

extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 1 through 7. Applicant did not provide a response to the FORM, object to the Government's evidence, or submit documents. The Government's evidence is admitted. The case was assigned to me on June 11, 2018.

Findings of Fact

Applicant admitted all of the SOR allegations. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 47 years old. He attended college, but did not earn a degree. He married in 1995. He has four children, ages 18, 19, 21, and 27 years old, and one stepchild, age 26 years old. In his July 2016 security clearance application (SCA), he disclosed he has been self-employed since 2008. His August 2017 background investigation summary indicated he works for a federal contractor, though it is unknown for how long. It appears Applicant's self-employment is on a part-time basis.¹

Applicant disclosed in his SCA that he had delinquent debts. He attributed them to financial mismanagement and a tight budget. Applicant disclosed the following status for different delinquent debts: debt was in collection; payment arrangement was being made; debt had been charged off and a balance was due; had contacted the creditor to make a payment arrangement; and had contacted the creditor and set up a payment plan. He provided the following statement: "I am working improving my money management skills. Recently my wife and I completed a Dave Ramsey course to improve our money management."²

During his August 2017 interview, Applicant confirmed to the government investigator that the debts alleged in SOR ¶¶ 1.a, 1.g, 1.h, 1.i, 1.k, 1.l, 1.m, 1.n, 1.o, and 1.p belonged to him. The debt in SOR ¶ 1.k is a repossessed vehicle. He told the investigator he had a payment plan with the creditor, but had not made payments since May 2016. He said he had contacted the cell phone provider in SOR ¶ 1.g and had plans to pay this debt. He had not contacted any of the other creditors indicated above and had made no attempt to pay these delinquent debts. The debts date back to 2010.³

Applicant explained to the investigator that he made poor financial decisions over the years and became overextended. He was paying his children's college tuition and extracurricular activities, which became more than he could financially afford. He intended to pay his delinquent debts. His children were supposed to graduate college in August 2017. Once that happened, he planned to pay his student loans and his cell phone debt in full. He planned to seek the help of a credit service professional. He said that the total

¹ Items 2, 3.

² Item 2.

³ Item 3.

amount of his delinquent debts was not very high and could be resolved very quickly. He did not want to file bankruptcy.

The debts in the SOR are corroborated by Applicant's admissions and credit reports from November 2016 and September 2017. The delinquent debts include student loans, vehicle repossession, personal loans, insurance, cell phone service, and other consumer debts. The total delinquent amount alleged is approximately \$27,827. Three of Applicant's delinquent debts are under \$100.⁴

In Applicant's answer to the SOR, he stated he was working on "getting the debt cleared up and planning on joining my employee financial resource center program."⁵ He stated:

I currently have two sons in college and one on the way this fall. I didn't plan good enough for the cost of education and thus my personal budget took a hit. After the repossession I self-reported what happened. I had to take the credit hit so my sons could get [an] education and wouldn't be burdened with excessive loans. I am working to improve my situation.⁶

Applicant provided a character letter from his pastor. He is described as a man of integrity and committed to his family. He has been a benefit to the church with his help. He has a strong character and stable lifestyle.⁷

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used 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 overarching 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.

⁴ Items 1, 2, 3, 4, 5.

⁵ Item 1.

⁶ Item 1.

⁷ Item 1.

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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining 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 an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to 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 concern relating to the guideline for financial considerations is set out 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.

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has numerous unresolved delinquent debts and student loans from at least 2010. He is unable or unwilling to satisfy the delinquent debts. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 are potentially applicable:

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

Applicant has a history of not meeting his financial obligations. Some of his debts date back to 2010 and continue to the present. He disclosed many of the delinquent debts during his 2016 background interview and indicated he had taken a financial management course to resolve them. During his 2017 background interview, he told the investigator he had not addressed his delinquent debts despite confirming some were ones he had previously disclosed. Applicant did not provide evidence that he has paid, resolved, or is resolving any of the delinquent debts alleged. There is insufficient evidence to conclude his financial problem are unlikely to recur. Applicant's failure to pay even the smallest

delinquent debts cast doubt on his current reliability, trustworthiness, and good judgment. AG ¶ 20(a) does not apply.

Applicant attributed his financial problems to poor financial management, a tight budget, and having children in college. These are not conditions beyond his control. He stated in his July 2016 SCA that he participated in a financial management course. However, he failed to provide evidence that he has addressed any of his delinquent debts. The evidence does not support a finding that Applicant's financial problems were beyond his control or that he acted responsibly under the circumstances. AG ¶ 20(b) does not apply.

Based on his SCA disclosure, there is evidence Applicant has received financial counseling. However, there is insufficient evidence to conclude there are clear indications that his financial problems are being resolved or under control. No documented evidence was provided to show Applicant has made a good-faith effort to repay any of his overdue creditors. He stated in his SOR answer that he is working on improving his financial situation, but failed to provide evidence of actions to pay, resolve, or make payment arrangements with his creditors. AG ¶¶ 20(c) and 20(d) do not apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

Applicant is 47 years old. He attributed his financial problems to poor money management and a tight budget. Applicant prioritized his children's college education over

paying his delinquent debts. Although it is understandable that he wanted to help his children, he has done so to the detriment of his total financial well-being and has subsequently accumulated delinquent debts that remain unresolved. In addition, some debts date back to 2010 and 2012, likely well before his children started college. He has not made payments to resolve any of delinquent debts, three of which are under \$100. Applicant has not met his burden of persuasion. The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline F, financial considerations.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
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Subparagraphs 1.a-1.q:	Against Applicant
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Conclusion

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

Carol G. Ricciardello
Administrative Judge