



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



In the matter of:	)	
	)	
REDACTED	)	ISCR Case No. 16-00591
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Douglas Velvel, Esq., Department Counsel  
For Applicant: *Pro se*

10/12/2017

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant had several accounts placed for collection or charged off. He filed his federal income tax return for 2014 late. His \$1,400 in federal tax delinquency has been satisfied by involuntary garnishment. Applicant has paid a \$496 education debt and some medical collection debts, but he lacks repayment plans for some debts. Applicant has not yet fully mitigated the concerns about his financial judgment. Clearance is denied.

**Statement of the Case**

On June 21, 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 August 4, 2016, Applicant answered the SOR allegations and requested a decision on the written record by an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On November 7, 2016, the Government submitted a File of Relevant Material (FORM), consisting of three exhibits (Items 1-3). DOHA forwarded a copy of the FORM to Applicant on November 8, 2016, and instructed him to respond within 30 days of receipt. Applicant received the FORM on November 17, 2016. He submitted an undated response that was received by DOHA around December 19, 2016. His rebuttal was accepted into the record without objection by the Government. On August 10, 2017, I was assigned the case to determine whether it is clearly consistent with national security to grant or continue a security clearance for Applicant. I accepted Applicant's rebuttal to the FORM as Applicant exhibit A (AE A).

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 supersede 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.<sup>1</sup>

### **Findings of Fact**

The SOR alleges under Guideline F that, as of June 21, 2016, Applicant owed charged-off debt totaling \$6,946 on five accounts (SOR ¶¶ 1.a-1.e), collection debts totaling \$5,437 on seven accounts (SOR ¶¶ 1.g-1.m), and \$1,400 in delinquent federal income taxes for tax year 2014 (SOR ¶ 1.o), after having failed to file a timely return for that tax year (SOR ¶ 1.n). Additionally, Applicant was 90 days past due in the amount of \$820 on a loan with a \$3,347 balance (SOR ¶ 1.f). When he answered the SOR allegations, Applicant denied only the debt alleged in SOR ¶ 1.i, which he indicated had been placed against him erroneously. He admitted that he had yet to make any payments toward the debts alleged in SOR ¶¶ 1.a, 1.c, and 1.e-1.g. He asserted that he had satisfied some medical collection debts (SOR ¶¶ 1.j-1.m); that he was making payments on two other debts (SOR ¶¶ 1.b, 1.d); and that his federal tax debt had been resolved through application of tax refunds for 2007 and 2015. Applicant indicated that he would begin repaying his remaining delinquencies "as soon as [his] current funds allow." (Item 1.) Applicant did not respond to SOR ¶ 1.h, which alleges an \$885 medical collection debt.

After considering the FORM, which includes Applicant's response to the allegations, and Applicant's rebuttal to the FORM (AE A), I make the following findings of fact.

Applicant is a 36-year-old high school graduate. He completed a four-month computer programming "boot camp" in November 2014 and was enrolled in some online

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

college classes as of April 2015. He is being sponsored for a security clearance to work as a computer programmer with a defense contractor.<sup>2</sup> (Item 1.)

Applicant was married to his first wife from May 2005 to August 2009. He married his current spouse in December 2014. Applicant has two children from his first wife, who are now ages 11 and 13. Applicant and his current wife have a three-year-old daughter. The FORM does not include any details about his child support obligation other than that he had been \$4,000 in arrears to his ex-wife, which he resolved in October 2011. (Item 1.)

Applicant provided information technology support for a local conferencing center from October 2003 to April 2006, when he left that job for better pay with his next employer. He worked as a personal computer support specialist with a local warranty-services business from April 2006 to August 2008, when he was laid off in a company downsizing. During that time, he and his first wife separated. She moved out of the marital home, even though it was in her name, and Applicant stayed. Applicant had two friends (Mr. X and Ms. Y) move in with him to share bills. Applicant worked as a full-time repair technician from August 2008 to May 2009, when he was laid off for lack of work. In July 2009, Applicant learned that the house was in foreclosure proceedings. By then, he and Ms. Y had a personal relationship, and they moved into a trailer together. Applicant worked as a temporary employee for a repair business until May 2010, when the company closed down. In June 2010, Applicant, Mr. X, and Ms. Y began renting a home together. In September 2010, Applicant began working full time as an information technology specialist for an automotive supply company. (Item 1.)

