



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



In the matter of:)	
)	
(Redacted))	ISCR Case No. 15-06637
)	
Applicant for Security Clearance)	

Appearances

For Government: Robert J. Kilmartin, Esq., Department Counsel
For Applicant: *Pro se*

06/06/2017

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant defaulted on some of his federal student loans and on a credit card debt after he withdrew from a private university due to the expense. A cable services debt was placed for collection after his then housemate failed to contribute to their rent and other living expenses. Applicant has a track record of payments on other federal and private student loans, and he recently consolidated all his student loans. The financial considerations security concerns are mitigated. Personal conduct concerns are not established because he did not intentionally conceal his debts from his security clearance application. Clearance is granted.

Statement of the Case

On August 8, 2016, 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 Guideline E, personal conduct, 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 September 3, 2016, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On September 29, 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 September 30, 2016, I scheduled a hearing for October 20, 2016.

I convened the hearing as scheduled. Four Government exhibits (GEs 1-4) and six Applicant exhibits (AE A-F) were admitted into evidence without objection. Applicant testified, as reflected in a transcript (Tr.) received on October 28, 2016.

Summary of SOR Allegations

The SOR alleges under Guideline F that, as of August 8, 2016, Applicant owed a \$409 cable television service collection debt (SOR ¶ 1.a), a \$4,364 credit card collection debt (SOR ¶ 1.b), and three student loan collection debts totaling \$17,743 (SOR ¶¶ 1.c-1.e). Under Guideline E, Applicant is alleged to have falsified his January 6, 2015 Electronic Questionnaire for Investigations Processing (e-QIP) by responding negatively to whether he was currently delinquent on any federal debt (SOR ¶ 2.a); to whether he had any debts turned over for collection and to whether he had any accounts or credit cards suspended, charged off, or cancelled for failing to pay as agreed in the last seven years (SOR ¶ 2.b); and to whether his wages had been garnished in the last seven years (SOR ¶ 2.c).

Applicant provided a detailed response to the SOR allegations in which he admitted that the debts in SOR ¶¶ 1.a and 1.b had been past due, but they were no longer delinquent as of August 29, 2016. Applicant denied that his federal student loans were in collection as of the date of the SOR. He indicated that all the loans were consolidated and in repayment as of September 1, 2016. Concerning the alleged deliberate falsifications, Applicant denied any intention to deceive, explaining that he believed at the time that all of his student loans were in good standing. He admitted that he had not listed the delinquency in SOR ¶ 1.b, but he was under time constraints and answered “No” by accident. Citing his candor about his debts during his interview, he admitted that he should have reviewed his application thoroughly. About his failure to list a wage garnishment to collect income taxes for 2013, Applicant explained that he had received notices of intention to levy, but he was not aware that his wages were being garnished. Among his jobs, he worked at a high-end restaurant and was paid in cash tips. Since he received nothing in his paychecks, he did not view them online.

Findings of Fact

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

Applicant is a 27-year-old high school graduate, who completed four years of studies toward a bachelor's degree in a five-year program. In January 2015, he began working for a defense contractor (company X) at a local U.S. military base. His starting salary was \$36,000 a year. (Tr. 53.) After company X lost the contract in September or October 2015, Applicant stayed on in his position with a new employer at \$43,000 a year until his interim clearance was withdrawn. He was moved to another team off the base, although the company is still sponsoring him for a DOD security clearance. (Tr. 15, 49, 52-55.)

Applicant was five years old when his father died. (GE 1.) He was raised by a single mother until she remarried. He graduated from high school in June 2007. (Tr. 59.) That September, he began attending a private university working toward a degree in civil and environmental engineering. (Tr. 45.) He paid for college through a combination of federal student loans, loans directly from the university, private student loans, work-study, co-op jobs, and employment in local restaurants. (GEs 2, 3.) He lived in campus housing during the academic semesters through June 2010. At the start of his fourth year into a five-year program in September 2010, he moved into an off-campus apartment, taking the place of someone that had been expelled from the university. Unable to obtain any new federal student loans, he obtained the credit card in SOR ¶ 1.b in April 2011 to cover some college costs and expenses. (GEs 2, 4.) Applicant withdrew from college in 2011 because of the expense. (GEs 1, 2.)

