



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



In the matter of:)
)
 ---) ISCR Case No. 14-06744
)
 Applicant for Security Clearance)

Appearances

For Government: Ray T. Blank, Jr., Esquire, Department Counsel
For Applicant: *Pro se*

06/20/2016

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is denied.

Statement of the Case

On September 19, 2013, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.¹ On July 24, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December 29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective

¹ Item 4 (e-QIP, dated September 19, 2013).

September 1, 2006. The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD CAF was unable to make an affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

It is unclear when Applicant received the SOR as there is no receipt in the case file. On September 4, 2015, Applicant responded to the SOR allegations and elected to have his case decided on the written record in lieu of a hearing.² A complete copy of the Government's file of relevant material (FORM), erroneously referring to the case as an application for a position of public trust, was mailed to Applicant on January 19, 2016, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Guidelines applicable to his case. Applicant received the FORM on January 28, 2016. A response was due by February 27, 2016. Applicant timely submitted documentation in response to the FORM. Department Counsel did not object to the documents. The case was assigned to me on May 2, 2016.

Findings of Fact

In his Answer to the SOR, Applicant admitted with brief comments six of the factual allegations pertaining to financial considerations (¶¶ 1.a. through 1.d., 1.g., and 1.j.), and denied the remaining allegations, also with brief comments. Applicant's admissions and comments are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 37-year-old employee of a defense contractor. He has been a gateway operations specialist with his current employer since November 2006. He was previously in a different position with his same employer from March 2005 until he was promoted in November 2006.³ He is a 1996 high school graduate with a 2005 associate's degree in an unspecified discipline.⁴ Applicant enlisted in the U.S. Army in August 1996 and remained on active duty until he was honorably discharged in September 2001.⁵ He was granted a secret security clearance in 2000, a top secret (TS) security clearance with access to Sensitive Compartmented Information (SCI) in 2008, and a renewed TS/SCI in 2013.⁶ Applicant was married in June 1998. He and his

² Item 2 (Applicant's Answer to the SOR, dated September 4, 2015).

³ Item 4, *supra* note 1, at 11-12.

⁴ Item 4, *supra* note 1, at 9-10.

⁵ Item 4, *supra* note 1, at 16-17; Item 8 (Personal Subject Interview, dated April 29, 2014), at 2.

⁶ Item 4, *supra* note 1, at 33; Item 8, *supra* note 5, at 3. It is unclear if Applicant's access to SCI was previously administratively terminated or if it was revoked when his SOR was issued. The file is otherwise silent in this regard. If Applicant's access to SCI was, in fact, revoked in connection with the issues appearing in the SOR,

wife have two sons born in 1999 and 2005, respectively.⁷ He also has a son from a previous relationship, born in 1996.⁸

Financial Considerations⁹

It is unclear when Applicant first experienced financial difficulties, but in reviewing his comments to an investigator from the U.S. Office of Personnel Management (OPM) as well as his Response to the FORM, it appears that Applicant attributed several factors to whatever financial problems may have arisen commencing as early as 2006 or 2007. The first such factor occurred during the period April 2005 until January 2006, when Applicant was deployed as a civilian contractor to Iraq. He was unaware that (1) income tax was not being withheld from his salary; (2) to his surprise, his overseas income was not tax-free, and the state taxed the salary of those deployed overseas; and (3) upon his return from overseas, his employer erroneously continued to report that he was still overseas. As a result of those factors, no state or federal taxes were withheld from Applicant's salary while he was overseas or for a period after he had already returned. The problem was discovered when Applicant presented his income tax papers to a professional income tax return preparation service. Substantial amounts of income taxes were determined to be owed to both the state and the Internal Revenue Service (IRS).¹⁰

The resolution process described by Applicant is less than clear. It appears that Applicant contacted the state and set up a repayment plan with an unspecified amount to be deducted from his salary each pay period; and his income tax refunds were to be applied directly to the state. Despite those two methods of purported resolution, the state filed income tax liens against Applicant in 2005 (\$317), 2010 (\$5,201), and 2012 (\$190). The IRS filed a federal income tax lien in 2011 (\$30,986). Applicant contended that as of 2012, \$100 is deducted from his paycheck on a monthly basis, and he claimed that he had documentation to support his contention. In reality, Applicant submitted pay stubs from two recent consecutive pay periods which reflected an increased withholding of \$100 for his federal taxes and \$50 for his state taxes. He submitted no documentation to support the supposed "payments," and he failed to submit any documentation to support the existence of any state or federal installment or repayment plans.¹¹

