



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



In the matter of: )  
 )  
 --- ) ISCR Case No. 17-00307  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Ross Hyams, Esquire, Department Counsel  
For Applicant: *Pro se*

12/11/2018

**Decision**

GALES, Robert Robinson, Administrative Judge:

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

**Statement of the Case**

On October 1, 2015, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application. On March 9, 2017, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him, under Executive Order (Exec. Or.) 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) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006.<sup>1</sup>

The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD adjudicators were unable to find 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.

Applicant received the SOR on March 31, 2017. In a notarized statement, dated April 17, 2017, Applicant responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on May 5, 2017. The case was initially assigned to another administrative judge in June 2017, but was eventually reassigned to me on March 20, 2018. A Notice of Hearing was issued on August 28, 2018. I convened the hearing as scheduled on September 25, 2018.

During the hearing, Government exhibits (GE) 1 through GE 4, and Applicant exhibits (AE) A through AE G were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on October 4, 2018. I kept the record open to enable Applicant to supplement it. He took advantage of that opportunity and timely submitted several documents, which were marked and admitted as AE H through AE Z, without objection. The record closed on October 30, 2018.

### **Findings of Fact**

In his Answer to the SOR, Applicant admitted with comments all of the factual allegations pertaining to financial considerations of the SOR (SOR ¶¶ 1.a. through 1.e.). 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 54-year-old employee of a defense contractor. He has been serving as an information systems service operations manager since around 1994 with a business unit of one company that was eventually purchased by another company. A 1981 high school graduate, Applicant earned some college credits, but no degree. He enlisted in the U.S. Air Force in August 1981, and he served on active duty until he was honorably discharged in December 1991 as a Staff Sergeant (E-5). He was granted a secret clearance in 1981, and has retained that clearance except for periods when he possessed a top secret clearance with access to Sensitive Compartmented Information (SCI). Applicant was married in July 1985, separated in August 2012, and divorced in December 2016. He started cohabiting in September 2014, and in October 2017, he was again married. He has two daughters, born in 1991 and 2001.

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<sup>1</sup> Effective June 8, 2017, by Directive 4 of the Security Executive Agent (SEAD 4), dated December 10, 2016, *National Security Adjudicative Guidelines* (AG) for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position, were established to supersede all previously issued national security adjudicative criteria or guidelines. Accordingly, those guidelines previously implemented on September 1, 2006, under which this security clearance review case was initiated, no longer apply. In comparing the two versions, there is no substantial difference that might have a negative effect on Applicant in this case.

## **Military Service, Awards, and Decorations**

During his military service, Applicant was deployed from August 1990 until February 1991 in support of Operations Desert Shield/Desert Storm. He was awarded the Air Force Commendation Medal, the Joint Service Achievement Medal, the Air Force Achievement Medal, the Joint Meritorious Unit Award, the Air Force Outstanding Unit Award, the Air Force Good Conduct Medal (with two clusters), the National Defense Service Medal, the Air Force Overseas Short Tour Ribbon, the Air Force Overseas Long Tour Ribbon, the Air Force Longevity Service Award Ribbon, the Non-Commissioned Officer Professional Military Education Graduate Ribbon, the Small Arms Expert Marksmanship Ribbon, and the Air Force Training Ribbon.<sup>2</sup>

## **Financial Considerations<sup>3</sup>**

Applicant attributed his financial difficulties to several different issues that initially arose in or about mid-2012: he and his wife separated, leading to a lengthy and costly divorce; he was required to maintain two households during the period of separation; he was ordered to pay child support and alimony; his employer was unsuccessful in re-competing on a contract, and he was initially issued a layoff notice; he was subsequently offered a new position with the same employer which required that he relocate, at his own expense, to a different state;<sup>4</sup> and although his primary residence was on the market for over six months, it did not sell. Because of the additional unexpected expenses, insufficient funds caused him to fall behind on his mortgage. Although Applicant attempted to obtain mortgage relief through the Home Affordable Modification Program (HAMP) in August 2015,<sup>5</sup> and offered to include a deed-in-lieu of foreclosure, nothing worked, and the property was eventually foreclosed.

The SOR identified five purportedly delinquent accounts that had been placed for collection, charged off, or foreclosed as generally reflected by Applicant's November 2015 credit report or December 2016 credit report. Those debts total approximately \$272,220. The current status of those accounts, is as follows.

(SOR ¶ 1.a.): This is a bank-issued home mortgage loan with a high credit of \$261,506 and an unpaid balance of \$244,414 (of which \$11,726 was past due), that was

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<sup>2</sup> AE H (Certificate of Release or Discharge from Active Duty (DD Form 214), dated December 11, 1991).