In June 2011, Applicant began working full time as a server at a pizza restaurant near the university. In January 2012, a private student loan of \$7,730 was charged off. By March 2012, he had also defaulted on some federal student loans and on the credit card in SOR ¶ 1.b. (GE 4.) In approximately May 2012, he began working a second restaurant job at a higher-end steakhouse. About 1.5 years into this job, he began sharing his apartment with a co-worker. In April 2013, Applicant stopped working for the pizza restaurant, but he kept his job at the steakhouse. (GE 1.) In September 2013, Applicant consolidated federal loans totaling approximately \$26,339 (\$15,676 and \$10,663--consolidation loan #1). He indicated that he entered into an agreement to pay \$228 per month toward the loans (GEs 2, 4), although recent credit information shows scheduled payments of \$213 per month. (GE 3; AE C.) He went through a reconsolidation process so that he could reenroll in the university. (Tr. 31.) He attended the university for another semester, but he did not continue his schooling because of the expense. (Tr. 44.)

In October 2013, Applicant, and shortly thereafter his housemate, left their jobs at the steakhouse to work for an Italian restaurant. (GE 1.) In approximately March 2014, his housemate was fired. Applicant assumed financial responsibility for the full rent of \$1,300 per month and other expenses for their apartment through August 2014, which strained his finances. (Tr. 28-29, 58.) Around that time, Applicant learned that he owed approximately

\$600 in delinquent taxes for tax year 2013. He filed his federal and state income tax returns on time, but did not have the funds to repay the debt. His wages were apparently garnished to repay his tax debt. (GE 2.)

In January 2015, Applicant began working for a defense contractor while keeping his job at the Italian restaurant. Holding the second job was necessary for him to meet his expenses. (Tr. 61.) On January 2, 2015, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86) incorporated within an e-QIP. He responded negatively to all the financial record inquiries, including whether he was currently in default on a federal debt; whether his wages had been garnished for any reason in the last seven years; whether he had defaulted on any loan in the last seven years; whether he had any bills or debts turned over to a collection agency in the last seven years; and whether he had any account or credit card suspended, charged off, or cancelled in the last seven years for failing to pay as agreed. (GE 1.)

As of January 15, 2015, Applicant had some adverse credit entries on his credit report. Three federal student loans were reportedly in collection for \$8,755 (SOR ¶ 1.d, original debt \$6,000), \$5,427 (SOR ¶ 1.e, original debt \$4,500), and \$2,700 (SOR ¶ 1.c, original debt \$6,000). The credit card debt in SOR ¶ 1.b had a collection balance of \$5,848 (\$4,378 past due). (GE 4.) Applicant was making payments, at times less but at other times more than the scheduled monthly payment, on consolidation loan #1. (AE C.) The private loan that had been charged off in 2012 was now current with a \$6,936 balance. (GE 4.) That loan was transferred in March 2015. Applicant made a \$110 payment in May 2015 and since August 2015, he has been paying \$70-\$80 per month toward the private student loan, which had a \$6,716 balance as of October 2016. (AE E.)

On June 4, 2015, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant indicated that he had resumed his university studies during the fall semester of 2013, but he was not currently attending classes and had yet to earn a degree. Concerning his finances, Applicant volunteered that his wages had been garnished to pay income taxes owed for 2013. Approximately six months after he received notice of the debt, the IRS began garnishing his wages. He also volunteered that he had defaulted on his federal student loans in approximately 2011, although he did not believe that his loans had been referred for collection. He explained that he was paying \$228 per month toward his federal student loans per an agreement reached in approximately August 2013. Applicant also revealed that he had defaulted on a student loan obtained from the university. After it went to collections, he began repaying the debt in 2014 at \$100 a month. Similarly, he explained that he was also repaying a \$3,000 private student loan after it had been in collection. Applicant was asked about, and denied, whether he had any other accounts that should have been reported on his SF 86. Then confronted about the three delinquent federal student loans in collection on his record, Applicant expressed his belief that the loans were covered in the 2013 consolidation. Regarding the \$5,848 credit card debt, Applicant admitted that the account was delinquent and that he had made no efforts to address it. He attributed his failure to list the credit card delinquency on his SF 86 to oversight. Applicant expressed his intention to repay his debts. He described his financial situation as improving. (GE 2.)