In July 2012, Applicant and Ms. Y ended their relationship. Applicant and Mr. X moved into an apartment. Applicant met his current spouse, and as their relationship developed, he decided to look for a new job in her locale. In August 2013, he resigned from his employment and joined his fiancée in a cohabitant relationship. In September 2013, Applicant began working as a full-time contract employee for a technical support company. In June 2014, he found himself without a job when his contract was not renewed. In August 2014, his fiancée moved in with her parents while Applicant began his four-month programming boot camp near his brother-in-law, who provided him a place to stay. After completing the boot camp, Applicant unsuccessfully tried to find a job in his brother-in-law's area. In January 2015, he rejoined his spouse. While unemployed from June 2014 to at least March 2015, Applicant was supported by his spouse's savings. He also had some funds from an apparent settlement received while he was unemployed, although he did not elaborate about the amount of the settlement. He and his spouse also obtained some financial help from her parents while living there. (Item 4.)

On April 15, 2015, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86). He indicated that he has been

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<sup>2</sup> Applicant listed an employer as of March 2015 on his April 15, 2015 SF 86, but he also stated, "I have been unemployed since my last position as a contract employee." He also indicated that he and his spouse were receiving financial assistance from her parents until they were both employed and had their own incomes. (Item 1.) The company listed on his SF 86 as his sponsor for security clearance eligibility is not the same company through which he was sent the SOR or FORM.

unemployed since June 2014 and elaborated that he and his spouse are receiving support from her parents while living in their home until they are both employed and have their own incomes. In response to a financial record inquiry concerning whether he had failed to file or pay federal, state, or other taxes in the past seven years, Applicant indicated that he had failed to file a federal return (SOR ¶ 1.n) and to pay about \$1,400 in estimated taxes owed for tax year 2014 (SOR ¶ 1.o) because he failed to receive a W-2 or other tax form reporting his income as a contractor. He indicated that he planned to file his return and pay his taxes when he receives the income information from his previous employer. He disclosed his \$4,000 child support arrearage that was resolved in 2011. In response to inquiries concerning delinquencies involving routine accounts, Applicant listed credit card delinquencies of \$446 from October 2009 (SOR ¶ 1.e) and \$300 from April 2013 (not alleged); an \$885 medical debt (SOR ¶ 1.h); defaulted loans of \$3,347 (SOR ¶ 1.f) and \$480 (not alleged); and \$3,720 in disputed education expenses (SOR ¶ 1.g) to an online university from which he withdrew before the class started. He expressed his intention to settle the credit card and loan debts as soon as he had a steady income. He also acknowledged that he had several student loans that were listed in default on his credit record, but they are deferred because he enrolled in a degree program. Applicant had recently enrolled in March 2015 in online classes. (Item 2.)

A check of Applicant's credit on May 5, 2015, revealed that he had several other accounts placed for collection or charged off. (Item 3.) A joint loan obtained to cover the cost of a medical procedure in June 2011 was charged off for \$2,967 in April 2013. (SOR ¶ 1.a). As of December 2016, Applicant had yet to arrange for repayment of this debt. He indicated that he would arrange for a potential settlement when he was finishing paying the debt alleged in SOR ¶ 1.c. (AE A.) In January 2012, Applicant obtained a vehicle loan for \$12,675, to be repaid at \$342 per month. In October 2013, this loan was charged off for \$2,018 (SOR ¶ 1.b). (Item 3.) He indicated in response to the SOR in August 2016 that he had been making monthly payments since February 2015 on the debt and that he could submit bank statements showing the payments. (Item 1.) In December 2016, Applicant explained that the debt was being repaid from his spouse's bank account. (AE A.) Applicant submitted no documentation showing those claimed payments or any information about the amount of the claimed payments.

Additionally, a credit-card account opened in December 2011 with a \$700 credit limit was charged off for \$997 in August 2013 (SOR ¶ 1.c). In August 2016, Applicant stated that he would begin repayment as soon as his current funds allow. (Item 1.) In December 2016, Applicant indicated that had "begun a repayment plan towards a settlement amount, to pay \$35 monthly for 6 months." (AE A.) Applicant provided no documentation of his claimed payments. A \$496 online-tuition debt from October 2013 was charged off in August 2014 (SOR ¶ 1.d). He asserted in August 2016 that he had established a repayment plan two months ago and had made his payments since then. (Item 1.) He explained in December 2016 that he had finished repaying the debt and had his transcript as proof. (AE A.) He provided no documentation.

In October 2009, Applicant opened a credit-card account with a \$250 credit limit. He stopped paying the debt after December 2009, and a \$446 balance was charged off in

November 2012 (SOR ¶ 1.e). (Item 3.) Applicant explained that he obtained the credit card when he was unemployed so that he could purchase groceries and medical supplies. Applicant expressed an intention to begin making payments toward a settlement amount of \$250 as soon as he has steady income. (Item 2.) As of December 2016, Applicant had no payment plan in place to resolve the debt, and explained, "I don't want to spread myself too thin and potentially incur more debt." (AE A.)