<sup>3</sup> General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1 (e-QIP, dated October 1, 2015); GE 2 (Personal Subject Interview, dated January 7, 2016); GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated November 10, 2015); GE 4 (Equifax Credit Report, dated December 20, 2016); and Applicant's Answer to the SOR, dated April 17, 2017.

<sup>4</sup> AE C (Notification of Layoff and associated documents, various dates).

<sup>5</sup> AE B (HAMP Application and Related Papers, various dates).

eventually sold at foreclosure in June 2016.<sup>6</sup> Although there was an *in personam* deficiency judgment balance of \$24,777 against Applicant as of October 20, 2016, the amount was considered by the court to be a marital debt to be paid by Applicant and his ex-wife.<sup>7</sup> Applicant stopped making his monthly payments in July 2015, in anticipation of a layoff, has not yet made any payments on this account after the foreclosure because he supposedly had insufficient funds to do so,<sup>8</sup> and his ex-wife has avoided paying her share by filing a petition for bankruptcy under Chapter 7 of the U.S. Bankruptcy Code.<sup>9</sup> The account has not been resolved.

(SOR ¶ 1.b.): This is a bank-issued line of credit with an unpaid and past-due balance of \$27,059 that was placed for collection and charged off in 2016.<sup>10</sup> As with the home mortgage loan, the amount was considered by the court to be a marital debt to be paid by Applicant and his ex-wife.<sup>11</sup> Applicant's ex-wife has avoided paying her share by filing a petition for bankruptcy under Chapter 7 of the U.S. Bankruptcy Code. Applicant initially contended that he had entered into an agreement with a particular company that purchased the account,<sup>12</sup> but that payment agreement to which he refers is a credit-card account with the same creditor, in the amount of \$11,674, that was not alleged in the SOR, which was also considered to be a marital debt to be paid by both Applicant and his ex-wife.<sup>13</sup> Although he said he would reach out to the creditor in an effort to set up repayment arrangements,<sup>14</sup> to date, he has offered no evidence that he has done so.<sup>15</sup> The account has not been resolved.

(SOR ¶¶ 1.c. through 1.e.): These are three medical accounts with unpaid balances of \$430, \$195, and \$122 that were placed for collection.<sup>16</sup> Applicant paid the largest and the smallest accounts, for a total of \$553, in April 2017,<sup>17</sup> and he paid the

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<sup>6</sup> GE 3, *supra* note 3, at 6; GE 4, *supra* note 3, at 2; AE A (Report of Mediation, dated March 4, 2016).

<sup>7</sup> AE A, *supra* note 6.

<sup>8</sup> Tr. at 34-36.

<sup>9</sup> AE L (Notice of Chapter 7 Bankruptcy Case, dated April 25, 2017); Tr. at 37.

<sup>10</sup> GE 3, *supra* note 3, at 6; GE 4, *supra* note 3, at 2; AE A, *supra* note 6.

<sup>11</sup> AE A, *supra* note 6.

<sup>12</sup> Tr. at 40. *See also* AE E (Payment Agreement, dated April 17, 2017).

<sup>13</sup> Tr. at 55; AE A, *supra* note 6.

<sup>14</sup> Tr. at 55.

<sup>15</sup> Tr. at 51.

<sup>16</sup> GE 4, *supra* note 3, at 2.

<sup>17</sup> AE D (Posted Transactions, dated April 11, 2017).

remaining account, in the amount of \$195, in January 2017.<sup>18</sup> The accounts have been resolved.

In addition to the delinquent accounts alleged in the SOR, there are additional delinquent accounts not alleged in the SOR<sup>19</sup> for which Applicant is either completely or partially responsible. His divorce decree identified the joint bank-issued credit card with an unpaid balance of \$11,674 which was referred to above for which there is a payment plan calling for preauthorized monthly payments of \$121.60 commencing in April 2017;<sup>20</sup> and there is a bank-issued credit card in his ex-wife's name, also considered a marital debt, with an unpaid balance of \$21,438.<sup>21</sup> Applicant referred to other credit cards for both his ex-wife and himself for which he was making payments, and that he managed to get one account paid off. He submitted documentation to support his position that one such past-due account for \$2,769 was settled in August 2018 when he paid \$830,<sup>22</sup> but he failed to submit documentation, such as receipts, letters, cancelled checks, or account statements reflecting either continuing monthly payments or payment plans.

