



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



In the matter of:)
)
) ISCR Case No. 14-06619
)
Applicant for Security Clearance)

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: Thomas Albin, Esq.

10/21/2015

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant and his spouse began to struggle to pay their expenses and debts due to a loss of income in 2011. They began repaying some debts through a debt management plan (DMP), and between November 2011 and February 2015, they made \$16,815 in payments. Applicant borrowed \$25,000 from his retirement savings to pay off his remaining past-due debt. Clearance is granted.

Statement of the Case

On January 21, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, Financial Considerations, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue his security clearance eligibility. The DOD CAF took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant received the SOR on January 30, 2015. Applicant answered the SOR allegations on February 13, 2015, and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 21, 2015, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On April 30, 2015, I scheduled the hearing for May 28, 2015.

The hearing was convened as scheduled. Before the introduction of any evidence, the Government stipulated that the debts identified in SOR ¶¶ 1.a, 1.i, 1.j, and 1.k had been paid recently. Four Government exhibits (GEs 1-4) were admitted into evidence without objection. A chart, prepared by Department Counsel as a supplement to his oral closing argument, was accepted into the record as a hearing exhibit (HE 1). Applicant submitted eight exhibits (AEs A-H), which were received into the record with no objections.¹ Applicant, his spouse, and a colleague from his work testified, as reflected in a transcript (Tr.) received on June 3, 2015.

At Applicant's request, I held the record open for two weeks for him to submit additional documents. On June 11, 2015, Applicant submitted two exhibits (AEs I-J). The Government filed no objections by the June 22, 2015 deadline for comment, and the exhibits were accepted into evidence.

Findings of Fact

The SOR alleges that as of January 21, 2015, Applicant owed charged-off credit card debt totaling \$17,945 (SOR ¶¶ 1.a-1.c, 1.h); collection debt totaling \$5,673 (SOR ¶¶ 1.d-1.e, 1.j-1.l); medical debt totaling \$358 (SOR ¶¶ 1.f-1.g); and a \$1,464 credit card judgment debt (SOR ¶ 1.i). When he answered the SOR, Applicant admitted that he had owed the debts, but that they were no longer delinquent. After considering the pleadings, exhibits, and transcript, I make the following findings of fact:

Applicant is 57 years old, and he has worked for a defense contractor since December 2002. He started as a pipefitter and ten months later became an inspector at an hourly wage. He was promoted to the salaried position of quality inspection supervisor around January 2014. Applicant has held a secret security clearance since April 2004. (GE 1; Tr. 31-34.)

Applicant served on active duty in the United States military from July 1976 to October 1980, when he was honorably discharged. Applicant earned his Graduate Equivalency Diploma (GED) around 1976 while serving in the military. Applicant served in the National Guard from June 1985 to June 1987. He served in a military reserve unit from June 1994 to June 1996. (GE 1.)

Applicant and his spouse married in November 1976. They owned their first home from July 1983 to September 2006, when they bought their current residence. They have

¹ Counsel for Applicant retained AE G so that he could submit a copy after the hearing. He submitted the document by email on June 16, 2015.

three grown children: daughters age 32 and 34 and a son age 39. (GE 1; Tr. 70-71.) Around 2009, their youngest daughter moved back home with her three children, now ages 10, 12, and 14. Their daughter was unemployed and received food assistance and insurance coverage for the children through the state, but Applicant and his spouse gave her some financial help. (Tr. 50-51.)

Applicant and his spouse also became legal guardians and provided a home for her niece and his nephew. The niece, now 14, has been living with them for the past five or six years. They supported the nephew, who lived with them for 10 years before he joined the military three years ago. (GE 1; Tr. 34-37, 47-48.) Applicant and his spouse have received no financial assistance for either the niece or the nephew. (Tr. 38.) Applicant's spouse handled the family's finances because of Applicant's work schedule, which included business travel. (Tr. 67.)

