



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



In the matter of:)
)
 REDACTED) ISCR Case No. 15-02609
)
 Applicant for Security Clearance)

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

12/27/2016

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant became seriously delinquent on some credit card debts when his spouse was unemployed for about a year. He exhausted his savings in paying for treatment for his daughter and could not pay his mounting credit card debt. Applicant still owes approximately \$12,528 in delinquent balances, but he has made sufficient progress toward resolving his past-due debts to continue his security clearance eligibility. Clearance is granted.

Statement of the Case

On November 12, 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 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 21, 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 20, 2016, 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. On April 22, 2016, I scheduled a hearing for May 17, 2016.

I convened the hearing as scheduled. Four Government exhibits (GEs 1-4) and eight Applicant exhibits (AEs A-H) were admitted into evidence without objection. A letter forwarding discovery of the Government's exhibits was marked as Hearing Exhibit (HE) 1 for the record, but was not admitted as an evidentiary exhibit. Records submitted by Applicant as attachments to his answer were considered part of the pleadings and not admitted as evidentiary exhibits on Applicant's representation that he did not intend to offer them because he had updated records. Applicant testified, as reflected in a transcript (Tr.) received on May 27, 2016.

I held the record open for one month after the hearing for Applicant to submit additional documentary evidence. On June 14, 2016, Applicant submitted two documents, which were accepted into the record without objection as AEs I and J.

Summary of Pleadings

The SOR alleges under Guideline F that Applicant owed collection debt totaling \$13,193 on five accounts (SOR ¶¶ 1.a-1.d and 1.h) and charged-off balances totaling \$24,089 on three accounts (SOR ¶¶ 1.e-1.g) as of November 15, 2015. Applicant provided a detailed Answer to the SOR allegations, explaining that he had fallen behind on some financial obligations "several years back," but not to the extent of living beyond his means. Applicant admitted only the debt in SOR ¶ 1.a, and indicated that he had begun making payments of \$235 per month on the debt. Applicant denied that he owed a balance of \$2,173 on the account in SOR ¶ 1.b in that he had been paying \$100 a week to reduce the balance to \$1,265. He denied the debts in SOR ¶¶ 1.c and 1.d because he had paid them. Applicant denied the debt in SOR ¶ 1.e because it was a duplicate listing of the debt in SOR ¶ 1.b. As for the \$9,962 debt in SOR ¶ 1.g, Applicant explained that it had been sold with the balance reflected in SOR ¶ 1.g and has since been paid in full. Applicant also denied owing a \$4,628 debt to an unnamed collection entity as alleged in SOR ¶ 1.h. He could find no record of the debt.

Findings of Fact

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

Applicant is a 48-year-old electrician with one semester of community college studies. (Tr. 13.) Since November 2002, Applicant has worked full time for a research laboratory that has contracts with the DOD. (Tr. 33-34.) Applicant has also been self-employed part time as an electrician since June 2002. (GE 1; Tr. 29, 34-35.) Applicant seeks to retain a secret clearance that was granted to him around January 2003. (GEs 1-2; Tr. 34.)

Applicant and his spouse married in March 1995. They have two sons now ages 19 and 21. His spouse has a daughter and a son from a previous marriage. Applicant's stepchildren are now 30 and 27 and were raised by Applicant and his spouse. (GE 1.)

Financial

Applicant and his spouse have lived in their present residence since approximately May 1996. Applicant bought the home from his mother for \$190,000. (GE 1; Tr. 51-52.) Applicant borrowed against the equity in his home, initially to replace the roof, tie into the municipal water system, and repair water damage. (Tr. 52-54.) His mortgage debt increased from \$203,000 in November 1999, to \$250,000 in November 2001, and to \$300,000 in March 2004. In September 2005, Applicant took on a \$350,000 primary mortgage. In August 2007, Applicant and his spouse obtained a second mortgage for \$45,000 to add a porch and to replace the siding and some windows. (GEs 3, 4; Tr. 54, 100.)

In July 2006, Applicant obtained a loan of \$10,000 to cover the tuition costs for his stepdaughter's nursing school education. He made timely payments and the loan was repaid in full in September 2012. (GE 3; Tr. 102.)

