



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



In the matter of:)
)
 REDACTED) ISCR Case No. 15-02182
)
 Applicant for Security Clearance)

Appearances

For Government: David F. Hayes, Esq., Department Counsel
For Applicant: *Pro se*

01/25/2017

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant defaulted on his student loans and on some consumer credit accounts. Periods of unemployment, two divorces, and medical costs have compromised his finances, but he has not made any progress toward addressing his delinquent accounts despite his consistent employment since September 2013. Clearance is denied.

Statement of the Case

On September 24, 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 November 11, 2015, Applicant, who was then represented by counsel, answered the SOR allegations and requested a decision based on the written record without a hearing. Applicant subsequently requested a hearing (Tr. 10), and on March 9, 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 April 20, 2016, the case was transferred to me, and on May 19, 2016, I scheduled a hearing for June 14, 2016.

I convened the hearing as scheduled. Applicant appeared pro se, having terminated his legal representation sometime before the hearing was scheduled. Five Government exhibits (GEs 1-5) and seven Applicant exhibits (AEs A-G) were admitted into evidence without objection.¹ Applicant and one of his former brothers-in-law testified, as reflected in a transcript (Tr.) received on June 21, 2016. I kept the record open after the hearing for two weeks for Applicant to submit additional documentation. No documents were received by the June 28, 2016 deadline, so the record closed on that date.

Findings of Fact

The SOR alleges under Guideline F that, as of September 24, 2015, Applicant owed student loan collection debt totaling \$26,298 (SOR ¶¶ 1.a-1.c and 1.e); \$4,478 for a repossessed vehicle (SOR ¶ 1.d); a \$2,722 charged-off balance for furniture (SOR ¶ 1.f) four debts totaling \$4,043 with a collection entity (SOR ¶¶ 1.g-1.h, 1.k, and 1.n); a \$799 past-due utility debt (SOR ¶ 1.i); a \$441 charged-off debt for telephone services (SOR ¶ 1.j), a \$2,426 judgment from 2009 (SOR ¶ 1.l); and three smaller collection debts of \$50 (SOR ¶ 1.m), \$48 (SOR ¶ 1.o), and \$205 (SOR ¶ 1.p). Applicant answered the SOR with the assistance of then retained legal counsel. Applicant denied each of the allegations based on lack of knowledge about the debts, although he also indicated that he would pay validated debts. He maintained that the judgment debt in SOR ¶ 1.l is a duplicate listing of the debt in SOR ¶ 1.f. He also indicated that his ex-spouse was held responsible in their divorce decree for the repossessed vehicle debt in SOR ¶ 1.d and the utility debt in SOR ¶ 1.i.

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

Applicant is 46 years old and twice divorced. (GE 1; AE A.) He has a nine-year-old son from his first marriage, which ended in 2008. Applicant testified that his child support payment of \$280 every two weeks was withdrawn directly from his paycheck. (Tr. 59-60.) Applicant has worked on defense contracts on and off since approximately May 2002 with various employers, including some temporary staffing agencies. He was granted a DOD secret clearance in February 2006 for his then duties as an electronics technician. (GE 1.) He was hired for his current defense project in August or September 2013. (AE G; Tr. 41.) As of June 2016, Applicant worked out of his home except when he was required to be onsite. (Tr. 32.)

¹ Applicant exhibits A through G were originally submitted with Applicant's answer to the SOR. I did not review them before the hearing.

Applicant worked as a front desk clerk for a motel from April 1997 to April 1998 when he started working in the restaurant industry, initially as a line cook. From May 2002 to January 2003, Applicant held a temporary full-time job at a military base before becoming employed as a contract computer electronics technician working on Department of Defense and Department of Homeland Security projects from January 2003 to July 2008. Applicant held a DOD secret clearance for his duties (AE C), and his work in credentialing was recognized by his employer and its client DOD contracting firm. (AE F.) He earned his associate's degree in applied science (computer and information science) in June 2007. (GE 1; AEs D, E.) From November 2008 to August 2010, Applicant was employed outside the continental United States updating prison security systems for a local government contractor. (AE D.)

On his return to the United States around September 2010, Applicant collected unemployment and worked on-call shifts, about one or two days a week as a cook at a mental health center. (AE D; Tr. 38-39.) In December 2010, he obtained a contract position as a field support technician for a defense contractor. (AE D.) While in that position, on April 28, 2011, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86). He disclosed no delinquent debts or other financial issues of potential security concern. (GE 1.)

