



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



In the matter of:)	
)	
(Redacted))	ISCR Case No. 15-07702
)	
Applicant for Security Clearance)	

Appearances

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

06/29/2017

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

As of June 2016, Applicant owed a credit card collection debt of approximately \$10,683 and past-due federal income taxes for 2013. Applicant has a history of borrowing against his retirement to pay his debts, but his past-due debts have been resolved through legal means, and his current income is sufficient to meet his obligations. Clearance is granted.

Statement of the Case

On June 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 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 July 8, 2016, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On October 28, 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 November 1, 2016, I scheduled a hearing for November 30, 2016.

I convened the hearing as scheduled. Before the introduction of any evidence, the Government withdrew the allegation in SOR ¶ 1.a. Three Government exhibits (GEs 1-3) and two Applicant exhibits (AEs A-B) were admitted into evidence without objection. Applicant testified, as reflected in a transcript (Tr.) received on December 9, 2016.

I held the record open for one month for post-hearing submissions from Applicant. On December 1, 2016, Applicant submitted amended federal and state income tax returns for tax year 2014, and a personal financial statement. (AEs C-E). On December 5, 2016, the Government expressed no objection to their admissibility, so I accepted the records in evidence. On January 2, 2017, Applicant submitted a statement about his work history (AE F). Department Counsel filed no objection by the January 11, 2017 deadline for comment. I admitted the exhibit and closed the record.

While this case was pending a decision, Security Executive Agent Directive 4 was issued establishing National Security Adjudicative Guidelines (AG) applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The AG supersedes the adjudicative guidelines implemented in September 2006 and are effective for any adjudication made on or after June 8, 2017. Accordingly, I have adjudicated Applicant's security clearance eligibility under the new AG.¹

Findings of Fact

After the Government's withdrawal of the allegation in SOR ¶ 1.a, the SOR alleges under Guideline F that, as of June 8, 2016, Applicant owed a \$10,683 credit card collection debt (SOR ¶ 1.b) and delinquent federal income taxes of \$3,466 for tax year 2013 (SOR ¶ 1.c). When he responded to the SOR, Applicant admitted the debts, but indicated that the tax debts had been paid off as of July 2015. Applicant acknowledged that the credit card debt had not yet been satisfied. He expressed his intention to borrow against his retirement to satisfy the debt in full.

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

Applicant is a 49-year-old engineering supervisor who began working as a welder for his defense contractor employer in February 1991. (GE 1; Tr. 38.) After progressing from a sixth step to a first class welder, he was laid off for lack of work. He was recalled to work in

¹ Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case.

1994 and survived subsequent layoff notices by transferring positions. He has been in his current department since late 2000. In 2012, he was promoted to a supervisory position, which increased his salary to \$124,000 a year. (AE F; Tr. 67.) Applicant holds a DOD secret clearance, which was last renewed in November 2005. (GE 1.) He understands that he cannot maintain his current employment without his security clearance. (Tr. 38.)

Applicant and his spouse married in February 1990. They have two grown daughters, who were born in July 1991 and September 1993. They have owned their home since July 1991. (GE 1.) Applicant's current mortgage loan was obtained for \$173,858 in July 2006. His loan has been 60 days late four or more times, although it was current as of May 2015. (GE 3.)

Applicant opened a credit card account in 2008 or 2009 with a credit limit of approximately \$11,000 (SOR ¶ 1.b) that he used for a family vacation in 2010 and for food, clothes, and other necessities. (GE 2; Tr. 39-40.) Around June 2013, the account became delinquent because his debts exceeded his income. He had to prioritize debts and stopped payment on the credit card. (GEs 1-3; Tr. 40-41.)

In early 2013, Applicant received medical treatment at a local hospital. He assumed that his medical insurance had covered all the expenses because he received no bills. While reviewing his credit report in the summer of 2013, Applicant discovered that the hospital had obtained a court judgment against him in August 2013 for \$552. Applicant paid the judgment in full in September 2013. (GEs 2-3.)