Although Applicant has "definitely been thinking about" financial counseling, he has never had it.<sup>23</sup> During the hearing, Applicant said his current annual salary was over \$120,000.<sup>24</sup> After the hearing, he submitted a Personal Financial Statement reflecting a monthly net income of \$7,237; monthly expenses of \$5,281; with a monthly remainder of \$1,290 that might be available for discretionary spending or savings.<sup>25</sup> However, based on the figures furnished by Applicant, his actual annual salary is approximately \$125,000.<sup>26</sup> Among the debts listed in his Personal Financial Statement, Applicant indicated that he was making monthly payments on four of his current wife's accounts,

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<sup>18</sup> AE F (Payment Information, dated February 22, 2017).

<sup>19</sup> Unalleged conduct can be considered for certain purposes, as discussed by the DOHA Appeal Board. (Conduct not alleged in an SOR may be considered: (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole-person analysis under Directive § 6.3.). See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006); (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. April 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). Applicant's unlisted and unalleged delinquent accounts will be considered only for the five purposes listed above.

<sup>20</sup> AE E, *supra* note 12;

<sup>21</sup> AE A, *supra* note 6.

<sup>22</sup> AE I (Settlement Offer, dated August 10, 2018); AE J (Letter, dated August 30, 2018); Tr. at 49.

<sup>23</sup> Tr. at 55.

<sup>24</sup> Tr. at 45.

<sup>25</sup> AE S (Personal Financial Statement, undated).

<sup>26</sup> AE R (Earnings Statement, dated September 23, 2018).

totaling \$250; and two of his own accounts, totaling \$416. He noted that three accounts for which his ex-wife was partially responsible were closed as part of her bankruptcy, and he was not making any payments for them. There is no mention of any monthly payments of \$121 being made on the marital credit card that had an unpaid balance of \$21,438.<sup>27</sup> In fact, Applicant's banking and debit card withdrawals and purchases for the period July 26, 2018 through September 24, 2018, while reflecting numerous restaurant expenditures (often several times in the same day), there is not one payment of \$121.<sup>28</sup>

## Character References

The manager, information technology services, has known Applicant for nearly ten years, and he considers Applicant to be an "absolutely critical member of our organization." Applicant has a unique and extremely valuable combination of technical expertise and effective interpersonal skills that make him the go-to person to work the most difficult challenges.<sup>29</sup> Several co-workers and friends who have known Applicant for varying periods characterize him as a good moral and honest person; a person who strives to do the right thing in all situations; highly professional and trustworthy; and as an honest, hard-working person with integrity and reliability.<sup>30</sup>

## 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."<sup>31</sup> 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."<sup>32</sup>

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines list potentially disqualifying

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<sup>27</sup> AE S, *supra* note 25.

<sup>28</sup> AE X (Virtual Wallet, dated August 23, 2018); AE Y (Virtual Wallet, dated September 24, 2018).

<sup>29</sup> AE M (Character Reference, undated).

<sup>30</sup> AE N (Character Reference, undated); AE O (Character Reference, dated October 26, 2018); AE P (Character Reference, dated October 19, 2018).

<sup>31</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>32</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

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."<sup>33</sup> 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, 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.<sup>34</sup>

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."<sup>35</sup>

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."<sup>36</sup> 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

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<sup>33</sup> "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 (4<sup>th</sup> Cir. 1994).

<sup>34</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>35</sup> *Egan*, 484 U.S. at 531.

<sup>36</sup> See Exec. Or. 10865 § 7.

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 to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (c) a history of not meeting financial obligations; and
- (e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators.

A home mortgage was foreclosed in 2016, leaving a deficiency balance of \$24,777; a line of credit in the amount of \$27,069 was charged off in 2016; and three medical accounts were placed for collection. Because Applicant and his ex-wife were jointly responsible for the mortgage and line of credit, and she filed for bankruptcy under Chapter 7 of the U.S. Bankruptcy Code to avoid her financial responsibility, Applicant has been reluctant, if not unwilling, to satisfy those debts regardless of the ability to do so. He



claimed to have insufficient funds to make payments on several accounts. AG ¶¶ 19(a) 19(b), 19(c), and 19(e) have been established.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties under AG ¶ 20:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;<sup>37</sup>

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;<sup>38</sup> 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.

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<sup>37</sup> A debt that became delinquent several years ago is still considered recent because "an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sep. 13, 2016)).

<sup>38</sup> 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)).