Applicant would also be entitled to a separate security clearance review process under the provisions of E.O. 12968, *Access to Classified Information*, dated August 2, 1995; DOD Reg. 5200.2-R, *Personnel Security Program*, dated January 1987, as amended and modified; and Intelligence Community Directive (ICD) 704, *Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Program Information*, dated October 1, 2008.

⁷ Item 4, *supra* note 1, at 22-23.

⁸ Item 4, *supra* note 1, at 22; Item 8, *supra* note 5, at 2.

⁹ General source information pertaining to the financial issues discussed below can be found in the following exhibits: Item 5 (Combined Experian, TransUnion, and Equifax Credit Report, dated November 1, 2013); Item 6 (Combined Experian, TransUnion, and Equifax Credit Report, dated April 10, 2014); Item 7 (Equifax Credit Report, dated January 14, 2016); Item 8, *supra* note 5; Item 4, *supra* note 1; Item 2, *supra* note 2. More recent information can be found in the exhibits furnished and individually identified.

¹⁰ Item 8, *supra* note 5, at 5-6; Applicant's Response to the FORM, undated, at 1.

The second factor that Applicant attributed to the financial issues was the expiration of the deferment status of his student loans, along with the expectation that he should start making his monthly payments. Applicant stated that when that occurred, the interest on the loans skyrocketed. Because of an inability to continue making his monthly payments, the student loans went into a default status and they were transferred, first to a servicing agent, and then to the U.S. Department of Education (DOE), for collection. Applicant claimed he made periodic payments, and in August 2013, a repayment plan with an associated garnishment was purportedly established. He contended that \$394.18 is garnished from his wages each month. In his two recent pay stubs, there is an indication of a monthly deduction of only \$302.33, not the stated \$394.18. Applicant also submitted a Form 1098-E, *Student Loan Interest Statement*, for the tax year 2015. It reflected the payment of interest in the amount of \$2,201.93 only while the loans were in a default status. Other than those interest payments, there is no documentation to support Applicant's contentions that there were repayment agreements or repayments before 2015.¹²

The third factor attributed to the financial issues was Applicant's wife's unspecified period of unemployment.¹³ He failed to indicate either the length of the period or the amount of her lost monthly wages.

In April 2014, Applicant described his monthly family finances. He stated that the monthly household income was \$5,417, with his biweekly salary of \$1,600 and his wife's biweekly salary of \$900 after taxes. He claimed their monthly expenses, including student loan payments and child support, were between \$3,481 and \$3,581, depending on the utilities. He estimated a monthly remainder of between \$1,836 and \$1,936 available each month available for discretionary saving or spending. He indicated the payments for child support (\$264.55) and his car (\$240) would cease in mid-2014, and those funds would subsequently be spent to reduce his outstanding bills.¹⁴ However, according to his January 2016 pay stub, Applicant was still paying \$404.18 for child support, an obligation that supposedly ceased in mid-2014.¹⁵

Applicant professed that he has a repayment plan in place for the eventual resolution of his delinquent accounts. Under one segment of that plan, he calculated that his resolution of his federal income tax debt would take approximately six years provided he makes a "payment" of \$100 each pay period. He said he is working with a family friend who is a financial counselor, and she gives him unspecified financial guidance "to stay on top of his payments." He contended that funds for three accounts are automatically withdrawn from his paycheck, and when one bill is satisfied, the next one in line will start receiving payments.¹⁶ He did not submit any further information pertaining to the financial counselor

¹¹ Item 6, *supra* note 9, at 5-7; Item 8, *supra* note 5, at 6; Item 2, *supra* note 2, at 1; Applicant's Response to the FORM, *supra* note 10, at 2; Pay Stubs, dated December 17, 2015 and January 28, 2016, attached to Applicant's Response to the FORM.