Around 2009, Applicant began to struggle financially. (GE 2.) His spouse had worked as a waitress at the same establishment for several years, and she left the job because she was not earning enough income. (Tr. 28.) She was unemployed for about a year. (GE 2.) In addition, Applicant and his spouse exhausted their savings helping their daughter recover from a drug problem between 2009 and 2012. (Tr. 36.) Applicant's daughter was initially placed for rehabilitation in a state-run program that was covered by his health insurance. In either 2009 or 2010, Applicant paid for two weeks of rehabilitation for his daughter in a private program that cost him approximately \$20,000, which was not covered by his insurance. (Tr. 37-38.) He borrowed \$15,000 from his parents to cover part of the cost. (Tr. 39.)

Applicant fell behind on his payments for his primary mortgage. In December 2009, his mortgage payment was over 120 days past due. (GE 3.) In May 2010, Applicant and his family took a week-long vacation that cost \$5,000. Applicant's in-laws covered a portion of the cost. (Tr. 70.)

Between 2010 and 2012, Applicant's income suffered because of a loss of overtime availability. (Tr. 29, 69.) With limited exception, he made his mortgage payments on terms acceptable to his lender since March 2011. According to Applicant, his lender told him to

withhold three months of payments to qualify for refinancing. (Tr. 56.) In November 2012, Applicant transferred his mortgage of \$350,000 to a new lender. (GEs 2, 3.) His monthly mortgage payment became \$2,033. (GE 3.)

On October 26, 2012, Applicant certified to the accuracy of a Questionnaire for National Security Positions (SF 86) incorporated within an Electronic Questionnaire for Investigations Processing. In response to inquiries concerning any delinquency involving routine accounts, Applicant listed six delinquent debts of \$2,658 (SOR ¶ 1.e), \$4,628 (SOR ¶ 1.h), \$5,248 (SOR ¶ 1.a),¹ \$13,208 (SOR ¶ 1.g), \$403 (SOR ¶ 1.d), and \$269 (not alleged in SOR). Applicant cited unspecified economic conditions as the reason for his inability to keep up with his payments. Applicant indicated that he was making payments under a payment plan to resolve the debts in SOR ¶ 1.a, 1.e, 1.f, and 1.h, and that in October 2012, he resolved both the disputed cable debt in SOR ¶ 1.d and the \$269 in early termination charges on another cable television services account. (GE 1.)

A check of Applicant's credit on November 2, 2012, confirmed the outstanding delinquencies in SOR ¶¶ 1.a, 1.c, 1.g, and 1.h. The creditor in SOR ¶ 1.e was reporting a zero balance after sale of the debt to the collection entity in SOR ¶ 1.b. A credit card account, on which Applicant was an authorized user, was in collection for \$9,962 (SOR ¶ 1.f).² Applicant was making timely payments on two credit cards with balances of \$16,902 and \$6,456 and on his second mortgage, which had a balance of \$34,064. (GE 4.) The larger of the credit card balances was incurred for purchases on the Internet. (Tr. 101-102.)

On December 3, 2012, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant indicated that he was awaiting a response from the collection entity about a repayment plan for the \$2,658 credit card delinquency (SOR ¶¶ 1.b and 1.e, same debt). About the debt in SOR ¶ 1.h, Applicant was unable to verify the balance, but he indicated that he had offered to pay \$25 a month toward the collection debt. Applicant did not recognize the collection company in SOR ¶ 1.a and could not recall the original creditor. As for the debt in SOR ¶ 1.g, Applicant contacted the collection entity now holding that debt and arranged to repay the debt at \$100 a week. About the \$403 debt (SOR ¶ 1.d), Applicant explained that he terminated his cable television service after technicians could not fix an ongoing problem. The company charged him an early termination fee, which Applicant claimed had been "wiped out" in October 2012. The \$269 debt (not alleged in the SOR) was a fee assessed by his

¹The debt appears to be a revolving charge debt on an account opened with a retailer in April 2008. His account was charged off and placed for collection for \$5,130 in May 2010 with the collection entity in SOR ¶ 1.a. (GE 4.) The collection entity obtained a \$5,130 judgment in June 2011. (GE 3.) As of October 2012, the unpaid balance was \$5,248. (GE 4.)