In April 2013, Applicant opened a credit-card account with a \$300 credit limit. As of January 2014, the original creditor was reporting a zero balance after transfer of his account. The collection account was not on his credit record as of May 2015 (Item 3), but Applicant indicated on his SF 86 that the debt was still outstanding. (Item 2.) Also in April 2013, Applicant obtained a secured loan for \$480 to be repaid at \$80 a month for six months. Applicant made no payments after August 2013, and in March 2015, his account was charged off. The creditor was reporting a zero balance after the charge-off as of May 2015 (Item 3), although Applicant indicated on his SF 86 that he had not paid the debt. (Item 2.)

In January 2013, Applicant obtained a loan for \$3,479 to be repaid at \$205 per month for 24 months. As of July 2013, his loan was 90 days past due in the amount of \$820 with a \$3,347 balance (SOR ¶ 1.f). (Item 3.) Applicant attributes the debt to insufficient income and increased medical bills due to chronic medical condition. As of April 2015, Applicant had made no payments. He planned to settle the account once he had steady income. (Item 2.) Applicant had yet to make any payments as of August 2016. (Item 1.) He did not address repayment of this debt in his rebuttal to the FORM. (AE A.)

In November 2014, an online university placed a \$3,270 tuition debt from June 2014 in collection (SOR ¶ 1.g). (Item 3.) Applicant indicated on his SF 86 that he had enrolled but then withdrew before classes started because he learned that he would have to pay \$3,720 out-of-pocket. On his SF 86, he admitted that he had made no payments, and stated, "I would like to settle with the school on this as I believe I do not owe this if I withdrew. I'm not sure if this school was some type of scam, but I will be paying this once I have a steady income and can set aside payments." (Item 2.) In response to the SOR, Applicant stated that he withdrew from the school "due to lack of communication from professors and advisors, falling prey to a scam for online school." Even so, he indicated that planned to repay the debt "as soon as current funds and situation allow." (Item 1.) As of December 2016, he explained that he "misunderstood the date to withdraw by without incurring full term payment." He expressed an intention to work out a payment plan after he resolved the debts in SOR ¶¶ 1.a and 1.f. (AE A.)

In January 2013, a medical debt of \$885 from July 2012 was placed for collection (SOR ¶ 1.h). (Item 3.) Applicant indicated on his SF 86 that the debt was for a medical device that he stopped using. He explained that he fell behind in his payments when his household income changed after he and his then significant other separated and he began to fall behind on his payments on several debts. As of April 2015, he had not made any payments. (Item 2.) In rebuttal to the SOR, Applicant discrepantly explained that he had opened a credit card account for groceries and medical supplies after his first marriage

ended. He indicated that he would be contacting the creditor to arrange for a payment plan. (AE A.)

In November 2014, a cable services provider placed a \$597 debt for collection (SOR ¶ 1.i). (Item 3.) Applicant indicated in August 2016 that he contacted the company two years ago to advise them that the equipment was being used by another resident and that the debt was “retracted” when the equipment was returned. (Item 1.) He clarified in December 2016 that he had left the equipment with a former roommate, and there was some confusion about the equipment being transferred to the roommate’s name. He had since contacted the cable provider to have the equipment applied to his former roommate’s account. According to Applicant, the debt was no longer on his credit record. (AE A.)

Applicant owed some medical debts in collection as of May 2015, including a \$337 debt from December 2012 (SOR ¶ 1.j). (Item 3.) Applicant asserted in August 2016 and again in December 2016 that the debt had been paid in full. (Item 1; AE A.) He provided a confirmation number for his payment in August 2016. (Item 1.) In December 2016, he provided evidence showing a payment of \$337 on August 2, 2016. (AE A.) In May 2014, a \$195 medical debt from October 2013 was placed for collection (SOR ¶ 1.k). (Item 3.) Applicant asserted in August 2016 and again in December 2016 that the debt had been paid in full. (Item 1; AE A.) He provided a confirmation number but no documentation confirming debt satisfaction or any information about the date of the payment(s). In November 2011, a \$101 medical debt from January 2011 was placed for collection (SOR ¶ 1.l). As of January 2012, the debt was unresolved. (Item 3.) Applicant provided a confirmation number for his payment in August 2016. (Item 1.) In December 2016, he provided evidence showing a payment of \$101 on August 2, 2016. (AE A.) In October 2013, a \$52 medical debt from October 2012 was placed for collection (SOR ¶ 1.m). As of February 2014, the debt was unresolved. (Item 3.) Applicant provided a confirmation number for the payment in August 2016. (Item 1.) In December 2016, he provided evidence showing a payment of \$57 on August 2, 2016. (AE A.)