In 2013, Applicant withdrew \$9,000 from his 401(k) at work to pay for college tuition for his younger daughter. He and his spouse utilized a professional tax service to prepare their federal and state income tax returns. Applicant failed to document the 1099 transaction on his and his spouse's tax returns for tax year 2013. (GEs 1-2.) The 1099 form was issued to him electronically, and he just "missed" it. (Tr. 56.) In May or June 2015, Applicant received a notice from the IRS that he and his spouse owed approximately \$3,000 in income taxes for tax year 2013. With the help of his tax preparer, Applicant submitted an adjustment to their federal income tax return. (GEs 2-3.) An IRS account transcript for 2013 shows that Applicant and his spouse filed their return on time, reporting \$139,327 in adjusted gross income. They were issued a refund of \$3,777 in May 2014. On July 2, 2015, the IRS conducted a review of unreported income (presumably on review of his amended return), and on July 6, 2015, the IRS assessed additional taxes of \$4,558 and \$117 in interest for late payment. (AE B.)

In the course of reviewing his tax situation to resolve the tax issue for 2013, Applicant realized he had withdrawn \$4,500 from his 401(k) in 2014 to pay for some of his daughter's college costs, and he failed to document the transaction on his and his spouse's tax return for tax year 2014. (GEs 1-2; Tr. 63.)

In January 2015, Applicant's spouse was diagnosed with cancer, which required aggressive treatment until August 2015. Applicant and his spouse were focused on her care rather than addressing his credit card debt in SOR ¶ 1.b. (Tr. 31.) Applicant began

receiving collection calls in the spring of 2015. He offered to make installment payments, but the creditor wanted a lump sum of approximately \$10,000. His creditor offered to settle for \$4,000, but he could not afford the payment. His creditor charged off the debt and referred the balance for collection. As of May 2015, the balance was \$10,683. (GEs 1- 3; Tr. 40-41.)

On June 25, 2015, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86) to renew his security clearance eligibility. In response to a financial record inquiry concerning whether, in the last seven years, he had failed to file or pay Federal, state, or other taxes when required by law or ordinance, Applicant indicated that he owed the IRS approximately \$3,000 for tax year 2013 and \$2,000 for tax year 2014 for not filing his 1099-R income tax form. Applicant explained that after the IRS asked him about the missing 1099-R from 2013 in May 2015, he obtained the form, and his wife met with their tax preparer to revise their return. He indicated that he was told that they could make payments for 2013, but that he had yet to revise their tax return for 2014. In response to delinquencies involving enforcement, Applicant listed the \$552 paid judgment from 2013. In response to any delinquencies involving routine accounts, Applicant listed his delinquent credit card debt (SOR ¶ 1.b). He indicated that he was working with the collection entity to settle the debt. (GE 1.)

On August 6, 2015, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Concerning his finances, Applicant indicated that in late June 2015, his spouse met with a local IRS representative to arrange for repayment of their 2013 tax debt and was told that they could make estimated payments or wait until they were billed by the IRS. He stated that he met with his tax preparer in July 2015 and completed an amended return for 2014 showing an estimated tax debt of \$2,000.² Applicant indicated that an agreement was made with the IRS to make no payments before their amended return for 2014 was processed. Applicant expressed his intention to pay his income tax debts as soon as possible. Applicant admitted that he also owed a delinquent \$10,683 credit card debt, but that he had been in contact with the collection entity and was in the process of arranging a repayment plan. He characterized his financial situation as good. (GE 2.)

On September 23, 2015, Applicant and his spouse entered into an installment agreement with the IRS to repay their 2013 tax debt at \$350 per month. They made payments in October 2015 and November 2015. Applicant's spouse apparently went to the local IRS office and made the payments in person. (Tr. 60.) In December 2015, the IRS credited \$350 from their 2014 taxes to their tax debt for 2013. There is no evidence of any further progress until April 2016, when the IRS applied \$1,294 of their tax refund for 2015 to their tax debt for 2013.³ Applicant could not explain why they failed to make their

² Applicant testified to his belief that he and his spouse had amended their income tax returns for 2014 because he "had the amended things in [their] 2014 returns. He admitted that he did not establish a repayment plan for 2014. He also indicated that he "might have been mistaken." (Tr. 63.)