² Applicant testified to his belief that the debts in SOR ¶ 1.f and ¶ 1.g pertained to the same account. (Tr. 25.) However, the evidence does not substantiate his belief. As of November 2012, Equifax was reporting that a MasterCard account opened in February 2006 was in collection with a balance of \$11,858. There was a separate listing for a MasterCard account opened in December 2006 with a balance of \$9,962. Applicant was listed as an authorized user on that account. Whether the debt in SOR ¶ 1.f is a duplicate listing or a separate account on which Applicant was an authorized user, the evidence does not establish that Applicant was contractually liable for two separate debts.

subsequent cable television provider. Applicant did not recognize a \$740 credit card collection debt on his credit record (SOR 1.c), but he also acknowledged that he was not completely aware of all his credit card debt. Applicant attributed his financial problems to his spouse losing her job around 2009. After he and his spouse exhausted their savings, Applicant began to pay bills in alternate months, but his credit lenders increased his interest rates. Eventually, he could not make the monthly minimum payments on some accounts. Additionally, he and his spouse assumed responsibility for some of their children's expenses when their children were unemployed.³ Applicant expressed an intention to satisfy his debts and restore his credit to good standing. (GE 2.) Applicant testified that he was already in the process of resolving some of his financial delinquencies as of his OPM interview. He used a credit counseling service for assistance in gaining some control over his financial situation. (Tr. 29.)

In May 2013, Applicant leased a vehicle for \$10,165, to be repaid at \$282 monthly. Applicant made timely payments on the auto lease to reduce its balance to \$4,868 as of December 2014. He also made timely payments of \$391 per month toward his secured loan obtained in August 2007 for \$45,000. As of January 2015, the loan balance was \$27,828. His monthly mortgage payment increased from \$2,011 in 2014 to \$2,033 effective January 2015. (AE E.)

As of February 2015, Applicant was paying \$838 and \$182 on two credit card accounts that were rated as current with respective balances of \$16,763 and \$7,287. Applicant had made progress toward addressing the debt in SOR ¶ 1.g, but other past-due accounts went unpaid because of limited funds. (Tr. 85.) By the time of his hearing in May 2016, he had resolved some of his delinquent accounts, as follows.

\$5,248 collection debt (SOR ¶ 1.a)

Applicant incurred the credit card debt primarily for his electrician's business. (Tr. 72-73.) When Applicant answered the SOR, he indicated that he had agreed to make payments of \$235 per month and planned to pay off the debt in 36 months. As of May 2016, Applicant had no record of any payments, although he claimed to have made five or six payments. He acknowledged that he had not kept up with the monthly payments. (Tr. 71-72.) The collection entity now holding the debt agreed to accept monthly payments of \$200 after a \$500 initial payment, which Applicant made on June 14, 2016. (AEs I, J.) Due to accrued interest at 12%, the debt balance was approximately \$7,900 after his June 2016 payment. (AE I.)

\$2,173 collection debt (SOR ¶ 1.b, same debt in SOR ¶ 1.e)

Applicant defaulted on the credit card account in 2009. (GE 3.) He entered into a repayment plan with the initial collection entity, which began automatic deductions from his checking account. Applicant stopped the withdrawal because his payments were not being credited. (Tr. 82-83.) In October 2013, the collection entity in SOR ¶ 1.b obtained a \$2,458

³ At his hearing, Applicant clarified that his largest issue was with his stepdaughter, who became involved with illegal drugs. It was a "huge financial setback," and he spent his life savings for her rehabilitation. (Tr. 36.)

judgment for the debt in SOR ¶ 1.e.⁴ (GE 3; AE A.) Starting in September 2015, Applicant made \$100 weekly payments to reduce the balance to \$1,265 as of December 16, 2015. Applicant satisfied the debt with a final payment of \$75 on March 11, 2016. (AEs A, B; Tr. 78-79.)

\$741 collection debt (SOR ¶ 1.c)

On November 5, 2015, the collection entity offered to settle Applicant's \$740 credit card balance for a lump-sum payment of \$556, or payments of \$99 for six consecutive months, or payments of \$52 for 12 consecutive months. Applicant paid \$740 to fully satisfy the debt on December 15, 2015. (AE B.) Applicant chose not to settle his debt for less than its full balance because he wanted to repay what he had borrowed. (Tr. 30.)

\$403 collection debt (SOR ¶ 1.d)

Applicant terminated his cable television service prematurely when technicians could not fix a problem. He noticed the debt on his credit report, but he ignored it because he had been dissatisfied. (Tr. 86-87.) On May 16, 2016, Applicant paid \$403 to resolve his disputed cable television debt. (AE C.)

