



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS and APPEALS**



In the matter of:)
)
) ISCR Case No. 14-00204
)
Applicant for Security Clearance)

Appearances

For Government: Gregg Cervi, Esq., Department Counsel
For Applicant: *Pro se*

12/08/2014

Decision

HEINY, Claude R., Administrative Judge:

Applicant contests the Department of Defense’s (DoD) intent to deny his eligibility for a security clearance to work in the defense industry. He has an unpaid \$22,000 repossession obligation and four additional delinquent accounts totaling more than \$11,000. He provided false answers on his Electronic Questionnaires for Investigations Processing (e-QIP). He failed to rebut or mitigate the security concerns under Guideline F, financial considerations, and Guideline E, personal conduct. Clearance is denied.

History of the Case

Acting under the relevant Executive Order and DoD Directive,¹ on March 14, 2014, the DoD issued an SOR detailing security concerns. DoD adjudicators could not find that it is clearly consistent with the national interest to grant or continue Applicant’s security clearance. On April 2, 2014, Applicant answered the SOR and requested a

¹ 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.

hearing. On May 14, 2014, I was assigned the case. On July 14, 2014, the Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing for the hearing to be convened on July 17, 2014. For good cause that hearing was continued. On July 30, 2014, the Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing for the hearing convened as scheduled on August 12, 2014. I admitted Government's Exhibits (Ex) 1 through 5. Applicant testified, but provided no documents.

The record was held open to allow Applicant to submit additional information. Additional material (Ex. A through H) was submitted and admitted into the record without objection. On August 19, 2014, DOHA received the hearing transcript (Tr.).

Findings of Fact

In Applicant's Answer to the SOR, he denied two debts (unpaid rent SOR 1.g, \$4,231, and cable charges SOR 1.h, \$3,391) and admitted the remaining charged-off, collection, and past-due accounts. He neither admitted nor denied falsifying his September 2013 e-QIP (SOR 2.a). I incorporate Applicant's admissions as facts. After a thorough review of the pleadings, exhibits, and testimony, I make the following additional findings of fact:

Applicant is a 35-year-old field manager who has worked for a defense contractor since August 2013, and seeks a security clearance. (Tr. 18) He has worked full-time for the same employer since March 2012. (Tr. 22, 37, 56) His annual salary is \$72,000. (Tr. 40) From February 2002 through August 2011, he served in the U.S. Army. (Ex. 1) He separated with an honorable discharge as a staff sergeant (E-6). (Tr. 31) He receives \$1,000 monthly in U.S. Department of Veterans Affairs (VA) benefits. (Tr. 82) His total annual income is approximately \$84,000.

Applicant called no witnesses other than himself and produced no work or character references. At the hearing he provided no documents concerning his delinquent accounts.

In April 2011, Applicant was released from the Army, and he used vacation time and "RR time" until August 2011 when his actual separation from the Army occurred. (Tr. 23) After separating from the Army, Applicant was unemployed one month, from August 2011 through September 2011. (Ex. 5, Tr. 21) At the hearing, he asserted the period of unemployment was longer because he had been released from duty prior to his actual separation date. (Tr. 24) When Applicant left the Army, he received a letter from a DoD contractor offering employment. (Tr. 32) When the contract was not funded, he did not receive a job. (Tr. 32) He was employed as an engineer from September 2011 through July 2012,² when he obtained employment with his current employer. (Ex. 1) Upon leaving the service, he was required to repay a portion of the \$12,000 reenlistment bonus he had received in 2009. (Tr. 30, 50, 119)

² During Applicant's employment with this company he was unemployed the month of February 2012 (Tr. 55)

Applicant is married and has four children ages 8, 10, 11, and 13. (Tr. 43) His wife is currently not working outside the home. (Tr. 41) His mother-in-law is currently staying in his home. (Tr. 43) When not living with him, he sends his mother-in-law \$100 monthly and pays an additional \$80 monthly for her telephone. (Tr. 46, 47)

Applicant states he needs a clearance to do his job. He asserted he attended several finance courses and financial planning seminars. (SOR Answer) In August 2013, his employer referred him to credit counseling, which he received on-line. (Tr. 58) In the on-line financial course, which he described as extensive, he learned about priorities, contacting debtors and creditors, challenging debts, how to fix a credit report, how late payment notices affect credit, collection agencies, and accountability for one's debts. (Tr. 61, 62, 66) At the date of the hearing, he was currently receiving online financial counseling from an independent financial counselor. (Tr. 67) He is trying to teach his children better financial management. (Tr. 62)