³ Applicant testified that his spouse was in bed at that time because she had stated treatment for her illness in January. (Tr. 60.) However, that date cannot be reconciled with his previous testimony about her treatment. He testified that she was originally diagnosed in January 2015, had aggressive treatment and surgery until

installment payments. (Tr. 69.) On July 6, 2016, Applicant paid \$1,481 to fully resolve their federal income tax debt for 2013. (AE B; Tr. 58-59.) Applicant's spouse received \$1,500 from her employer as compensation for not having to cover her medical insurance because she is covered by Applicant's insurance. They used those funds to satisfy the tax debt. (Tr. 28.)

Applicant and his spouse filed amended federal and state income tax returns for 2014 on December 1, 2016, to report additional income of \$2,611 in 1099-R distributions.⁴ On adjusted gross income of \$146,587 for 2014, they reported owing \$653 in federal taxes and \$143 in state taxes. They submitted payment of the taxes with their returns. (AEs C, D.)

On August 25, 2016, Applicant paid \$10,683 in full settlement of the credit card debt in SOR ¶ 1.b. (AE A.) Applicant borrowed \$24,000 from his 401(k) at work to address the debt, and to put a new roof on his house. According to Applicant, his credit was not good enough to obtain a conventional loan from other sources. (Tr. 44.) Allowed a maximum of two concurrent loans against his 401(k), he had to wait until one of his loans was paid off. (Tr. 22-23, 29, 42-43.) Applicant has relied on loans of \$20,000 or more from his 401(k) to address home improvement issues, car payments, and college tuition for several years. He obtained his first loan, which was for \$33,000, when his first daughter started college in 2009. He then borrowed \$20,000 from his 401(k) "for either home improvements or to get a car." The loans are being repaid directly from his pay. His older loan will be paid off in mid-2017. The monthly payment on his new loan is \$500-\$550. (Tr. 44-47.) Applicant still has \$10,000 saved from his new 401(k) loan. (Tr. 54-55.)

During a six-month medical check in 2016, Applicant's spouse learned of a recurrence of her cancer, although of a different type. She was in treatment as of Applicant's hearing in late November 2016, although in contrast to 2015, she has not missed much time at work. (Tr. 31-32.)

Applicant's interview and the issuance of the SOR have led Applicant to realize that he has to handle his finances more responsibly, which includes budgeting for household expenses, although his spouse still handles bill payments. (Tr. 33-35, 53.) He intends to obtain financial help if he has difficulty managing their finances because he can afford their expenses on his income. (Tr. 35.) As of November 30, 2016, Applicant and his spouse had a budget showing \$940 in monthly discretionary income after paying \$1,717 toward his

approximately August 2015, and then entered a recovery phase followed by monthly checks, then three-month checks, and finally six-month checks. It was during a six-month check that recurrence was detected, and she was in treatment as of his hearing in late November 2016. (Tr. 31-32.) He subsequently confirmed that she started treatment in 2015, and that she has had some issues in 2016 but had not missed work for any extended periods. (Tr. 69.)

⁴ Applicant told an OPM investigator in August 2015 that an amended return to report income from a 401(k) withdrawal for 2014 had been filed in July 2015, but that it had not yet been processed by the IRS. The amended returns for 2014 dated December 1, 2016, were filed to report a \$2,611 1099-R distribution. Applicant explained that it was from a dividend distribution rather than a 401(k) withdrawal, so it may be another adjustment to income or Applicant was mistaken as to the nature of unreported income on his original tax returns for 2014.

mortgage, \$1,360 toward student loans obtained by Applicant in his name for his daughters' educations, \$335 on a credit card, and \$1,834 in other monthly expenses. (AE E.) Applicant's July 2015 credit report shows that Applicant opened a joint revolving credit card account in December 1996 on which he has made timely payments. As of July 2015, the account balance was \$19,261. Applicant's spouse had been paying on the monthly minimum on the debt. Applicant estimated the balance at \$18,000 as of late November 2016. (Tr. 35-36.) Applicant took out five federal student loans totaling \$77,025 for his daughters' educations. As of June 2015, the loans were in deferment with an aggregate balance of \$99,644. (GE 3.) Applicant made his first student loan payment in November 2016 toward a balance of \$106,000. (Tr. 35-37, 50-51.)