As of May 6, 2011, Applicant had several adverse credit entries on his credit record, including a \$2,426 judgment from April 2009 (SOR ¶ 1.l, same debt as SOR ¶ 1.f), which was for furniture acquired in March 2007 during his first marriage and kept by his ex-wife on their divorce. (Tr. 45, 50-51.) In May 2010, the collection entity identified in SOR ¶¶ 1.a-1.c and 1.e had acquired four student loans obtained for \$16,679 (GE 5) that by May 2011 had increased to \$21,192. Several collection debts were reported as outstanding: a medical debt of \$50 from 2007 (SOR ¶ 1.m); an electric utility debt of \$747 from 2010 (SOR ¶ 1.n); a \$441 wireless telephone debt from 2009 (SOR ¶ 1.j); credit card debts of \$322 (SOR ¶ 1.k)², \$1,427 (SOR ¶ 1.d), and \$1,579 (SOR ¶ 1.g), and two smaller debts of \$48 (SOR ¶ 1.o) and \$205 (SOR ¶ 1.p). Another six student loans totaling \$20,127 were in deferred status continuing to accrue interest (GE 2), but Applicant subsequently defaulted on those loans as well. (GE 3.)

Applicant spent June 2011 installing computers for a federal government official. He was then unemployed until December 2011, when a staffing agency placed him in a contract position providing onsite computer support for a film manufacturer. After the contract ended in February 2012, he was unemployed until June 2012, when the same staffing company placed him in a contract position with a state court. He remained in that position until August 2012. (AE D; Tr. 40.) After collecting unemployment around \$163 per week for six months (Tr. 67), Applicant was contacted about his present project. He was hired by his current employer in September 2013, when the company took over the project. (Tr. 41.)

² The \$289 alleged in the SOR was the high credit on the account, which had a balance of \$322 as of April 2011. (GE 2.)

In September 2012, Applicant and his new life partner jointly obtained a car loan of \$11,049 (SOR ¶ 1.d). (GE 3.) They married in 2013. (AEs C. G.) The car loan was repaid on time at \$299 per month through May 2014. (GE 3.) Applicant's partner obtained a restraining order against Applicant and then filed for divorce in 2014. Applicant could not return to the house and so rented a place at \$1,350 per month, which included utilities, but he had to pay a \$1,350 security deposit in addition to his rent. The landlord agreed to accept the security deposit in installments. (Tr. 57-59.)

Applicant's partner failed to appear at a hearing on his petition held in October 2014. Applicant appeared and advised the presiding judge that there was only one bill outstanding in his partner's name, which was for electric utility services (SOR ¶ 1.i). (Tr. 43.) Applicant agreed to assume repayment for all other bills jointly incurred. In the divorce decree, Applicant's ex-partner was awarded the car purchased with the vehicle loan in SOR ¶ 1.d, and he was held fully responsible for the car payments. He was also held responsible for the outstanding utility bill (SOR ¶ 1.i). Applicant kept the older model vehicle that he had been driving, and he was held responsible for all the other bills. (AE A.)

Applicant's ex-partner did not make the car payments, and the vehicle was involuntarily repossessed in late 2014, leaving a deficiency balance of \$4,478 on the loan. As of January 2015, the creditor in SOR ¶¶ 1.a-1.c and 1.e reportedly held delinquent student loan debts totaling \$26,298. A private student loan lender had filed claims with the government for another \$20,127 in defaulted student loans. The furniture debt from his first marriage was still on his credit record as past due in the amount of \$2,722 (SOR ¶¶ 1.f and 1.i, same debt). Applicant had made no progress toward resolving the credit card collection debts in SOR ¶¶ 1.g, 1.h, and 1.k, or the wireless telephone debt in SOR ¶ 1.j. The electric utility debt (SOR ¶ 1.i), for which his ex-partner is legally liable, was on Applicant's record as a collection debt for \$799. Applicant was also past due \$59 on a credit card account opened in March 2014. Applicant was making timely payments of \$25 a month on two other credit card accounts opened in August 2014 that had balances of \$264 and \$260. (GE 4.)