In September 2001, Applicant and his spouse bought a timeshare at a resort through a loan for \$10,791. Available credit information shows that the loan was paid off in October 2005, but that they then had another timeshare loan of \$15,286 that was paid off in July 2006. In July 2011, they went to the resort and renegotiated for a larger unit that would accommodate their grandchildren. They took on a loan of \$10,724 that they are repaying at \$177 per month. (GE 3; Tr. 145-149.)

In 2011, Applicant and his spouse began to struggle to pay their expenses and their credit card debt, which at one time exceeded \$33,000. (GE A; Tr. 121.) They incurred credit card debt for home repairs, emergency expenses, and necessities, such as groceries. After the engine blew in her vehicle in 2011, Applicant borrowed \$9,000 from his retirement savings account at work to purchase a car for his spouse. (Tr. 144.)

Applicant and his spouse entered into a DMP in November 2011. In return for a \$40 monthly fee, they contracted with a debt consolidation firm to negotiate a lower interest rate on their credit card accounts included in the plan. They started with two credit card debts totaling \$10,264.67: a revolving charge with a tire retailer of \$767.67 and a \$9,497 revolving charge with a department store.² They later added eight credit card debts totaling \$24,317 to the DMP, but some of the creditors, including the creditor in SOR ¶ 1.a, were not willing to accept repayment through the DMP. Applicant and his spouse made monthly payments of \$412.50 in 2012 and of \$326 from January 2013 through January 2015 into the DMP. After a \$280 payment in February 2015, they terminated the DMP and closed their account. Of the \$16,815.50 paid into the DMP, \$15,236.93 was disbursed to their creditors. (AEs A, D, F; Tr. 42-43, 59-60, 67, 72-77, 104-105.)

Applicant's spouse had worked for a medical practice since 1993. In February 2012, with her job in jeopardy because the practice was being sold, she left for a position with another medical provider. Her income went from \$19.89 an hour with her previous employer to \$18 an hour. Six months later, she moved on to another physician's office at

² Applicant's spouse testified that the creditor owed the \$9,497 preferred to receive payments from them rather than through the DMP and that she has been paying \$216 per month since 2011 on her closed VISA card account with the creditor, which has a balance of \$4,800. (Tr. 120-121, 124.)

\$16 an hour. She stayed there only for a short time because of “things that went on in the office.” For three months, from late 2012 into 2013, Applicant’s spouse collected unemployment compensation of \$200 a week, which was less than her previous income of \$600 to \$700 a week. Applicant and his spouse fell behind in their mortgage and home equity loan payments, although not more 30 days. (GE 2.) Applicant’s spouse then worked for another medical practice at \$17 an hour for one year before that practice was sold. (Tr. 40, 80-84.)

Applicant’s and his spouse’s wages totaled \$94,919 in 2012. She had received \$3,408 in unemployment compensation that year. They also had \$74,455 in taxable pension and annuity income. (AE G.) Applicant’s spouse had taken a \$75,000 loan from her pension sometime before February 2012. The loan was for some home improvements. When the medical practice was sold, she could not satisfy the loan. She received an IRS Form 1099-C cancellation of debt. (Tr. 136.) Also in 2012, they took an early distribution of \$5,294 from a qualified retirement plan, \$3,500 of which was subject to income tax. They received a federal income tax refund of \$3,151 after claiming five exemptions. They claimed as dependents their niece and also two grandchildren because their daughter was unemployed. (AE G; Tr. 137.)

Applicant took advantage of available overtime and worked 359 calendar days in 2013. (Tr. 41.) Applicant and his spouse’s adjusted gross income totaled \$128,418 in 2013, which included wages of \$123,017, IRA distributions of \$3,687, and her \$1,714 in unemployment compensation. (AE G; Tr. 45.) They overpaid their federal income taxes by \$7,011. (AE G.)