The counseling started before he completed his September 2012 e-QIP. (Tr. 59) He asserted he would pay off a good percentage of the delinquent debt if given a year's time. In April 2014, he again asserted that significant progress would be made if given the opportunity to maintain a clearance. (SOR Answer) A military department store credit card debt was paid by garnishment. (Tr. 63) The garnishment started in February 2013 and \$700 monthly was taken from his pay to collect the \$5,000 debt. (Tr. 63) He has contacted four of his delinquent creditors. (Tr. 65)

In October 2013, Applicant was questioned about each of his debts. (Ex. 5) In April 2014, he admitted the debts were his debts. (Tr. 118, SOR Response) Since October 2013, one debt has been paid by garnishment. At the time of the hearing, August 2014, no other debts had been paid.

While in the Army, Applicant had three loans (SOR 1.b, \$4,379; SOR 1.c, \$2,781; and SOR 1.d, \$2,741), which were paid by allotment. The allotments stopped when he separated from the Army. One debt is 120 days or more past due and the other two loans have been charged off.

At the time of the hearing, Applicant had \$28,000 in his checking account and \$7,000 in a 401(k) retirement plan. (Tr. 71, 72) Six months ago, he borrowed \$3,000 from his retirement plan which he used to purchase handicap equipment for his mother-in-law. (Tr. 72, 122) He has earmarked \$20,000 from his checking account to pay taxes. (Tr. 73) His company had paid him \$20,000 to pay his federal taxes. (Tr. 121)

Since June 2014, Applicant has had a large amount of overtime. The week before the hearing he had worked 77 hours. The week before that it was 90 hours. (Tr. 75) Applicant's annual salary is \$72,000 based on a 50-hour work week. (Tr. 76) During the two months prior the hearing, from mid-June 2013 to mid-August 2014, he worked 650 hours for his employer. (Tr. 119) He owes between \$8,500 and \$9,000 on a 2010 Dodge car. (Tr. 78) He has made timely \$440 monthly payments on the car for two and a half to three years. (Tr. 78, 79) He asserts his rent and all other monthly debts are current. He has a company credit card with a zero balance and a debit card. (Tr. 81) His

monthly net remainder (income less monthly payments) is approximately \$1,000. (Tr. 82)

In October 2013, Applicant was questioned concerning his financial delinquencies. (Ex. 5) In August 2005, his wife purchased a truck on which payments were made until June 2007. (Ex. 2, 3, Tr. 123) The truck was repossessed, and in August 2007, the account was charged off. (Ex. 2, 3, Tr. 83, 123) As of October 2013, he had no intention of making payments on the \$22,000 debt (SOR 1.a), but intended to wait for the seven-year statute of limitations to render the debt unenforceable. (Ex. 5) During the interview, he stated the \$4,231 collection account was for a loan and that he would be making arrangements to pay the delinquent debt. (Ex. 5) At the hearing, he stated this was an amount that a rental company was attempting to collect for unpaid rent. He stated he obtained orders for assignment to Turkey and the rental company would not let him out of the lease.

Applicant agreed he was at least 120 days past due on a \$4,379 delinquent loan, which he stated he would make arrangements to pay. (Ex. SOR 1.b) In his October 2013 interview, he stated he was making payments on the \$2,781 charged-off account (SOR 1.c). He was unable to recall the amount he was currently paying on the debt. He alleged he was making arrangements to pay off the \$2,741 account (SOR 1.d). He asserted he was making arrangements to pay off the \$430 credit card account (SOR 1.e), \$113 credit card account (SOR 1.f), \$4,231 loan (SOR 1.g), \$806 loan (SOR 1.i), \$656 loan (SOR 1.j), \$400 loan (SOR 1.k), \$271 loan (SOR 1.l), and the \$120 loan (SOR 1.m). (Ex. 5)

On Applicant's September 2013 e-QIP, he indicated his wages had been garnished to pay a \$5,000 delinquent account. He indicated the garnishment paid the account in full. In response to the question in Section 26, which asked him about repossessed property, default on debts, debts turned over to a collection agency, accounts charged off, suspended or cancelled, or debts more than 120 days delinquent, he answered "no." (Ex. 1) Applicant asserts he did not understand the question and did not believe he was 120 days past due on any account. (Ex. 5) At the hearing he stated he completed the form while he was overseas and did not have any financial documents with him. (Tr. 114) However, he had reviewed his credit report the month before completing his e-QIP when he started financial counseling. (Tr. 143) He also stated he believed his September 2014 e-QIP was only an update and related only to debts not included on his earlier e-QIP. (Tr. 114) He stated he did not mean to be untruthful. (Tr. 115)