¹² Item 4, *supra* note 1, at 36; Item 6, *supra* note 9, at 15; Item 7, *supra* note 9, at 2; Item 8, *supra* note 5, at 3; Pay Stubs, *supra* note 11; Form 1098-E, dated January 13, 2016, attached to Applicant's Response to the FORM.

¹³ Item 8, *supra* note 5, at 3.

¹⁴ Item 8, *supra* note 5, at 6-7.

¹⁵ Pay Stub (2016), *supra* note 11.

or the guidance received, and he did not furnish a written copy of his prioritized list of delinquent creditors.

The SOR identified ten purportedly continuing delinquent accounts, totaling approximately \$98,851. Included in those delinquent accounts are the three state income tax liens (SOR ¶¶ 1.a. through 1.c.), the federal income tax lien (SOR ¶ 1.d.), the student loans (SOR ¶ 1.j.), and five other accounts. As noted above, although Applicant repeatedly indicated that he was “paying” certain accounts, he failed to submit any documentary evidence of those purported payments. There is no documentary evidence as to when those “payments” started, to which creditors they were made, or what the present unpaid balances might be. Payments were made on the student loans in December 2015 and January 2016, but there is no documentary evidence of payments to other creditors. This is especially significant since Applicant’s most recent credit report (January 2016) does not reflect payments or reduced remaining balances on the tax liens or other listed delinquent accounts. Accordingly, I conclude that the tax liens alleged in SOR ¶¶ 1.a through 1.d. are not being resolved. There is some evidence that the account alleged in SOR ¶ 1.j. is in the process of being resolved. The remaining SOR-related delinquent accounts are as follows:

SOR ¶¶ 1.e. and 1.f. – These are two medical accounts from an unidentified medical provider with past-due balances of \$55 and \$90 that Applicant claimed were for medical services for his wife. Applicant said they were copays for which he never received a bill. He contended she paid the bills in their entirety once he discovered the accounts were considered delinquent. Applicant acknowledged that he did not possess documentation to support his claim that the bills were paid, and in April 2014, he indicated he would contact the collection agent to verify the bills had been resolved.¹⁷ In his Answer to the SOR he stated the bills were paid, and he attached receipts from the medical provider that both accounts had been resolved and the entries would be deleted from his credit reports.¹⁸ He also submitted duplicate copies of a check for \$15 claiming that he was refunded his overpayment, but there is no evidence that the check was associated with either of the SOR-related accounts.¹⁹ Nevertheless, the accounts have been resolved.

SOR ¶ 1.g. – This is an automobile loan for Applicant’s Volvo in the approximate amount of \$23,000 for which there was a past-due amount of \$23,225. The account was charged off in the amount of \$10,731, and it was transferred or sold to a debt purchaser who then increased the past-due balance to \$27,741. Applicant indicated that the vehicle was involved in an accident and his insurance carrier kept telling him a representative of the company would investigate his claim. No investigation occurred and Applicant stored the vehicle. He claimed he had repeatedly contacted the lender regarding the situation, but that they kept shuttling him around to various offices. He

¹⁶ Item 8, *supra* note 5, at 7; Pay Stub (2016), *supra* note 11; Applicant’s Response to the FORM, *supra* note 10, at 1-2.

¹⁷ Item 6, *supra* note 9, at 8-9; Item 8, *supra* note 5, at 5.

¹⁸ Item 2, *supra* note 2, at 1; Letters, dated September 3, 2015, attached to Applicant’s Answer to the SOR.

¹⁹ Item 2, *supra* note 2, at 1; Check, dated August 24, 2015, attached to Applicant’s Answer to the SOR.

was purportedly informed in 2010 that he could get out of the loan, initially with a payment of \$10,000, but subsequently with a payment of \$3,000. In April 2014, Applicant indicated nothing had yet been agreed to and that he generally received collection calls every four to five months, but they refused to permit him to speak with a manager. He added that if the delinquent account causes him any problem with his security clearance, he will use funds from his 401(k) to pay off the debt. In his more recent Response to the FORM, Applicant still had taken no further action to resolve the debt.²⁰ The account has not been resolved.