Applicant and his spouse were billed for unpaid water and sewer taxes at approximately \$300 per year, which they ignored because they had a well and did not realize they had to pay the tax. After their town filed for a judgment against them, Applicant and his spouse paid about \$1,100, of which \$357.70 was refunded to them in April 2014. (AE E; Tr. 109-111.)

In January 2014, Applicant was promoted to a salaried supervisory position at work. (Tr. 32.) On March 19, 2014, he completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP). In response to a financial record inquiry concerning whether he was currently seeking assistance for financial difficulties, Applicant disclosed his and his spouse’s involvement with the DMP since November 2011 to consolidate their debts. He added that 50% of their household “bills” were paid off, and that they had no credit cards. As for financial difficulties involving enforcement in the last seven years, Applicant listed two small claims credit card judgments of \$1,843 (SOR ¶ 1.i, duplicated in SOR ¶ 1.e) and \$1,540 (SOR ¶ 1.i, duplicated in SOR ¶ 1.j), which they were repaying at \$35 each per week. He attributed the debts to his spouse’s job loss. (GE 1.) On March 31, 2014, Applicant’s spouse started her current job in billing for a medical practice at \$19 an hour. (Tr. 82-84.)

A check of Applicant’s credit on April 2, 2014, revealed some delinquencies on his record. A \$1,464 credit card judgment was filed against him in November 2013 (SOR ¶ 1.i,

duplicated in SOR ¶ 1.j). The account had been charged off for \$1,149. Applicant's account in SOR ¶ 1.a had been placed in collection for \$10,400. As of November 2012, Applicant owed \$9,960 on the debt. In April 2013, the account in SOR ¶ 1.l was placed for collection for \$1,843. A credit card opened in October 2007 was in collection for \$3,542 due to nonpayment since August 2012 (SOR ¶ 1.c). A wireless phone debt of \$1,591 was placed for collection in January 2014 (SOR ¶ 1.d). A \$312 revolving charge debt was in collection since December 2013 (SOR ¶ 1.k). A \$68 medical debt from March 2012 was in collection (SOR ¶ 1.g). Applicant's credit card account with the lender identified in SOR ¶ 1.b had a delinquent balance of \$4,464 as of September 2013. Some credit card accounts were rated as current and being addressed through the DMP. Applicant and his spouse were making timely payments on their \$210,000 mortgage opened in September 2006 (balance \$187,358), on a \$14,200 home equity line of credit opened in July 2008 (balance \$7,431), on a \$9,999 secured loan opened in January 2010 (balance \$2,542), and on a \$10,724 timeshare loan opened in July 2011 (balance \$9,523). (GE 3; AE B.)

On April 15, 2014, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM) about his finances. Applicant explained that he and his spouse incurred some unforeseen expenses between 2011 and 2012 involving their house and cars that coincided with a reduction in their household income. He could not name the creditors involved in the DMP under which he and his spouse were paying approximately \$300 a month to resolve \$20,000-\$25,000 in remaining debt. When confronted about the other debts on his credit record, Applicant was unaware of some of the debts (SOR ¶¶ 1.a, 1.d, 1.k) and believed others were covered under an umbrella policy of the DMP (SOR ¶¶ 1.b, 1.j). He indicated that he had arranged to make payments on the credit card debt in SOR ¶ 1.c in the past and that he would resume payments. Applicant indicated that he and his spouse were now in solid financial shape because of his overtime earnings and his spouse's new job. Having paid down some of their debts, Applicant expressed his intent to pay their remaining debt as soon as possible. (GE 4.)