After Applicant received the SOR, he retained legal counsel. (Tr. 47.) Applicant completed a personal financial statement on October 13, 2015, showing monthly net discretionary income of \$257 after paying his monthly expense, including rent of \$1,350 per month, and debt payments totaling \$475. Applicant indicated that he was repaying a car loan in SOR ¶ 1.d at \$400 a month and \$25 each on three other credit card accounts.³ Applicant reported zero assets. (AE B.) At the advice of his then attorney, Applicant asked his creditors to verify his debts. He had received no response from the collection entity holding his student loans (SOR ¶¶ 1.a-1.c and 1.e), or from the collection entities pursuing him for the credit card delinquencies in SOR ¶¶ 1.g, 1.h, and 1.k or the debt in SOR ¶ 1.p. The telephone provider in SOR ¶ 1.j asked for his social security number, which he refuses to provide. (Tr. 43-44, 46.) Applicant contacted the furniture retailer in SOR ¶ 1.f and gave

³ Applicant's credit report does not show a car loan apart from the loan obtained jointly with his ex-partner. (GE 5.) Applicant testified that his vehicle will be paid off in January 2017 (Tr. 62), so he may well be paying on a debt not listed on his credit report.

the creditor the address of his ex-wife for the furniture before the creditor filed for a judgment. (Tr. 45, 50-51.)

Applicant's credit report of December 16, 2015, showed no payments toward the car loan from which his ex-spouse was held responsible. Applicant has not informed his creditors that he is not responsible for the car loan deficiency or the electric utility debts after his divorce. (Tr. 48.) Applicant had fallen behind 30 days in November 2015 on a credit card account opened in July 2015, but he paid \$365 to bring his account current in December 2015. The delinquent debts in SOR 1.g, 1.h, 1.j, and the judgment in SOR ¶ 1.l (duplicated in SOR ¶ 1.f) were still outstanding. His credit card accounts opened in August 2014 were \$57 and \$62 past due. He owed balances of \$357 and \$391 on credit limits of \$300. The collection entity holding the student loans in SOR ¶¶ 1.a-1.c and 1.e reported balances totaling \$23,386 on those accounts as well as an additional \$39,802 in defaulted student loans that it acquired in June 2012 (not alleged in SOR).⁴ Applicant was reportedly \$1,992 in arrears in his child support (GE 5), although he testified to his belief that he was current in his child support as of June 2016. (Tr. 71.)

Due to the contract nature of his work, Applicant did not have medical insurance coverage before September 2013. Over the years, he accumulated substantial medical debt, which he estimated at between \$30,000 and \$40,000, which remains outstanding. (Tr. 41-42.) Most of Applicant's medical expenses incurred from 2015 to 2016 have been covered by insurance, although his co-payments are about \$100 a month just for his medication. (Tr. 65.) For the past two years, his copayments have averaged \$130 to \$250 per month when accounting for medical visits. (Tr. 66, 75.) He also incurred a \$1,500 copayment for diagnostic testing that he has not paid. (Tr. 52-53.)

Applicant owes the Internal Revenue Service (IRS) between \$1,300 and \$1,400 for tax year 2015. (Tr. 70, 73.) He had not entered into an installment agreement with the IRS as of June 2016 because the state was recouping from him \$1,100 in unemployment compensation at \$100 per month. (Tr. 74.) Applicant's income tax refund for 2014 was intercepted and applied to child support arrearage. (Tr. 71.) He had fallen in arrears on his child support when he was unemployed. (Tr. 72.)

Applicant lives with his ex-partner's two brothers. The younger of Applicant's two former brothers-in-law (hereafter Mr. X) moved in with Applicant and his ex-partner in July 2013. (AE G.) Mr. X left around December 2013, but he returned in July 2014, bringing his older brother, who was about to be evicted and needed a place to live. (Tr. 81-82.) The two brothers stayed with Applicant after the dissolution of their brother's and Applicant's marriage. Applicant pays the rent. Mr. X pays for the Internet, for cable services through Play Station, for the house telephone, and for his own cell phone, car insurance, and food from his social security disability income and state assistance. (Tr. 79-80.) Mr. X pays all of his older brother's expenses. Although age 32 as of June 2016, his older brother has never worked. He has medical problems and was "babied" by their mother and grandmother. (Tr.

⁴ Applicant testified that he was going to track down his federal student loans because they had been sold to different companies. He had a hardship deferment in the past, but after his request for another deferment was denied, Applicant "just left it like that." (Tr. 63.) It is unclear which debts are federal loans.

80-81.) Mr. X described Applicant as an outstanding person committed to his work. (Tr. 83-84.) Mr. X does not discuss Applicant's financial issues with him. He knows that he pays the rent, his medical bills, and his car payment. (Tr. 84-85.)