SOR ¶ 1.h. – This is an automobile loan in the amount of \$21,248 for Applicant’s Infinity with a high credit of \$628 and a past-due balance of \$366. An unspecified amount was charged off. In April 2014, Applicant indicated this automobile loan was associated with the purchase of his Volvo, but in his Answer to the SOR, Applicant acknowledged it was actually associated with his Infinity. He contended this vehicle was also “totaled,” and that his insurance company had taken care of the charges. He failed to submit any documentation to support his contentions regarding the account or his claimed resolution of it.²¹ The account has not been resolved.

SOR ¶ 1.i. – This is a bank credit card with a high credit and past-due balance of \$403 that was sold to a debt purchaser. In April 2014, Applicant gave a confusing scenario regarding the account. Applicant first became aware of the delinquencies in 2008. He claimed that his wife had made payments on the account and thought she had paid it off. He also said that he had paid \$403 but not the accrued interest about which he claimed to have no knowledge. He said he intended to contact the initial creditor to determine the true status of the account, and if it is still an open account, he would pay it off and furnish documentation to the OPM investigator.²² Applicant failed to submit documentation to support his contentions that he had contacted the creditor or any payments had been made to the creditor or the collection agent. The account has not been resolved.

Other than his April 2014 comments to the OPM investigator, Applicant failed to furnish a more recent and accurate personal financial statement setting forth his net monthly income; his monthly household expenses; and his monthly debt payments. In the absence of such information, it is impossible to determine if he has any monthly remainder available for savings or spending. He previously claimed to have between \$1,836 and \$1,936 available each month available for discretionary saving or spending, and he indicated the payments for child support and his automobile would cease in mid-2014, enabling him to address his other delinquent accounts. That information was apparently not accurate. He also stated he had a retirement account with an unspecified balance. Under the circumstances, it is difficult to determine if Applicant’s finances are under control or if

²⁰ Item 6, *supra* note 9, at 9; Item 7, *supra* note 9, at 3; Item 8, *supra* note 5, at 4-5; Applicant’s Response to the FORM, *supra* note 10, at 1.

²¹ Item 6, *supra* note 9, at 10, 16; Item 8, *supra* note 5, at 5; Item 2, *supra* note 2, at 1.

²² Item 6, *supra* note 9, at 11, 16; Item 7, *supra* note 9, at 4; Item 8, *supra* note 5, at 5; Item 2, *supra* note 2, at 1-2.

he is still experiencing financial difficulties. Other than some extremely modest payments to some delinquent accounts (both alleged in the SOR and others that are not alleged), as well as extremely modest increased income tax withholdings, there is little indication that Applicant has actually resolved the majority of his delinquent accounts. Accordingly, it appears that Applicant's financial problems are not under control.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance."²³ As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so."²⁴

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging 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. 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 meaningful decision.

In the decision-making process, facts must be established by "substantial evidence."²⁵ The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation,

²³ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

²⁴ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

²⁵ "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

extenuation or mitigation, sufficient to overcome the doubts raised by the Government's case. The burden of disproving a mitigating condition never shifts to the Government.²⁶

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the 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. Furthermore, "security clearance determinations should err, if they must, on the side of denials."²⁷

Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."²⁸ Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. 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.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out 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. . . .

²⁶ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

²⁷ *Egan*, 484 U.S. at 531.

²⁸ See Exec. Or. 10865 § 7.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly, under AG ¶ 19(c), “a history of not meeting financial obligations” may raise security concerns. Applicant has had a long-standing problem with his finances which started as early as 2006 or 2007, and which is apparently continuing. State income tax liens were filed against him in 2005, 2010, and 2012, and a federal income tax lien was filed in 2011. Student loans went into default and various other accounts became delinquent and were placed for collection. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where “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.” Also, under AG ¶ 20(b), financial security concerns may be mitigated where “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.” Evidence that “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” is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.”²⁹

AG ¶¶ 20(b) and 20(d) minimally apply. AG ¶¶ 20(a) and 20(c) do not apply. The nature, frequency, and recency of Applicant’s continuing multi-year period of financial difficulties since 2006 or 2007 make it difficult to conclude that it occurred “so long ago” or “was so infrequent.” Likewise, his claimed relationship with a family friend who supposedly is a financial counselor giving him unspecified financial guidance, in the absence of documentation supporting those claims, is insufficient to raise AG ¶ 20(d). Applicant attributed his financial problems to the income tax mix-up of 2005 and 2006, the expectation to start paying his student loans, and his wife’s unspecified period of unemployment. The income tax issue focused on the unpaid balances which evolved into tax liens. Two of the state tax liens were for minimal amounts of \$190 (2012) and \$317 (2005). Applicant never addressed why he failed to pay those amounts before