In November 2015, a cable services debt of \$409 from November 2014 was referred for collection. (GE 3.) As of March 2016, Applicant was reportedly current in his payments on consolidation loan #1 and on the \$3,000 private student loan (balance \$1,316). Three federal student loans were reportedly past due for \$2,842 (SOR ¶ 1.c), \$9,216 (SOR ¶ 1.d), and \$5,685 (SOR ¶ 1.e). The credit card debt in SOR ¶ 1.b was in collection for \$4,364. Applicant was making timely payments on a credit card account opened in June 2014. As of February 2016, the account had a \$2,131 balance. (GE 3.)

In June 2016, Applicant retained the services of a document processing company for assistance in obtaining a new consolidation loan covering all of his federal student loans. Applicant contracted to pay an initial service fee of \$699 and a monthly maintenance fee of \$39 until his loan obligations were fulfilled. He submitted a request for forbearance based on financial hardship of his federal direct student loans. (AE B.) In September 2016, Applicant consolidated his direct student loans with a balance of \$47,906 with the loan servicer for consolidation loan #1. Seven federal student loans were included in the new consolidation: \$15,788 and \$10,767 in forbearance;¹ \$2,961 (SOR ¶ 1.c), \$5,901 (SOR ¶ 1.e), and \$9,601 (SOR ¶ 1.d) in default status; and \$1,602 and \$1,282 in repayment status. His first monthly payment of \$269 was due on November 28, 2016. (AE C; Tr. 37-43.)

In late August 2016, Applicant paid \$51 toward the cable services debt (SOR ¶ 1.a) and \$100 toward the credit card collection debt (SOR ¶ 1.b). In mid-October 2016, he made his second payments to the respective collection entities in accord with payment plans acceptable to his creditors. Applicant intends to continue making payments toward his debts. (AE D; Tr. 30, 46-47.)

It is unclear whether Applicant owns a car. A character reference who worked with Applicant on the military base indicated that Applicant commuted by bicycle to work in the suburbs from the city because he did not have a vehicle. (AE A.) Applicant's credit report shows that all his loans are educational. (GE 3.) Applicant's current rent is \$800 a month. (Tr. 64.) Applicant has monitored his credit through Credit Karma since November 2013 (AE F), but he has had no formal credit counseling.

At his hearing, Applicant attributed his failure to list any delinquent debts on his SF 86 to receiving news that his mother had died,² to being excited about his job, to not knowing that three of his federal students loan were in default and to making so many errors (including checking "No" in response to whether he had attended school in the last seven years) that he had to resubmit the application multiple times. Regarding his failure to list any loan defaults, he claimed he was "not as aware of financial jargon and what

¹ The two loans in forbearance are the loans that were initially covered by consolidation loan #1 on which he had been making payments. He explained that his payments on those loans were in forbearance for four months so that he did not have to pay them while a new consolidation agreement was being arranged. (Tr. 39, 42.)

² Applicant testified in part, "I unfortunately got news on September 1, 2015, that my mother had passed away. And once I received the opportunity to interview for [company X] at the time, I was excited because it was the first time that I was able to get a real engineering job, let alone with the United States—the Department of Defense." Applicant indicated on his SF 86 that his mother was deceased, so she likely died in 2014.

delinquency and defaulting means,” and he did not think that he was in default at that time. Concerning his failure to list the wage garnishment, he did not receive a regular paycheck from the restaurant and would not know about a garnishment unless he received a letter from the IRS or accessed his employer’s benefits page online. He admitted that he had received letters from the IRS about its intention to garnish his wages, but he did not believe at the time that his wages were being garnished. He acknowledged that he should have reviewed the application better before submitting it. (Tr. 33-34.)

Character References

Applicant presented endorsements from 13 character references, including several co-workers, who respect Applicant for his dedication, work ethic, and personal integrity. (AE A.) A military intelligence analyst familiar with Applicant’s work when Applicant was at the military base attested that Applicant maintained the highest level of professionalism. Applicant’s skills and leadership qualities made him “an invaluable addition” to their information technology (IT) content development team. He described Applicant as a vital asset and worthy of a scrutiny clearance. Likewise, the team’s chief engineer expressed complete faith in Applicant’s judgment, reliability, and trustworthiness.

Another co-worker at the base found Applicant to be reliable, both as a colleague and a friend. Applicant had to learn the IT infrastructure at an accelerated pace while working on multiple projects. This co-worker opined that whatever the issues or problems Applicant may have had in the past, Applicant is someone in whom he can place his trust. He rated Applicant’s character as “easily in the top 5 of colleagues [he] would want to work with in safeguarding our country’s national security.”

