressed when he left his job at the casino to work as a union electrician in February 2010 for the prospect of higher income, but he also had to have known that he lacked seniority with respect to layoffs and the likelihood of being assigned to a job.

Applicant did not present specific information about his income as a union electrician or the extent to which he supported his spouse's business with his income. What is clear is that he and his spouse stopped paying on the home-equity loan at issue in 2010 when he was unemployed, but that they continued to ignore the debt after Applicant found stable employment with a defense contractor in September 2014 and her business started to turn around in the summer of 2015. Repayment started after they were contacted by a collection agency around the time that Applicant answered the SOR. It is a relevant consideration that the debt is for a business that may yet be profitable and that his spouse is the person primarily liable. Applicant has shown himself to be dependable in his defense contractor employment. His department manager does not see him as a risk to security. Character reference information shows that Applicant would not likely jeopardize the job that he needs to support his family and pay his debts by engaging in illegal activities to generate funds. Yet, the security concern underlying financial considerations is broader than the possibility that an individual might knowingly compromise classified information to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information.

Applicant expressed a credible intent to pay his debts. Applicant has benefitted from the home-equity lender having charged off the loan for \$41,591 in that the collection agency holding the debt has agreed to accept financial hardship payments of only \$60 a month. It is troubling that Applicant seemingly was unaware that his spouse was behind in the payments and had to catch up with a payment of \$200 in June 2016. While I acknowledge that the debt is primarily his spouse's responsibility, doubts linger about Applicant's financial judgment in light of his failure to ensure payments are being made on time. 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). At some future

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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.

date, Applicant may be able to show a track record of financial responsibility sufficient to overcome the security concerns. For the reasons noted above, I am unable to find that it is clearly consistent with the national interest to grant Applicant security clearance eligibility at this time.

### **Formal Findings**

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

Paragraph 1, Guideline F:           AGAINST APPLICANT

Subparagraph 1.a:           Against Applicant

Subparagraph 1.b:           For Applicant

### **Conclusion**

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

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Elizabeth M. Matchinski  
Administrative Judge