Following the hearing, Applicant settled and paid off the delinquent \$430 charged-off account listed in SOR 1.e and the \$113 charged-off account in SOR 1.f. (Ex. D, E, G, and H) He paid a \$120 collection account for insurance (SOR 1.m) and a \$400 collection account for insurance (SOR 1.k) He made a \$109 payment and a \$218 payment on a \$656 debt (SOR 1.j) and asserts he is going to make three more payments to pay off the debt. (Ex. E). He made a \$268 payment on a \$3,133 debt (SOR 1.c) and asserts he is going to make a total of 12 payments total of the same amount to pay off the debt. (Ex. E). He had made three payments totaling \$455 toward the \$806

telephone bill listed in SOR 1.i. (Ex. E and H) He asserted he was working towards his goal of being debt free while maintaining his current bills in good standing. (Ex. F)

In September 2003, shortly after joining the Army, Applicant made a sworn statement concerning his financial problems. At that time, he had delinquent credit card accounts and utility accounts. (Ex. 4) He attributed his financial difficulties to getting a credit card at a young age and not having the knowledge or experience to deal with the debt.

Applicant wishes to reconcile his financial problems and needs a clearance and a job to make that happen. (Tr. 116-117) He wants to pay his debts, but is hesitant because of job security. (Tr. 131) He has money in the bank, but should he not receive a clearance he would need those funds to pay living expenses. (Tr. 142)

Following the hearing, Applicant provided documentation that he did not owe the cable debt (SOR 1.h, \$3,391), that he had paid two insurance debts (SOR 1.k, \$400; SOR 1.m, \$120 and two credit card debts (SOR 1.e, \$430; SOR 1.f, \$113). (Ex. A, E, F, and H) He also documented having made eight payments on three other delinquent debts (SOR 1.i, \$806; SOR 1.j, \$656; SOR 1.c, \$2,781). He showed he had paid \$2,160 following the hearing.

	Creditor	Amount	Current Status
a	Pickup truck repossessed 2005. (Tr. 83)	\$21,969	Unpaid. In 2005, while Applicant was station in Korea, Applicant's wife traded in their car for the truck. (Tr. 83) Monthly payments were \$500 to \$600, which he made until June 2007. The vehicle was repossessed and the debt charged off. (Ex. 2, Ex.3, Tr. 83, 123) He acknowledged owing the debt and stated that if he needed to pay the debt he would. (Tr. 85)
b	Loan account 120-days past due. Terms required \$287 monthly payments. (Tr. 124)	\$4,379	Unpaid. In June 2010, Applicant obtained the loan while on active duty. It went past due when payments stopped in 2011 when he left the service. (Tr. 85) He plans to pay the debt.
c	Loan account charged-off. Terms required \$175 monthly payments.	\$2,781	One payment made. (Ex. E) After leaving active duty, Applicant failed to make payment on the loan opened in August 2009. (Tr. 87, 124) Following the hearing he provided documentation he had made one \$268.08 payment. (Ex. E) He asserted that was the first of 12 payments settling the \$3,133 debt. (Ex. A)

	Creditor	Amount	Current Status
<i>d</i>	Loan account charged-off.	\$2,741	Unpaid. Applicant failed to make payment on the loan obtained in November 2009, after leaving active duty. (Tr. 87, 124)
<i>e</i>	Credit card account charged off.	\$430	Paid. Following the hearing, he paid \$300 to settle the debt. (Ex. D)
<i>f</i>	Bank charged-off bank account.	\$113	Paid. As of the hearing, Applicant had not contacted the creditor. (Tr. 97) Following the hearing he paid \$128.94. (Ex. A, E)
<i>g</i>	Collection for unpaid rent.	\$4,231	Unpaid. Applicant left his apartment to take a job in Turkey. He was charged rent for breaking the lease and for damages. (Tr. 98)
<i>h</i>	Cable bill.	\$3,391	Not owed. In 2009, Applicant contacted the creditor. (Ex. B) He asserts he returned the cable company's equipment. (Tr. 99) He asserts he has documentation from the cable company that he owes nothing. (Tr. 101) He has not contacted the collection agency since 2009 regarding this debt. However, the cable company signed off on his paperwork when Applicant cleared the post. (Ex. C, Tr. 103, 129)
<i>i</i>	Telephone company collection account.	\$806	Paying. He has made four payments following the hearing. (Ex. E, H) He made payments of \$150, \$205.69, \$150, and \$100. (Ex. A, F, H)
<i>j</i>	Payday loan collection account.	\$656	Paying. Following the hearing, he paid \$109.37 and \$218.74 on the debt. (Ex. E, F, H)
<i>k</i>	Insurance company collection account.	\$400	Paid following the hearing. (Ex. F, H)
<i>l</i>	Collection account	\$271	Unpaid. Applicant asserted he had sent the creditor an email and was awaiting a response. (Tr. 112)
<i>m</i>	Insurance company collection account.	\$120	Paid following the hearing. (Ex. F, H)
		\$42,288	Total debt listed in SOR