A technical writer, who understands Applicant has some “past financial indiscretions and issues,” found Applicant to be dedicated, knowledgeable, and cooperative. He indicated that Applicant had to work through “several adverse conditions” and was able to overcome them.

The project leader, who held a top secret clearance with sensitive compartmented information for the past 10 years and a secret clearance for 15 years, found Applicant to be “a straight-shooter” and highly motivated. Similarly, a captain in the military, who worked alongside Applicant for some 15 months, does not believe that Applicant presents any risk to national security. He stated in part, “the Department of Defense is losing a valuable asset and an amazing engineer that I need cleared and back on my team ASAP.”

A logistician, who interfaced regularly with Applicant at work, described Applicant’s accountability as “sterling.” He recommended Applicant “very highly” for a secret clearance because of his reliability, trustworthiness, and sound judgment. He understands that Applicant works on the weekends at the restaurant in order to pay off student loan debt.

A process engineer for another company, who first met Applicant in college, attested to Applicant’s loyalty to his friends and his strong work ethic. In her opinion, Applicant “is steered by a strong moral compass.” Another friend from college has seen how Applicant’s

job in the defense industry has transformed Applicant “on the trajectory of his life and his sense of self.” She has known Applicant to follow through on his responsibilities.

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 articulated 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 Government met its burden of establishing by substantial evidence a record of financial delinquency which raises security concerns under disqualifying conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations." Available credit information shows that Applicant defaulted on his federal student loans after he withdrew from school in 2011; that he stopped paying on a credit card in 2012; and that a cable services debt from November 2014 was placed for collection.

Application of the aforesaid disqualifying conditions triggers consideration of four potentially mitigating conditions under 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;
- (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; and
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶ 20(a) has limited applicability. While Applicant initially defaulted on his student loans and the credit card account over four years ago, his cable services debt is from November 2014 and too recent to implicate AG ¶ 20(a). Concerning AG ¶ 20(b), Applicant did not foresee that he would have to cover the full rent and other expenses for the apartment that he shared with a then co-worker who lost his job with their restaurant employer. This unexpected strain on Applicant's finances likely explains the cable services

delinquency from November 2014. He and his former co-worker began sharing an apartment in March 2014, and his roommate stopped contributing to the rent and other expenses after four months. However, Applicant's federal student loan and credit card defaults predate that circumstance and are more likely attributable to lack of income. After withdrawing from college, Applicant was expected to begin repaying his student loans six months later. He worked in a pizza restaurant in an area with a high cost of living.

AG ¶ 20(c) and AG ¶ 20(d) apply, although Department Counsel has a valid concern about Applicant taking steps at the eleventh hour to address his credit card and cable services collection debts. Concerning his student loans, the evidence shows that Applicant consolidated approximately \$26,339 in federal student loans in October 2013 so that he could re-enroll at the university. He made monthly payments on the consolidated loan between October 2014 and June 2016, when he was granted a four-month forbearance while his loans were being re-worked to include the federal loans in the SOR. His delay in addressing the federal student loans in the SOR is credibly explained by his mistaken assumption that all of his student loans had been included in his first consolidation. Applicant is also credited with making payments to address his private student loans. AE E shows that he made monthly payments consistently since August 2015 on the private student loan that had been charged off for \$7,730 in January 2012. Applicant made no payments on the cable services debt or the credit card debt before he received the SOR. The belated nature of his repayment arrangements undermines his case for mitigation under AG ¶ 20(d) with respect to those debts, but he now has repayment arrangements in place with his creditors. He was in compliance with those arrangements as of his hearing.

In September 2016, Applicant had a new debt consolidation loan for \$47,906 covering all of his federal student loans. As of October 2016, the balance was \$47,864, after making his first payment. The outstanding balance of his federal and private student loans is approximately \$55,000. While this is a sizeable debt burden, student loans in the process of repayment do not reflect financial irresponsibility. Although Applicant did not manage the credit card in SOR ¶ 1.b responsibly, it appears to be an aberration and not indicative of overspending. Applicant opened one new credit card account in June 2014 to reestablish his credit, and his payments have been timely. The Appeal Board has held that an 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.³ Applicant has a credible plan in place to resolve his debts, and he has taken significant steps to implement his plan. His track record of payments on consolidation loan #1 and on his private student loans provide confidence that he will make the payments on his debts, provided he has the income to do so. The financial considerations concerns are adequately mitigated.