\$11,858 charged-off credit card debt (SOR ¶ 1.g)

Available collection records show that a judgment action was brought against Applicant. (GE 3; AE D.) Available collection records show that the unpaid balance had accrued to \$15,026 as of late October 2012 and that Applicant authorized the debit of \$100 a week from his bank account to resolve the debt. (AE D.) Applicant immediately began repaying the debt at \$100 a week. (Tr. 89.) With a final payment of \$226 in December 2015, Applicant satisfied the debt. (AE D.)

\$4,628 collection debt (SOR ¶ 1.h)

Applicant defaulted on a \$4,628 credit card debt that was placed for collection in May 2010. (GE 3; AE E.) Applicant listed the debt on his SF 86 in October 2012, and he indicated that he was repaying the debt under a repayment plan. (GE 1.) During his OPM interview, Applicant indicated that he offered to make \$25 monthly payments to a collection entity. (GE 2.) Due to inadequate recordkeeping, Applicant did not recognize the debt when he answered the SOR or initially at his hearing. (Answer; Tr. 94-95.) He then claimed that he made some payments. (Tr. 98-99.) After his hearing, Applicant learned that the credit card debt had been sold to another collection entity in 2012. Applicant arranged to repay the debt by an initial \$200 payment followed by monthly payments of \$100. Applicant paid \$200 on June 13, 2016. (AEs I, J.) The debt does not appear on Applicant's latest credit report (AE E), and Applicant did not provide its current balance.

⁴ The \$2,173 alleged in SOR ¶ 1.b appears to be the balance on the debt as of January 2015, after the collection entity obtained a \$2,458 judgment. (GE 3.)

In January 2016, Applicant's monthly mortgage obligation increased from \$2,033 to \$2,668. As of May 2016, Applicant was paying his mortgage on time. The balance of his mortgage was \$297,046. He paid \$601 in February 2016 to reduce the debt remaining on his auto lease to only \$300. He paid off his auto lease before his hearing. (Tr. 28.) Applicant was making timely payments of \$391 per month toward his second mortgage, which had a balance of \$24,068. Applicant had two open credit card accounts on which he had balances of \$16,869 and \$10,425 as of April 2016. In recent years, the balance on the first account varied from a low of \$16,763 in February 2015 to a high of \$17,450 in July 2015. As of February 2015, his scheduled monthly payment was \$838. (GE 3.) Equifax was not reporting the amount of his monthly payments as of May 2016. The second account, which has a credit limit of \$10,600, had a balance of \$8,774 as recently as September 2015. Applicant's scheduled monthly payment on the debt was \$228. A dentist was reporting a \$417 debt from 2012 in collection. (AE E.)

Applicant's take-home pay from his full-time work is about \$840 a week. (Tr. 51.) Applicant's part-time income varies depending on the frequency of his contract work as an electrician. He was busy at the end of 2015, and for tax purposes, his business profit was close to \$40,000 for 2015. He had "maybe six jobs" in the first five months of 2016. (Tr. 35.) Applicant also plows snow, and during the winter of 2014-2015 he earned a considerable amount of money from plowing. In the winter of 2015-2016, funds earned from plowing were not enough to cover the gas costs. (Tr. 64.)

Applicant's spouse is currently employed as a waitress, and her earnings are largely dependent on tips. Her average take-home income is \$400 to \$500 a week. (Tr. 62.) Three of Applicant's adult children are still living at home, including his stepdaughter and her eight-year-old son. Applicant provides for their basic needs while also paying for his children's cell phones. He pays \$260 per month for cell phone service for the family, \$300 a month for his spouse's car lease, and \$160-\$170 for Internet/cable services. (Tr. 40-42, 61-62.) He estimated the family's grocery bill at \$200 a week. (Tr. 60.) Their water bill runs him about \$100 a month. His electric bill averages \$175 a month. His gas bill varies from \$5 a month in the summer to \$250 a month in the winter. (Tr. 59-60.)