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 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

Although the SOR alleges a tax debt only for 2013, Applicant disclosed on his June 2015 SF 86 that he also owed federal income taxes for 2014 because of his failure to report 1099-R income. He explained in August 2015 that the 2013 taxes were from a premature withdrawal from his 401(k) to pay for his daughter’s college tuition. His amended return for tax year 2014 shows additional income of \$2,611 from a 1099-R distribution. Applicant also disclosed on his SF 86, as corroborated by his credit report, that he owed a \$10,683 credit card debt in collection. Three disqualifying conditions under AG ¶ 19 apply:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Regarding AG ¶ 20(f), Applicant and his spouse filed their income tax returns on time using a professional tax service. Their federal return for 2013 was processed in May 2014, and they received a refund. After conducting a review of unreported income in July 2015, the IRS assessed a tax liability of \$4,558. While issues of unreported income could raise concerns of fraudulent behavior, I am persuaded that Applicant did not intentionally

falsify his tax returns. The 1099 forms were sent electronically, and Applicant overlooked them. However, AG ¶ 19(f) is established because of his tax delinquency.

Application of the aforesaid disqualifying conditions triggers consideration of five 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, a death, divorce, or separation, clear victimization by predatory lending practices or identity theft), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

The debts at issue in the SOR were incurred too recently for mitigation under AG ¶ 20(a). Applicant began to fall behind on the credit card debt in June 2013, and his account was referred for collection in 2015. His income taxes for 2013 were due and payable in April 2014. As of the issuance of the SOR on June 8, 2016, Applicant had made no payment toward the credit card delinquency (SOR ¶ 1.b). While payments were made toward the 2013 tax debt between October 2015 and December 2015, Applicant admitted that he did not follow through on the installment agreement in 2016. After the IRS applied their income tax refund for 2015 in April 2016, Applicant and his spouse still owed \$1,481 plus penalties and interest. However, Applicant is credited with satisfying his 2013 taxes in July 2016 with funds paid to his spouse from her employer. He is also credited with resolving their tax liability for 2014 in December 2016, although no tax debt for that year was alleged.

Applicant's spouse's medical illness, which required aggressive treatment from January 2015 to August 2015, is a circumstance contemplated within AG ¶ 20(b). Applicant first learned of the federal tax debt for 2013 in approximately May 2015, when he was understandably preoccupied with his spouse's illness and care. He acted reasonably promptly to submit an amended return for tax year 2013, and in the process, he discovered

that he also had a 1099-R distribution for 2014 that had not been included on his and his spouse's joint tax returns. Applicant's handling of his unreported income for 2014 cannot provide a basis for disqualification because it was not alleged. It can be considered for other purposes, including assessing his reform.⁵ Applicant believed as of his November 30, 2016 hearing that he filed amended returns (federal and state) for 2014, although he was not certain. The 2014 amended returns in evidence are dated December 1, 2016. They were in the process of being completed by a tax service but apparently had not been filed as of his hearing. The new amended returns were to report a distribution of dividend income and not income from a premature 401(k) withdrawal that might have been the subject of an amended return that Applicant claimed was filed in July 2015.

Applicant testified that during one of his spouse's six-month medical checks, a recurrence of cancer was detected for which she is currently in treatment. Unlike 2015, his spouse has not lost much time at work, but a recurrence of her illness after she had aggressive treatment in 2015 could reasonably distract Applicant from focusing on his tax issues. Applicant did not understand the importance of his finances to his security clearance at the time.

AG ¶ 20(c) applies in part in that the debts in the SOR have been resolved. He has not had any of the financial counseling required under AG ¶ 20(c), even though his history of late payments on his home loan, monthly minimum payments on a large credit card debt (\$18,000-\$19,000), and repeated borrowing against his retirement suggest a need for such counseling. Despite annual wages of approximately \$124,000 since 2012, Applicant has carried two large 401(k) loans for several years. Applicant testified that he obtained a \$33,000 loan from his 401(k) in 2009 when his first daughter started college. He then borrowed \$20,000 "for either home improvements or to get a car because [he doesn't] like having payments." (Tr. 44.) He settled his credit card delinquency in SOR ¶ 1.b for \$10,683 by borrowing \$24,000 from his 401(k) in August 2016. Allowed only two concurrent loans against his 401(k), he had to wait until one loan was fully repaid before he could obtain a new loan. Borrowing against one's retirement is a legal means to address debts, but when repeated, it could indicate a failure to live within one's income. According to Applicant, his credit was not good enough to obtain a conventional loan through other means, but there is also no evidence that he tried to obtain a loan from another source.