Policies

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 must 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 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.

The protection of the interests of 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order (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

Adjudicative Guideline (AG) ¶ 18 articulates the security concerns relating to financial problems:

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.

Additionally, an individual who is financially irresponsible may also be irresponsible, unconcerned, negligent, or careless in properly handling and safeguarding classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

A person's relationship with his creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts as agreed. Absent substantial evidence of extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a position of risk that is inconsistent with holding a security clearance. An applicant is not required to be debt free, but is required to manage his finances to meet his financial obligations.

Applicant has a history of financial problems. Applicant had delinquent accounts totaling approximately \$42,000. Half of the debt (SOR 1.a, \$21,969) was due to the 2007 truck repossession. Disqualifying Conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts" and AG ¶ 19(c), "a history of not meeting financial obligations," apply.

Five Financial Considerations 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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(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;

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

(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.

The mitigating factors for financial considerations fail to fully mitigate the security concern. Applicant's financial problems were contributed to by not obtaining the job he anticipated after leaving the U.S. Army. The defense contractor did not receive the contract and, therefore, Applicant did not receive the job. When he left the Army, he had to repay a portion of the \$12,000 reenlistment bonus he had received in 2009. After leaving the Army, he was unemployed one month, from August 2011 through September 2011. Since March 2012, he has been employed full-time with his current employer with an annual salary is \$72,000 and receives \$12,000 annually in VA disability benefits. From October 2013, the date of his PSI, until the hearing, ten months later, the only debt he had paid was by garnishment.

Applicant's financial difficulties are both recent and multiple. When he left the Army, his allotments ended and the loans being paid by those allotments remain delinquent as does the 2007 truck repossession debt. Because he has multiple delinquent debts and his financial problems are continuing in nature, he receives minimal application of the mitigating conditions listed in AG ¶ 20(a). Applicant's handling of his finances, under the circumstances, casts doubt on his current reliability, trustworthiness, or good judgment.

Under AG ¶ 20(b), Applicant had a short period of unemployment after leaving the Army. However, he has been employed full time since March 2012. Given sufficient opportunity to address his financial delinquencies, he has made minimal efforts at addressing his debts. He has failed to act timely or responsibly under the circumstances. He failed to resolve his debts and failed to significantly reduce his delinquencies. AG ¶ 20(b) does not apply.

At the date of the hearing, Applicant was currently receiving online financial counseling from an independent financial counselor. (Tr. 67) In August 2013, his employer referred him to credit counseling. At that time, he asserted he would pay off a good percentage of the delinquent debt if given a year's time. He repeated this assertion in his October 2013 PSI. In April 2014, he again asserted that significant progress would be made if given the opportunity to maintain a clearance. However, as of the hearing, only one credit card debt was paid by garnishment. A promise of future performance, no matter how sincere, is insufficient to demonstrate a track record of meeting financial obligations. Without evidence of steps taken to implement a plan to resolve indebtedness, a good-faith effort cannot be substantiated.

For AG ¶ 20(c) to apply a person must have received counseling and there must be clear indications the problem is being resolved or is under control. Having paid \$2,160 is not sufficient for me to find there are clear indications that the problem is being resolved. AG ¶ 20(c) does not apply

Under AG ¶ 20(d), Applicant has paid four of the 13 debts, made payment on an additional three debts, and provided documentation that he does not owe the cable debt. Following the hearing, he paid \$2,160 on this delinquent accounts totaling more than \$42,000. AG ¶ 20(d) applies to the cable bill and the seven debts he had paid or is paying.