As of November 2014, Equifax was reporting that Applicant owed delinquent balances totaling \$22,136 (SOR ¶¶ 1.a-1.h, 1.i). The \$312 debt in SOR ¶ 1.k had been settled on a payment of \$237 in late May 2014. (GE 2; AE C; Tr. 101-102.) Applicant reportedly owed \$29 on the credit card judgment (SOR ¶ 1.i, duplicated in ¶ 1.j).³ The original lender in SOR ¶ 1.e, who had filed a judgment against Applicant, was reporting a high credit of \$1,843 (SOR ¶ 1.l) but a balance of \$778 (SOR ¶ 1.e).⁴ (GE 2.) Applicant and

³Available credit records (GEs 2, 3) show Applicant had four credit card accounts with the same lender, which were opened in October 1999, January 2000, June 2000, and April 2001. The oldest account, which went to judgment, was not included in the DMP. Applicant's spouse testified that the \$29 debt in SOR ¶ 1.h is from one of the accounts included in the DMP. They did not realize that they owed unpaid interest of \$29, which they resolved through a payment of \$48 due to interest. (Tr. 97-98.) Available financial records instead indicate that the \$29 debt is owed on the account #529107 (GE 2), which is the account that apparently went to judgment. (AE B.)

⁴Applicant's spouse initially testified that the debt in SOR ¶ 1.e is the same account as the judgment in SOR ¶ 1.i. (Tr. 92.) Available account information suggests instead that the credit card account in SOR ¶ 1.j went to judgment, as reflected in SOR ¶ 1.i. As of November 2014, Applicant reportedly owed \$29 on the debt, as alleged in SOR ¶ 1.h. The \$1,843 debt in SOR ¶ 1.l appears to be the same debt as the debt in SOR ¶ 1.e. (GEs 2, 3.) Applicant's spouse subsequently expressed her belief that the debt in SOR ¶¶ 1.e and 1.l were the

his spouse continued to pay \$35 a week toward the credit card judgment in SOR ¶ 1.i (duplicated in SOR ¶ 1.j) and satisfied the credit card judgment before January 12, 2015. (AE B; Tr. 93-94.)

Applicant and his spouse's adjusted gross income for 2014 totaled \$134,805. (AE G.) In December 2014, Applicant paid off a loan against his retirement savings at work. (Tr. 43.) On January 30, 2015, Applicant applied for a \$25,000 loan from his retirement savings plan. The loan is to be repaid at \$208.48 biweekly from March 2015 to February 2020. The payments are being taken directly from Applicant's pay. (AE H; Tr. 43, 53, 88, 118.) The \$25,000 was deposited into Applicant's personal checking account on February 11, 2015. Payments were then made to satisfy or settle the debts in the SOR as shown in AE I: on February 13, 2015, a negotiated sum of \$2,998 on SOR ¶ 1.a (Tr. 76), \$4,414 on SOR ¶ 1.b (Tr. 85-86), \$3,542 on SOR ¶ 1.c (Tr. 89),⁵ \$358 in final satisfaction of SOR ¶ 1.e (duplicated in SOR ¶ 1.l) (Tr. 108), and \$289 on SOR ¶ 1.f (Tr. 96-97); and on February 17, 2015, \$1,590 on SOR ¶ 1.d. (AE I; Tr. 90.) Applicant and his spouse understand that they will have to report the debt cancelled by the creditor in SOR ¶ 1.a on their income tax returns for tax year 2015. (Tr. 79-80.) According to Applicant's spouse, the debt in SOR ¶ 1.g was owed to a primary care physician, and it too has been paid. (Tr. 131-132.)

Applicant's spouse testified that the entire \$25,000 went to pay off something. They paid off some accounts that were not in collection. (Tr. 128-129.) They also used some of the loan monies as down payment for two used cars in 2014. The transmission went on one of the vehicles. (Tr. 128, 140.) The evidentiary record contains no detail about the cost or the purchase date for either vehicle.

Applicant's spouse is in the process of creating a household budget. (Tr. 141.) Their monthly expenses include their mortgage payment of \$1,610, \$162 on their home equity loan, \$258 on their secured loan, \$216 on her closed credit card account, and \$177 for the timeshare. (GE 2; Tr. 145.) Applicant's current base salary is \$74,000 annually. He works on average six days a week. (Tr. 54-55, 66.) In the spring of 2015, Applicant's spouse received a raise to \$20 an hour. (Tr. 84.) Applicant's 32-year-old daughter has been employed part time for the past 18 to 24 months. (Tr. 49-50.) She receives about \$500 a month in food assistance from the state for her children. (Tr. 51.)