In the fall of 2015, the older of Applicant's two sons began studies at a community college. Applicant borrowed \$7,000 to \$8,000 from his 401(k) to pay for his son's college. (Tr. 66-67.) His loan repayment is being automatically deducted from his wages at \$27 a week. (Tr. 67.) Midyear, Applicant's son transferred to a state college which costs \$30,000 a year. Applicant paid that portion of his son's tuition that was not waived, which amounted to four installments of \$2,543. (Tr. 43-45.) Applicant's younger son lives at home and works at a fitness center. (Tr. 46-47.) Both sons drive vehicles registered to Applicant, but they pay for their car insurance. (Tr. 47.) Applicant's children contribute financially to the household, although not in any set amount. (Tr. 63.) Applicant had \$1,218 in his checking account as of June 13, 2016. (AE J.)

Applicant is known for his elaborate holiday lights display, which for the past few years has raised funds for charitable causes. (AE H.) He described his electric bill as "ridiculous" during the holiday season. (Tr. 60.)

References

An operations manager at work, who has supervised Applicant's work performance for the past four years, attested to Applicant conducting himself "in an exemplary manner, often going above and beyond to insure client satisfaction in a demanding environment." (AE F.) Another co-worker, who has known Applicant professionally and personally for 20 years, observed Applicant to be hard working. He considers Applicant to be a valuable asset to his workplace and Applicant's community. (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.

In addition to his full-time position with a defense contractor, Applicant has his own part-time electrical contracting business. Yet, when Applicant applied to renew his security clearance eligibility in October 2012, he was seriously delinquent on five credit card accounts totaling approximately \$28,300 (SOR ¶¶ 1.a-1.c, 1.g-1.h). In addition, he owed a \$403 fee for terminating a cable television service contract prematurely (SOR ¶ d). Another credit card debt was in collection for \$9,962 (SOR ¶ 1.f), but as an authorized user, Applicant was not contractually liable for repayment. A person’s relationship with his creditors is a private matter until evidence demonstrates an inability or unwillingness to repay debts under terms acceptable to creditors. While an applicant is not required to be debt free, he is required to manage his finances responsibly. Applicant’s record of financial delinquency establishes disqualifying conditions AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.”

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 began repaying the credit card debt in SOR ¶ 1.g at \$100 a week in October 2012 in response to a judgment action, but his other past-due accounts went largely unaddressed until 2015.

Applicant attributes his financial problems to his spouse’s year of unemployment, to other expenses caring for their children, and to a decline in his overtime income. 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 applicable to the extent that his and his spouse’s household finances were compromised by a loss of income and unexpected expenses. His spouse resigned from her job, but her income as a waitress was contingent on tips and she lacked sufficient work hours. Applicant did not have control over the decline in overtime at his job.

Applicant and his spouse assumed responsibility for some of their children's obligations. He provided few specifics in that regard other than that he spent \$20,000 for his stepdaughter's drug rehabilitation.

However, the evidence also suggests a history by Applicant of taking on excessive debt in relation to his income, with the consequence that he was unable to make the monthly minimum payments on several of his credit card balances after his creditors raised his rate on unpaid balances. He borrowed against the equity in his home a few times for needed home improvements and other expenses, but by increasing his mortgage debt from \$203,000 to its present \$350,000, he also increased his monthly mortgage obligation. He added to his debt burden by taking on a \$45,000 second mortgage with \$391 monthly payments. He has high credit card balances close to his credit limit on two accounts. The balance on one account in recent years has ranged from a low of \$16,763 in February 2015 to a high of \$17,450 in July 2015. As of April 2016, he owed \$16,869 on that account and \$10,431 on another credit card account. While both accounts are rated as current, they show his continued reliance on consumer credit for some purchases. When asked to explain his failure to make payments on collection debts for several years, Applicant admitted that he could not afford to make payments.

Mitigating conditions 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," have some applicability. Applicant made payments between September 2015 and March 2016 to fully satisfy the debt in SOR ¶ 1.b (same debt in SOR ¶ 1.e). On December 15, 2015, Applicant paid \$740 to resolve the credit card delinquency in SOR ¶ 1.c. On May 16, 2016, he paid the disputed cable television debt in SOR ¶ 1.d. Although in response to a judgment action, Applicant made payments between October 2012 and December 2015 to fully resolve his \$15,026 credit card delinquency (SOR ¶ 1.g).