AG ¶ 20(d), "the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts," and AG ¶ 20(g), "the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements," which pertains to tax issues specifically, have some applicability. After the IRS notified Applicant about the unreported 1099 income for 2013, he and his spouse filed an amended return in July 2015, entered into an installment plan

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. 09-07219 (App. Bd. Sep. 27, 2012).

with the IRS, and made some installment payments. His unexplained noncompliance with the plan in 2016 undermines his case for mitigation under AG ¶ 20(g) somewhat, but he demonstrated a willingness to repay his debts by fully satisfying his delinquent taxes for 2013 in July 2016 and for 2014 in December 2016.

Even where tax problems have been corrected and an applicant is motivated to prevent such problems in the future, the administrative judge is not precluded from considering an applicant's trustworthiness in light of prior behavior evidencing irresponsibility. See e.g., ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 2015). Applicant is likely to file his income tax returns on time in the future, and to report all sources of income, including 1099 distributions. He was proactive in paying a financial judgment in 2013 once he learned of it. He tried to settle his credit card debt in the spring of 2015, but the creditor wanted a lump-sum payment in an amount that he could not afford. On receiving notice from the IRS in May 2015 that they had neglected to report income from a 401(k) withdrawal, he and his spouse filed an amended return for 2013 and notified the local IRS office of a similar issue for 2014. Having reported the tax issue for 2014 on his SF 86, Applicant is not likely to have falsely claimed during his OPM interview that he and his spouse filed an amended return for 2014 in July 2015 if it had not been filed.

The issue going forward is Applicant's financial judgment generally and whether he can be counted on to pay his debt obligations, including any taxes owed. Applicant testified credibly that he now understands that he and his spouse have to manage their finances more responsibly by getting their budget in order. (Tr. 26, 34-35.) The credit report of record is from July 2015 and is too old to enable a good assessment of Applicant's current financial situation. While it reveals a history of late payments 30 to 60 days in 2014 and early 2015 on his mortgage, Applicant and his spouse had never been late in making their payments on the credit card with a \$19,261 balance. Applicant could benefit from some financial counseling, but he has taken responsibility for addressing his legitimate obligations. His household budget shows net monthly discretionary income of \$940, so Applicant has adequate income to manage his expenses. He testified to an intention to seek professional financial assistance if needed to ensure that he pays his debts on time in the future.

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(d).⁶ The analysis under Guideline F is incorporated in my whole-

⁶ The factors under AG ¶ 2(d) 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.

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

Applicant's tax problems were unintentional. He overlooked 1099 distributions that were required to be reported on his income tax returns in 2013 and 2014. As evidenced by his default on the credit card account in SOR ¶ 1.b, Applicant has not always exercised sound financial judgment. His practice of borrowing against his retirement also raises some concerns in that regard, although it weighs in his favor that the 401(k) loans were for college tuition for his daughters and for home improvements, such as a roof, and not for frivolous purchases.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990.) At the same time, the security clearance adjudication involves an evaluation of an applicant's current judgment, reliability, and trustworthiness in light of the security guidelines in the Directive. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). Concerns that Applicant may not comply with government rules because of his unintentional failure to report 1099 income and by his default of a credit card debt are allayed in that he has held a security clearance for years without any evidence of security violations. Especially now that he understands the security risk that can exist because of financial mismanagement, he is not likely to jeopardize the security clearance that he needs to maintain his employment by neglecting any financial obligations in the future. Mindful that security clearance decisions are not intended to punish applicants for past transgressions, 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
Subparagraph 1.a:	Withdrawn
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant

Conclusion

In light of all of the circumstances, 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