Applicant acknowledges his financial problems, but he disputes the nexus between financial difficulties and his professionalism or capability to perform his duties. (AE C; Tr. 92.) In that regard, he presented positive character references from two military Chiefs and from the project manager for the project on which Applicant has been a technician since August 2013. The military personnel are familiar with Applicant's work performance through weekly telephone communications and hours of personal contact with Applicant since August 2013 and February 2014, respectively. They have observed nothing of security concern about Applicant's behavior. Applicant earned their "utmost confidence in his trustworthiness, professionalism, work ethic, and moral judgment." They attested that Applicant is recognized by the security department as a subject matter expert and is considered an "irreplaceable asset" to the team. (AE G.)

The project manager had nearly daily interaction with Applicant since the project began. Applicant has exercised technical skill as well as diligence and professionalism in carrying out his duties to the expressed satisfaction of the prime contractor and their military customer. Applicant has demonstrated to the project manager a willingness to do what is necessary to complete his job. Expense reports filed by Applicant were accurate with very minor and easily correctable discrepancies. The project manager expressed an awareness of the issues surrounding Applicant's security clearance eligibility, although he did not elaborate as to the nature of the issues. He indicated that he had "high confidence" in Applicant holding security clearance eligibility, and that their employer was "very much interested" in retaining Applicant in his current position. (AE G.)

Two individuals who have known Applicant since 2012 through close mutual friends, including Mr. X, have found Applicant to be reliable and dependable as well as honest and patriotic. An environmental inspector also provided a reference for Applicant. This individual held high-level security clearances when he was in the military and described himself as "a former professional observer." In his experience, Applicant was dedicated to his job "in the extreme." (AE G.)

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 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 adverse credit information alleged in the SOR is reflected in one or more of Applicant's credit reports. The DOHA Appeal Board has held that a credit report is sufficient to meet the government's burden of producing evidence of delinquency. See ISCR Case No. 14-03612 (App. Bd. Aug. 25, 2015). Applicant presented credible evidence

from his second divorce showing his ex-partner was assigned repayment responsibility for the car loan debt in SOR ¶ 1.d and the utility services debt in SOR ¶ 1.i. However, Applicant's claim that the furniture debt (SOR ¶ 1.f) is his first wife's responsibility is uncorroborated and insufficient to disprove his liability for the judgment awarded the creditor (SOR ¶ 1.l). The outstanding judgment debt (SOR ¶ 1.l), the defaulted student loans (SOR ¶¶ 1.a-1.c and 1.e), the credit card accounts in collection (SOR ¶¶ 1.g-1.h and 1.k), the outstanding telephone and utility delinquencies (SOR ¶¶ 1.j and 1.n), the past-due medical debt (SOR ¶ 1.m), and the collection debts in SOR ¶¶ 1.o and 1.p for consumer items, establish two disqualifying conditions: AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations."

The evidence shows that Applicant's financial problems are more extensive than alleged in the SOR. Applicant defaulted on six additional student loans with balances that had reportedly accrued to \$39,802 as of December 2015. He owes the IRS between \$1,300 and \$1,400 for tax year 2015. His income tax refund for 2014 was intercepted and applied to child support arrearage. He was behind \$1,992 in his child support as of December 2015, although he testified to his belief that he was current as of June 2016. Debts not alleged cannot provide a basis for disqualification, but they also cannot be ignored when assessing mitigation, including whether Applicant's financial situation is likely to improve to no longer present an unacceptable security concern.⁵

Concerning mitigation of Applicant's delinquent debts, 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," cannot reasonably apply. Applicant has made no payments toward his delinquencies, and it is unclear when he will be in a position to do so. Applicant was not in a position financially to make payments as of June 2016, in part because he was paying \$100 a month to the state for an unemployment compensation overpayment.

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," is partially applicable. Applicant had periods of unemployment in the past, including for over six months from the fall of 2012 into 2013. Ongoing medical copayments continue to stress his finances. Applicant pays \$100 a month toward his medications. His copayments have been as high as \$250 during those months where he has medical appointments. Even if Applicant's financial problems arose in whole or in part to circumstances outside of his control, I may still consider whether Applicant has since

⁵ 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). Applicant's additional student loan delinquency and his income tax debt cannot provide a separate basis for disqualification because they were not alleged, but they are relevant to assessing Applicant's financial judgment generally and issues of mitigation.

acted in a reasonable manner when dealing with those financial difficulties. See e.g., ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan 12, 2007). AG ¶ 20(b) requires that an applicant act responsibly to address his debts, and in that regard, Applicant's evidence falls short in some aspects. After a student loan lender denied an additional hardship deferment, he made no effort to pay his student loans. He continues to ignore a court judgment for the furniture. He has not complied with a request for information from the creditor in SOR ¶ 1.j, apparently because he does not want to submit his personal identification by mail, but there is also no evidence that he has contacted the creditor to determine whether he could provide the information by more secure means. He has not resolved a \$50 medical collection debt, despite a reported monthly discretionary income of \$257 per month. Applicant testified to some recent medical problems, but they have not been enough to distract him from his work.