I have concluded that ¶ 20(b) partially applies, and none of the other conditions apply. The nature, frequency, and recency of Applicant's continuing financial difficulties make it difficult to conclude that they occurred so long ago or were so infrequent, or that they were unlikely to recur. In fact, they continue to this day. Applicant attributed his financial problems to several different factors: his lengthy separation and eventual divorce; maintaining two households during the period of separation; he was ordered to pay child support and alimony; after being notified of a layoff, he was offered a new position with the same employer which required that he relocate, at his own expense, to a different state; and although his primary residence was on the market for over six months, it did not sell. The significance of those factors has not been satisfactorily supported by appropriate documentation. Applicant did go through a lengthy separation and divorce. Paying child support and alimony to the woman to whom he was married for nearly three decades would not be unexpected, in-as-much he would have been responsible for them had the separation and divorce not occurred. While he was notified of an expected layoff, he was never actually terminated, and instead, he moved to a different position where his salary was increased.

Although Applicant's annual salary has been over \$100,000 for several years, and is currently at \$125,000, he has made little, if any, efforts to address his delinquent accounts until after he was motivated to do so upon receipt of the SOR. He stopped making his monthly mortgage payments in July 2015. He has ignored the deficiency since the house was foreclosed and sold at public auction, and he has also ignored the line of credit. Instead, Applicant made one extremely modest payment of \$195 for a delinquent medical account, one year after he was interviewed by the OPM investigator, and only months before the SOR was issued. He made two other relatively modest payments of \$430 and \$122 after the SOR was issued. An applicant who begins to resolve his financial problems only after being placed on notice that his or her security clearance is in jeopardy may be lacking in the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his or her own interests.<sup>39</sup> There is evidence of a repayment plan on a credit card not alleged in the SOR, but aside from the agreement, there is no evidence of any payments. With a substantial monthly remainder, Applicant could have started making payments on the mortgage deficiency and the line of credit well before the SOR was issued, but instead, he has made no efforts to do so. Applicant's minimal efforts to resolve his delinquent accounts, or at least his portion of those accounts do not qualify as good-faith efforts. His promised intentions to reach out to his creditors, at this late date, are simply insufficient.<sup>40</sup>

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<sup>39</sup> See, e.g., ISCR Case No. 17-01213 at 5 (App. Bd. Jun. 29, 2018); ISCR Case No. 17-00569 at 3-4 (App. Bd. Sept. 18, 2018).

<sup>40</sup> The Appeal Board has indicated that promises to pay off delinquent debts in the future was not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. ISCR Case No. 07-13041 at 4 (App. Bd. Sep. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)).

Clearance decisions are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of every debt or issue alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve issues or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts or issues alleged in an SOR be resolved first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts, or resolution of such issues, one at a time.

While there is evidence that Applicant never received financial counseling, Applicant's financial situation is sound on one hand, with a good salary and a substantial monthly remainder, but, on the other hand, he is ignoring his delinquent debts. Applicant's actions under the circumstances cast doubt on his current reliability, trustworthiness, and good judgment.<sup>41</sup>

### **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 SEAD 4, App. A, ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant 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.<sup>42</sup>

There is some evidence in favor of mitigating Applicant's conduct. Applicant is a 54-year-old employee of a defense contractor, serving as an information systems service operations manager since around 1994 with a business unit of one company that was eventually purchased by another company. Co-workers think highly of him. He served on

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<sup>41</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

<sup>42</sup> 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).

active duty with the U.S. Air Force for ten years until he was honorably discharged in 1991. He was granted a secret clearance in 1981, and has retained that clearance except for periods when he possessed a top secret clearance with SCI access. Since his financial difficulties commenced, he made minimal payments to resolve three medical debts.

The disqualifying evidence under the whole-person concept is more substantial. Although Applicant's annual salary has been over \$100,000 for several years, and is currently at \$125,000, he has made little, if any, efforts to address his delinquent accounts until after he was motivated to do so upon receipt of the SOR. He stopped making his monthly mortgage payments in July 2015. He has ignored the \$24,777 deficiency since the house was foreclosed and sold at public auction, and he has also ignored the \$27,059 line of credit. In addition, there are non-SOR delinquent debts for \$11,674 and \$21,438. Applicant made one extremely modest payment of \$195 for a delinquent medical account, one year after he was interviewed by the OPM investigator, and only months before the SOR was issued.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>43</sup>

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts. However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has ". . . established a plan to resolve his [or her] 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 [or her] 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.

Applicant has demonstrated an extremely poor track record of debt reduction and elimination efforts. Overall, the evidence leaves me with substantial questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has failed to mitigate the security concerns arising from his financial considerations. See SEAD 4, App. A, ¶¶ 2(d)(1) through AG 2(d)(9).

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<sup>43</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

## **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a. and 1.b.:	Against Applicant
Subparagraphs 1.c. through 1.e.:	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.

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ROBERT ROBINSON GALES  
Administrative Judge