Guideline E, Personal Conduct

The concerns for personal conduct are articulated in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about

³ See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

an individual's reliability, trustworthiness and ability to protect classified information.

The undisputed evidence is that Applicant certified to the accuracy of his January 2015 SF 86 on which he responded negatively to all the financial record inquiries, including whether he was currently delinquent on any federal debt; whether he had defaulted on any loans in the last seven years; whether he had any debts charged off or placed for collection; and whether his wages had been garnished in the last seven years. As his credit record shows, Applicant was in default on three federal student loans and owed a credit card debt in collection as of January 2015. In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

A reasonable inference of deliberate falsification could be inferred based on this evidence of delinquency. However, Applicant denies any intention to deceive, claiming that he made several errors on the form; that he did not know that any of his federal student loans were in default because he was making payments on consolidated loan #1; and that he did not know at the time that his wages were being garnished for income taxes. In this case, the Government has the burden of proving that Applicant knowingly and willfully omitted his delinquencies from his January 2015 e-QIP. AG ¶ 16(a) is not established when omissions are due to misunderstanding, inadvertent mistake, or other cause that could negate the willful intent. That disqualifying condition provides:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

The DOHA Appeal Board has explained the process for analyzing falsification cases, stating:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant's intent or state of mind at the time the omission occurred. [Moreover], it was legally permissible for the Judge to conclude Department Counsel had established a prima facie case under Guideline E

and the burden of persuasion had shifted to the applicant to present evidence to explain the omission.

ISCR Case No. 03-10380 at 5 (App. Bd. Jan. 6, 2006) (citing ISCR Case No. 02-23133 (App. Bd. June 9, 2004)).

When Applicant was interviewed in June 2015, he asserted that his federal student loans were in good standing because he had been making payments on the consolidated loan. His explanation in that regard has been unwavering and is viewed as credible. He provided evidence showing he was making payments on the consolidation loan, and given the extent of his student loans, he may well not have known that some of his federal student loans had not been included in the first consolidation. Regarding the credit card debt in collection, Applicant did not dispute the delinquency, but explained the omission to “oversight.” Concerning the garnishment, Applicant volunteered to the investigator in June 2015 that his wages were being garnished to repay a tax delinquency for tax year 2013 that he learned about six months after he filed his income tax returns. The interviewer reported that Applicant’s wages had been garnished since November 2014. Yet, there is no independent evidence showing when the garnishment started or when Applicant filed his returns. He could have filed his returns in April 2014 and received notice of intention to levy in November 2014. Applicant explained in response to the SOR that he may have received some paperwork from the IRS of its intention to garnish his wages by January 2015, but he was not aware at the time that his wages were in fact being garnished. Applicant could have learned of the garnishment after he completed his SF 86.

I have considered Applicant’s explanations in light of the record evidence as a whole, which includes very favorable testaments to Applicant’s honesty and personal integrity. He admitted that he was excited at the prospect of employment in the defense industry. If he intended to conceal information from the DOD, it is unlikely that he would have volunteered the information about the garnishment or his student loans during his interview. It was Applicant’s first time completing an SF 86, although he could have been expected to exercise greater care with respect to ensuring the accuracy of his responses. The evidence falls short of establishing knowing and willful conduct. Mitigating condition AG ¶ 17(f), “the information was unsubstantiated or from a source of questionable reliability,” applies. Indeed, the Government seemingly conceded at the hearing that Applicant did not act out of intent to conceal. See Tr. 48.

Whole-Person Concept

In assessing the whole person, 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).⁴ The analyses under Guideline F and Guideline E are

⁴ 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

incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant had no financial assistance from parents to help him with college costs. He withdrew from college not from lack of motivation but because he could no longer afford to attend the university. He demonstrated sound judgment, reliability, and trustworthiness in fulfilling his duties with a defense contractor, and he earned the respect of his co-workers for his commitment and accountability. As of October 2016, he was working two jobs for the income needed to meet his financial obligations, including his payments promised to his creditors. 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). Applicant is not seen as likely to jeopardize the employment that he values and needs to support himself and pay his debts. He began rectifying his student loan issues well before the SOR was issued. For the reasons noted above, I find that it is clearly consistent with the national interest to grant Applicant 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
Subparagraphs 1.a-1.e:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a-2.c:	For Applicant

Conclusion

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

Elizabeth M. Matchinski
Administrative Judge

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.