After his security clearance hearing, Applicant contacted the collection entities for his two remaining delinquencies (SOR ¶ 1.a and ¶ 1.h). Applicant entered into repayment arrangements and made the initial payments required in June 2016. He is committed to making monthly payments of \$200 toward the debt in SOR ¶ 1.a and \$100 toward the debt in SOR ¶ 1.h. While he showed some good faith under AG ¶ 20(d) in establishing these arrangements, he has not yet demonstrated a sufficient record of recurring payments to apply AG ¶ 20(c) to the debts in SOR ¶ 1.a and ¶ 1.h.

Mitigating condition AG ¶ 20(e) applies to the debt in SOR ¶ 1.f in that Applicant is not contractually liable for repayment as an authorized user. It is also established with respect to the debt in SOR ¶ 1.e in that it is not an additional debt from the collection account in SOR ¶ 1.b. AG ¶ 20(e) 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.

Assuming balances of approximately \$4,628 (SOR ¶ 1.h) and \$7,900 (SOR ¶ 1.a), Applicant owed outstanding delinquencies totaling \$12,528 as of June 2016. The Government's concerns about Applicant's ability to sustain his promised payments of \$100 and \$200 per month cannot be easily dismissed in light of Applicant's recurring monthly obligations of approximately \$6,000, including \$2,668 for his primary mortgage, \$391 for his second mortgage, \$228 on the credit card with a \$10,425 balance, \$300 for his wife's car lease, \$160-\$170 for Internet and cable services, \$800 for groceries, \$260 for cell phone service, utility costs (water, gas, electric) that total as much as \$525 in the winter months, and his payment on his larger credit card debt. As of February 2015, his scheduled monthly payment was \$838. He reported monthly take-home pay around \$3,360 from his full-time job and \$1,600 to \$2,000 for his spouse every four weeks, which suggests a tight financial situation. However, Applicant supplements the household income by snowplowing and taking electrician jobs. There is no evidence of recent credit card or mortgage delinquency that would raise doubts about his ability to maintain his promised payments.

The security clearance adjudication is not aimed at collecting an applicant's personal debts. Rather, it involves an evaluation of an applicant's judgment, reliability, and trustworthiness in light of the security guidelines in the Directive. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). In evaluating Guideline F cases, the Appeal Board has established that an applicant is not required to pay off every debt in the SOR:

The Board has previously noted that the concept of a meaningful track record necessary includes evidence of actual debt reduction through payment of debts. 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. All that is required is that an applicant demonstrated that he has established a plan to resolve his financial problems and taken significant actions to implement that plan. The Judge can reasonably consider the entirety of an applicant's financial situation and evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. There is no requirement that the plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payments of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). Applicant's record of regular payments to resolve the debt in SOR ¶ 1.g augurs favorably for whether he can reasonably be expected to make the promised payments on his two remaining credit card delinquencies. While his financial budget is tight, he wants to pay those debts that he incurred, and he needs his full-time job to do so. While his decision to incur large electric bills for his holiday displays is a

questionable expense in light of his overall financial situation, Applicant does not live an extravagant lifestyle, and he is willing to earn extra income to cover his expenses. His recent loan from his 401(k) to pay for his son's college is not a frivolous expense. He has made enough progress toward stabilizing his finances to mitigate the financial considerations security concerns.

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).⁵ 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.

Applicant admitted that he lost track of some of his consumer credit accounts after he could no longer afford to make the monthly minimum payments. While he had some unexpected costs for his stepdaughter's drug rehabilitation, his inattention to some of his financial obligations after the crisis had passed is inconsistent with the sound judgment expected of persons with classified access. Additionally, he lacks a record of consistent payments on two long-overdue credit card debts. However, he has been a valuable contributor for his defense contractor employer, and his full-time employment is important to his family's financial stability. He is unlikely to jeopardize his job by engaging in any illegal acts to generate funds to address \$12,528 in remaining delinquent debt. He has acted in a reasonable manner to address a good portion of his past-due debt. This conduct indicates that he will continue to address his obligations until they have been paid. It is this conduct in addressing his bills which gives me the confidence that he will make the payments necessary to resolve his remaining delinquencies. After considering all the facts and circumstances, I conclude that it is clearly consistent with the national interest to continue Applicant's security clearance eligibility.

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

⁵ 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.

Subparagraphs 1.a-1.h:

For Applicant

Conclusion

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

Elizabeth M. Matchinski
Administrative Judge