Regarding his tax filing (SOR ¶ 1.n) and tax payment (SOR ¶ 1.o) delinquency for tax year 2014, Applicant stated in response to the SOR in August 2016, “Paid in full. Taken from this past year’s tax & ’07 returns.” (Item 1.) With his rebuttal to the FORM, Applicant provided payment receipts showing that he had paid \$50 on January 16, 2016, and \$60 on February 17, 2016, to the IRS, apparently under a payment plan that he had established with the IRS but then did not follow through. According to Applicant, the tax debt was resolved through an unplanned but necessary garnishment by the IRS. He was unable to find the documentation to prove the garnishment. (AE A.)

Applicant acknowledges the “several instances on [his] credit of obvious misjudgment on [his] part financially.” He explained that he made “hasty decisions while in dire predicaments after losing income with relationships concluding.” Additionally, he has a medical condition that requires medication and did not always have medical insurance. He apologized for his lack of contact with his creditors and indicated that he was working to the best of his ability to rectify his debts. (AE A.) Applicant did not provide any income or expense information.

## 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(a), 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 national security eligibility will be resolved in favor of the 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.

The Government met its burden of establishing a *prima facie* case for disqualification. Even discounting the disputed debt with the cable provider (SOR ¶ 1.i), which was on his credit record as of May 2015, Applicant defaulted on more than \$15,000 in consumer credit debt. He also owed past-due federal income taxes of approximately \$1,400 for tax year 2014. Three disqualifying conditions under AG ¶ 19 are implicated: ¶ 19(a), "inability to satisfy debts;" ¶ 19(c), "a history of not meeting financial obligations; and ¶ 19(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."

Applicant has the burden of presenting evidence of explanation, extenuation, or mitigation to overcome the security concerns raised by his delinquent debts and his failure to comply with his income tax filing obligation. Under the AG effective for any adjudication on or after June 8, 2017, a record of consumer and tax delinquency may be mitigated under one or more of the following conditions under ¶ 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 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;

(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; 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.

Mitigating condition AG ¶ 20(a) cannot reasonably apply. The consumer credit and medical debts were charged off or placed for collection within the last five years. The \$1,400 federal tax debt was due in 2015. As of December 2016, Applicant admitted that he had yet to make any payments or to arrange repayment plans for the debts in SOR ¶¶ 1.a and 1.e-1.h. He was disputing the debt alleged in SOR ¶ 1.i and had provided information to the creditor to research his and his former roommate's accounts.

Applicant has attributed his debts to financial misjudgment, but he also explained that he had low income and medical expenses when he was without health insurance coverage. Applicant has a credible case for partial mitigation under AG ¶ 20(b). He apparently has a chronic medical condition that requires ongoing medication treatment. Medically necessary expenses (SOR ¶¶ 1.h, 1.j-1.m) can trigger AG ¶ 20(b). An unexpected job layoff in May 2009 and the lack of stable income until September 2010 caused him to fall behind approximately \$4,000 in his child support. He held full-time employment from September 2010 to August 2013, when several of the debts in the SOR were incurred. He understandably gave priority to addressing his child support arrearage. After he and his then significant other terminated their personal relationship in approximately July 2012, he had to cover the full cost of his living expenses. More recently, Applicant was unemployed from June 2014 to at least March 2015, which compromised his ability to repay his past-due debts. While he took the risk that his contract would not be renewed, it is also evident that several factors outside of his control caused or contributed to his financial problems.

However, Applicant did not act fully responsibly in some aspects. As he now acknowledges, he should have stayed in contact with his creditors. Whether or not Applicant had the income to pay his federal income taxes for 2014 when they were due in April 2015, he had an obligation to submit his income tax return on time. Applicant described himself as a "contract employee" from September 2013 to June 2014. Not knowing any details of the contract, it is difficult to determine whether Applicant was an employee entitled to a W-2 wage and tax statement showing that amount of taxes withheld from his pay. If he was an independent contractor, he would have been responsible for paying his own income tax and self-employment tax. In that case, the company might have been required to issue a 1099-MISC Form to Applicant reporting what it paid to him. Either way, he had an obligation to follow up and request his income information from his former employer so that he could file his income tax return on time. The Appeal Board has held that the failure to timely file tax returns suggests a problem with complying with well-

established government rules and systems. See e.g., ISCR Case No. 14-04437 (App. Bd. Apr. 15, 2016.)