To the extent that AG ¶ 20(b) is applicable, it does not eliminate the financial burden of Applicant's delinquent debt or the financial judgment concerns that arise from his failure to remain current on recently opened accounts. As of December 2015, he was past due on two low-limit (\$300) credit card accounts opened in August 2014. While child support and repayments to the state for excess unemployment compensation have understandably been given priority, Applicant has also not been sufficiently proactive toward addressing the debts of concern to the DOD. Neither AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control," nor AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," apply.

AG ¶ 20(e) is applicable in that the car loan in SOR ¶ 1.d and the utility debt in SOR ¶ 1.i are the responsibility of his ex-partner. AG ¶ 20(e) also applies in that the furniture debt in SOR ¶ 1.f is a duplicate listing of the judgment in SOR ¶ 1.l and does not represent an additional delinquency. As for the judgment debt, Applicant did not produce documentation needed for mitigation under AG ¶ 20(e), which provides:

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant is not required to establish that he has paid off each debt in the SOR, or even that the first debts paid be those in the SOR.⁶ However, there must be adequate

⁶ The DOHA Appeal Board stated in ISCR Case No. 07-06482, decided on May 21, 2008, in part:

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007). However, an applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006). All that is required is that an applicant demonstrate[s] that he has "... established a plan to resolve his financial problems and taken significant actions to implement that plan." See, e.g., ISCR Case No. 04-09684 at 2 (App. Bd. Jul. 6, 2006). The

assurances that his financial problems are not likely to persist. Applicant's personal financial statement showed that he had about \$257 available at the end of each month as of October 2015, after paying \$130 in monthly medical expenses and \$400 toward a car loan. It is unclear whether the \$257 includes his \$100 payment to the state for the unemployment compensation. Moreover, Applicant's medical payments have exceeded the \$130 he estimated for monthly medical care. Applicant testified in June 2016 that he was not then in a position to address his past-due debts in any meaningful way. However, his car would be paid off in January 2017, which, according to his personal financial statement, would free up \$400 monthly. Applicant's history of disregard of his repayment obligations, including for some federal student loans, and evidence of recent delinquency on credit card accounts, provides little confidence that he can be counted on to manage his finances responsibly. The financial considerations security concerns are not adequately mitigated.

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).⁷ The analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

The contract nature of Applicant's work, especially before his present employment, left him vulnerable to job loss when contracts were discontinued and liable for medical costs because of no insurance. However, Applicant has been consistently employed since August or September 2013. He had 2.5 years or so to investigate and verify his debts, including his student loans, and to attempt settlements or repayment arrangements. Even the two smallest debts of approximately \$50 each remain unpaid. His commitment to his work for the DOD is unassailable, but it does not justify his inattention to some debts,

Judge can reasonably consider the entirety of an applicant's financial situation and his actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ("Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.") There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. See, e.g., ISCR Case No. 06-25584 at 4 (App. Bd. Apr. 4, 2008). Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

⁷ 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.

including his student loans. A determination of an applicant's eligibility for a security clearance should not be made as punishment for specific past conduct, but on a reasonable and careful evaluation of the evidence to determine if a nexus exists between established facts and a legitimate security concern. For the reasons already noted, concerns persist about Applicant's present financial stability to where I am unable to conclude that it is clearly consistent with the national interest to grant or continue security clearance eligibility 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: | AGAINST APPLICANT |
| Subparagraphs 1.a-1.c: | Against Applicant |
| Subparagraph 1.d: | For Applicant |
| Subparagraph 1.e: | Against Applicant |
| Subparagraph 1.f: | For Applicant |
| Subparagraphs 1.g-1.h: | Against Applicant |
| Subparagraph 1.i: | For Applicant |
| Subparagraphs 1.j-1.p: | Against Applicant |

Conclusion

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

Elizabeth M. Matchinski
Administrative Judge