As of May 2015, Applicant expected to pay about \$3,000 of the \$10,000 in funeral costs for his father, who had recently died. The rest of the funds would come from his father's insurance. Applicant's mother moved in with Applicant's sister around April 2015. Applicant tries to help her financially, although it is not a large expense. (Tr. 38-39, 52.)

A quality inspection supervisor, who supervised some of Applicant's work from 2005 until Applicant was promoted to a supervisory position, found Applicant to be very dedicated and responsible. Applicant could be counted on "to get the job done right the first time." (Tr. 19.) Applicant has shared with this colleague that he has had some financial

same debt. (Tr. 103.)

⁵ The check, dated February 11, 2015 (AE J), cleared on February 13, 2015. (AE I.)

issues because of his large family, but that he is working on them. (Tr. 23-24.) This quality inspection supervisor has no hesitation or concerns about recommending Applicant for a security clearance. (Tr. 24.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern about financial considerations is 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.

Applicant and his spouse incurred more than \$33,000 in credit card balances. Some of the debts were resolved through payments from December 2011 to February 2015 to a DMP. However, other creditors would not accept payment through a DMP. The Guideline F concerns are established in that several of Applicant's accounts were charged off or placed for collection. The credit card debt in SOR ¶ 1.j went to judgment, as alleged in SOR ¶ 1.i. Although not alleged as a judgment debt, Applicant indicated on his e-QIP that the debt in SOR ¶ 1.l (duplicated in SOR ¶ 1.e) went to judgment as well. As of November 2014, Equifax was reporting several outstanding delinquent balances, as set forth in SOR ¶¶ 1.a-1.h. The \$1,464 credit card judgment from 2013 (SOR ¶ 1.i, duplicated in SOR ¶ 1.j) had not yet been released. Disqualifying conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations," apply.

However, the \$1,149 debt in SOR ¶ 1.j does not represent an additional debt balance from the judgment in SOR ¶ 1.i. Similarly, Applicant did not owe \$778 (SOR ¶ 1.e) in addition to the collection balance in SOR ¶ 1.l. There is a limited basis to apply AG ¶ 20(e), which provides:

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

As for other mitigating conditions, the extent and recency of Applicant's delinquent accounts removes from serious consideration AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under circumstances that it is unlikely to recur and does not cast doubt on the individual's current, reliability, or good judgment."

Applicant has cited several factors to explain his financial struggles. He and his spouse took in a nephew and a niece, and they continue to care for the niece, who is 14-years-old. They have provided housing and other financial support for their daughter and her children for the past five or six years. Applicant's spouse left her longtime job in February 2012 voluntarily, but after learning that her job was in jeopardy. Over the next year, she held a succession of jobs for lower pay than her previous employment. During a

period of unemployment from late 2012 into 2013, her unemployment compensation was but a third of her income when she was working. Since March 2014, her income has approached what she earned in 2011 and early 2012. In addition, Applicant's and his spouse's federal income tax return for 2012 shows that they had to pay taxes on \$74,455 in pension funds withdrawn by his spouse for home improvements. She did not know and could not reasonably have foreseen that her then employer was being acquired by another medical practice, and that she would have to repay the pension monies or report it as income. Although they received a refund for 2012, that refund would likely have been higher but for the reported pension income. Applicant's spouse's vehicle had transmission problems in 2011, around the time that they began to have trouble meeting all their expenses. Some of these circumstances are contemplated within AG ¶ 20(b), which provides:

(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.