AG ¶¶ 20(c) and 20(d) have partial applicability, in that he has satisfied in full or is repaying some debts. Applicant provided documentation confirming that he paid the \$337, \$101, and \$52 medical debts (SOR ¶¶ 1.j, 1.l-1.m), although not until August 2, 2016, just two days before he responded to the SOR. He provided a confirmation number as proof that he paid the medical debt in SOR 1.k. A confirmation number on its own falls short of proving that a debt has been paid or settled. However, Applicant is unlikely to have fabricated a confirmation number that could be checked with his creditor. The timing of his debt resolution suggests that the SOR was the impetus for him to take action on these debts. Regarding the \$2,018 car loan (SOR ¶ 1.b), Applicant indicated that the payments for the debt are being made from his spouse's account, although he provided no record showing any payments or reduction of the balance. He indicated in rebuttal to the FORM that he has taken steps to address the \$997 credit card debt (SOR ¶ 1.c) by beginning a repayment plan towards a settlement amount that requires him to pay \$35 a month for six months. It is unclear when he started those payments, and whether the \$210 is the amount the creditor is willing to accept in full settlement or whether Applicant is required to make the six months of payments as a showing of good faith before the creditor will negotiate final settlement terms. He asserts, albeit without corroborating documentation, that the tuition debt in SOR ¶ 1.d has been paid. His admission that he has yet to make payments on approximately \$10,915 in undisputed debt (SOR ¶¶ 1.a, 1.e-1.h) lends credibility to his claims that the debts alleged in SOR ¶¶ 1.b and 1.c are being repaid, and that the tuition debt in SOR ¶ 1.d is resolved, however. Concerning the debts alleged in SOR ¶¶ 1.a and 1.e-1.h, Applicant indicated in rebuttal to the FORM that he had recently established payment plans with other creditors. This assertion without some detail or documentation proving such arrangements is not enough to establish either AG ¶ 20(c) or AG ¶ 20(d) to those debts.

AG ¶ 20(e) applies to the cable-equipment debt in SOR ¶ 1.i. Applicant was charged for cable equipment that he left behind with a roommate. There is no information that the equipment has been returned to the provider or transferred to Applicant's former roommate, but Applicant is working on resolving his dispute with the creditor. The debt no longer appears on his credit report.

Given Applicant's candid disclosure of his income tax return and payment issues for 2014 on his SF 86, his claim of tax resolution is viewed as credible. The two payment records that he submitted from the IRS show the reason for payment as "Amended Return." Applicant submitted his delinquent return sometime before January 2016. Regarding repayment of his tax delinquency for 2014, he presented evidence of only two payments totaling \$110 in early 2016. He stated in August 2016, "Paid in full. Taken from this past year's tax & 07 returns." In December 2016, he explained that "garnishment was not planned, but necessary to pay off the remaining balance." Whether the IRS intercepted his tax refunds or garnished his wages, neither is not considered a good-faith effort to resolve debts. However, AG ¶ 20(c) would apply in that the tax issues have been resolved.

## 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).<sup>3</sup> The analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

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 under the whole-person concept, 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 necessarily 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 demonstrate 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.

See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). Even accepting Applicant's uncorroborated claims that the car loan in SOR ¶ 1.b is being repaid from his spouse's account, that the tuition debt in SOR ¶ 1.d has been satisfied, and that he has a settlement agreement for the debt in SOR ¶ 1.c, Applicant still owes approximately \$10,915 in delinquent debt on which he has made no payments. Having chosen to rely on the written record, it was incumbent on Applicant to provide sufficient information to supplement the record with relevant and material facts regarding his circumstances. Not enough is known about Applicant's current financial situation for me to conclude that he is likely to resolve his remaining delinquent debts in the near future. Applicant indicated that he was actively working within the best of his ability to rectify his debts, but I cannot speculate about these efforts. He presented no income or expense information showing that he can afford to make payments under terms acceptable to his creditors. It is well settled that once a concern arises regarding an applicant's

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<sup>3</sup> 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.

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 (9<sup>th</sup> Cir. 1990.) Applicant's candor on his SF 86 about his financial difficulties weighs in his favor. Yet, based on the evidence before me, I am unable to conclude that it is clearly consistent with the national interest to grant security clearance eligibility for Applicant.

### **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, Financial Considerations:	Against Applicant
Subparagraph 1.a:	Against Applicant
Subparagraphs 1.b-1.d:	For Applicant
Subparagraphs 1.e-1.h:	Against Applicant
Subparagraphs 1.i-1.o:	For Applicant

### **Conclusion**

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

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Elizabeth M. Matchinski  
Administrative Judge