The mitigating condition listed in AG ¶ 20(e) applies to the cable bill. He provided documented proof to substantiate the basis of this disputed account. I find for him as to SOR 1.h, \$3,391.

Applicant asserts he would like to pay his debt and would like to get his financial house in order. But he has failed to act aggressively, timely, or responsibly to resolve his delinquent debts. The remaining delinquent debts totaling more than \$33,500 have yet to be addressed by Applicant and remain a security concern.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 provides two conditions that could raise a security concern and may be disqualifying in regard to falsification of Appellant's security clearance application:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

On Applicant's September 2013 e-QIP, he indicated his wages had been garnished to pay a \$5,000 delinquent account, and the obligation has been paid in full. However, when questioned about repossessed property, debts in default, debts turned over to a collection agency, accounts having been charged off, suspended or cancelled, or debts more than 120 days delinquent, he answered "no." He stated he answered as he did because he did not understand the question and did not believe he was 120 days past due on any account. He was overseas at the time and did not have any financial documents with him. He also said he believed the September 2013 e-QIP was only an update and related only to debts not included on his earlier e-QIP and did not mean to be untruthful.

The government established a case for disqualification under Guideline, E, personal conduct, which Applicant failed to mitigate. Applicants are expected to give full and frank answers during the clearance process. Applicant's failure to disclose full and completed information about his financial problems on his clearance application

constitutes a deliberate falsification or evasiveness inconsistent with the candor required of applicants.

Applicant had started financial counseling the prior month and should have been very aware of his current finances. Even if he did not know how delinquent his accounts were he knew he had three loans taken out while he was in the Army that remained unpaid and he would certainly have been aware of the repossession of his truck. However, he chose to list a single delinquent account that had been paid.

The Government relies on applicants to truthfully disclose adverse information in a timely fashion, not when it is perceived to be personally advantageous or convenient. Further, an applicant's willingness to report adverse information about himself provides some indication of his willingness to report inadvertent violations or other concerns in the future, something the government relies on to perform damage assessments and limit the compromise of sensitive information. Applicant's conduct suggests a willingness to put personal needs ahead of legitimate government interests. I resolve Guideline E against Applicant.

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 relevant 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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. There is some evidence in favor of mitigating Applicant's conduct. After a lengthy period of inaction during which he did not address his past delinquent accounts, after the hearing, he paid \$2,160 on his delinquent accounts.

The disqualifying evidence under the whole-person concept is more substantial. Applicant either had no ability or no intention of paying his delinquent accounts. His long-standing failure to repay his creditors, at least in reasonable amounts, or to

arrange payment plans, reflects traits which raise concerns about his fitness to hold a security clearance.

The concept of “meaningful track record” includes evidence of actual debt reduction through payment of debts. However, an applicant is not required to establish that he has paid off each and every debt listed in the SOR. All that is required is for him to demonstrate he has established a plan to resolve his delinquent debt and has taken significant action to implement that plan. I must reasonably consider the entirety of Applicant’s financial situation and his actions in evaluating the extent to which that plan is credible and realistic. There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan may provide for payment on 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.

The issue is not simply whether all Applicant’s debts have been paid – they have not – it is whether his financial circumstances raise concerns about his fitness to hold a security clearance. (See AG ¶ 2(a)(1).) Applicant would like to pay his delinquent debt, but has made only minimal payments. He has \$8,000 in the bank, but does not wish to use that money to address his delinquent debts because he may need that money for living expenses should he not obtain a security clearance.

Overall, the record evidence leaves me with questions and doubts about Applicant’s eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the security concerns arising from his financial considerations and personal conduct.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of true reform and rehabilitation necessary to justify the award of a security clearance. The awarding of a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. Under Applicant’s current circumstances, a clearance is not warranted. Should Applicant be afforded an opportunity to reapply for a security clearance in the future, having paid the delinquent obligations, established compliance with a repayment plan, or otherwise addressed the obligations, he may well demonstrate persuasive evidence of his security worthiness. However, a clearance at this time is not warranted.

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**

Subparagraphs 1.a and 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraphs 1.e and 1.f:	For Applicant

Subparagraph 1.g:	Against Applicant
Subparagraphs 1.h – 1.k:	For Applicant
Subparagraph 1.l:	Against Applicant
Subparagraph 1.m:	For Applicant

Paragraph 2, Personal Conduct: AGAINST APPLICANT

Subparagraph 2.a: Against 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 a security clearance. Eligibility for access to classified information is denied.

CLAUDE R. HEINY II
Administrative Judge