There is some indication of questionable financial decisions on Applicant's and his spouse's part, such as the purchase of a larger timeshare in 2011 when they were feeling the burden of their credit card debt. They acted responsibly by pursuing a debt consolidation of some debts. They made regular payments from December 2011 until March 2015, when they terminated their DMP and instead chose to pay their debts through a loan from his retirement savings. Not all of their creditors, such as the creditor in SOR ¶ 1.a, agreed to accept payments under the DMP, however. Applicant's credit report shows that the debt in SOR ¶ 1.a had no activity after June 2011. The \$4,414 and \$3,542 delinquent balances in SOR ¶¶ 1.b and 1.c were charged off after no activity since 2012. The \$290 medical debt was placed for collection in 2014. They were making timely monthly payments of \$1,610 on their mortgage, \$162 on their home equity loan, \$258 on their secured loan, \$216 on her closed credit card account, \$326 to the DMP, and \$177 for the timeshare. Presumably they had other monthly household expenses, but Applicant did not provide the budget information that could perhaps justify the delay in addressing the SOR debts when his and his spouse's adjusted gross income was \$128,418 in 2013 and \$134,805 in 2014. Applicant has not adequately explained how a \$1,591 delinquent cell phone balance (SOR ¶ 1.d) was incurred in his name. Applicant's responsibility to his creditors did not turn on the fact that his spouse handled their finances.

Applicant has a stronger case for mitigation under AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts." Applicant and his spouse resolved some of their credit card debts not alleged in the SOR through the DMP, into which they made payments totaling \$16,815 between November 2011 and February 2015. They also made the payments that resolved the judgment debt in SOR ¶ 1.i (duplicated in SOR ¶ 1.j) before the SOR was issued. They settled the \$312 debt in SOR ¶ 1.k with a payment of \$237 in late May 2014. They made payments to reduce the \$1,843 debt in SOR ¶ 1.l (duplicated in SOR ¶ 1.e), which was apparently brought to judgment, to approximately \$358 as of late January 2015. On receipt of the SOR on

January 30, 2015, Applicant applied for a \$25,000 loan from his retirement savings at work. The funds were disbursed on February 11, 2015. Over the next week, Applicant and his spouse satisfied Applicant's outstanding delinquent debt. In the case of SOR ¶ 1.a, they settled for a negotiated balance.

The resolution of Applicant's delinquent debts also implicates AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control." However, the fact that he had to borrow the funds to address his remaining debt raises some concern about whether his and his spouse's financial situation is sufficiently under control to present an acceptable security risk going forward. In that regard, Applicant and his spouse have paid their mortgage and home equity loans on time, for the most part. They were late no more than 30 days twice on the home equity loan in 2012 and four times on their mortgage from late 2012 into 2013. They have made timely payments on the \$9,999 secured loan opened in January 2010. As of October 2014, the balance was only \$989. Additionally, Applicant has not opened new credit card accounts in the past two years. He is not continuing to accrue credit card debt that could stress their finances in the future. The \$25,000 loan is being repaid directly from his pay, so that debt is likely to be paid off, provided Applicant remains employed. The financial considerations concerns are mitigated.

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 his conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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.

The financial analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant has a good work record with a defense contractor, as evidenced by his promotion to a salaried supervisory position in January 2014. Well before the SOR was issued, Applicant and his spouse recognized that they were struggling financially and took responsible steps to address their mounting debt through the DMP. Applicant worked overtime for extra income to support his family and pay his creditors. As of late May 2015,

his spouse was in the process of creating a household budget that could help them maintain financial stability.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases, stating:

[A]n 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 his actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) (Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.) There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted).

Applicant and his spouse have addressed their debts through legal means. Applicant's spouse owes about \$4,800 in outstanding credit card debt on which she is making regular payments. Applicant is not likely to jeopardize the employment that he needs to support his family by engaging in any illegal means to generate funds. He understands the importance of maintaining good credit. After considering all the evidence, including the impact of circumstances beyond Applicant's control, 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-1.i: For Applicant

Conclusion

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

Elizabeth M. Matchinski
Administrative Judge