²⁹ The Appeal Board has previously explained what constitutes a good-faith effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the “good-faith” mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant’s debts. The Directive does not define the term “good-faith.” However, the Board has indicated that the concept of good-faith “requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.” Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy [or statute of limitations]) in order to claim the benefit of [the “good-faith” mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

they turned into tax liens. Likewise, he could not explain why he did not make timely payments on his student loans, except to say that the interest on those loan skyrocketed. The student loans went into a default status. Other accounts went unpaid and were placed for collection. The loss of Applicant's wife's salary could reasonably have a negative impact on Applicant's ability to make his monthly payments on his accounts. However, he never explained what the loss was in dollars, or how long that unemployment situation lasted.

Despite Applicant's contentions that he contacted, or would contact, creditors or collection agents to establish repayment plans, or that payments were actually made, no meaningful documentation was submitted by Applicant to support his contentions. He supplied documentation indicating student loan interest payments totaling \$2,201.93 were made in 2015, as well as one monthly payment in 2016; increased withholding of taxes, but no actual payments of overdue income taxes; and the payment of two very small (\$55 and \$90) delinquent medical bills. He apparently also paid off some medical bills not listed in the SOR. Applicant's professed monthly remainder of between \$1,836 and \$1,936 in April 2014, to be increased in mid-2014, should have enabled Applicant to contact each creditor and either establish a repayment agreement or make substantial payments on each of his delinquent accounts. Monthly remainders in those amounts since April 2014, and most especially since mid-2014, if properly applied, should have paid off by now all of Applicant's delinquent accounts, with the exception of the federal income tax lien. Applicant's failure to furnish documented proof of the resolution of those delinquent accounts enables me to conclude that he made no good-faith efforts to do so. If consistent substantial payments had been made on the federal tax lien, the remaining balance would have been greatly reduced by now.

Security clearance adjudications are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The adjudicative guidelines do not require an applicant to establish resolution of each and every debt alleged in the SOR. An applicant need only establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in an SOR be paid first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts one at a time. In this instance, there is an alleged plan to resolve financial problems, but there is little documentation to support the existence of such a plan. There are purported actions taken and some insignificant payments made to some creditors, but, with the exception of those insignificant payments, there is little documentation to support the existence of most Applicant's actions or payments. Applicant has not acted responsibly by failing to address his delinquent accounts and income tax liens.³⁰ Applicant's relative action under the circumstances confronting him cast substantial doubt on his current reliability, trustworthiness, and good judgment.³¹

³⁰ "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

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(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.

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. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.³²

There is some evidence in favor of mitigating Applicant's conduct. He has been with his current employer in different positions since March 2005. He served in Iraq as a civilian contractor. He is an honorably discharged veteran. He was granted a secret security clearance in 2000, a TS security clearance with access to SCI in 2008, and a renewed TS/SCI in 2013. There is no evidence of criminal conduct, security violations, or the misuse of information technology systems.

The disqualifying evidence is more substantial. Applicant failed to timely pay federal and state income tax and income tax liens were filed against him in 2005, 2010, 2011, and 2012. His student loans went into default. Accounts became delinquent and were placed for collection. He repeatedly declared his intentions to contact his creditors and resolve his delinquent account. He contended that repayment plans had been established and payments made for many of his accounts. He claimed to have documentation supporting his contentions, but aside from a few minor insignificant medical bills, he failed to furnish documentation to confirm the establishment of repayment plans or payments made. What he claimed were payments, were actually increased withholdings for end-of-the-tax-year application and resolution. His declared monthly remainder of funds for discretionary saving or spending remained unsubstantiated, and if true, would have enabled Applicant to resolve nearly all of his debts before the FORM was issued. Applicant's financial problems do not appear to be

³¹ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

³² See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); See also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	Against Applicant
Subparagraph 1.j:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, 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.

ROBERT ROBINSON GALES
Administrative Judge