DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
---	)	ISCR Case No. 19-00999
	)	
Applicant for Security Clearance	)	

Appearances

For Government: David F. Hayes, Esquire, Department Counsel
For Applicant: *Pro se*

10/28/2019

_____

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 July 9, 2018, Applicant applied for a security clearance and submitted a Questionnaire For National Security Positions (SF 86). On May 13, 2019, 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 Directive 4 of the Security Executive Agent (SEAD 4), *National Security Adjudicative Guidelines* (AG) (December 10, 2016), for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position, effective June 8, 2017.

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.

In a sworn statement, dated June 7, 2019, Applicant responded to the SOR, and he elected to have his case decided on the written record in lieu of a hearing. (Item 1) A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by the Defense Office of Hearings and Appeals (DOHA) on July 10, 2019, and he was afforded an opportunity 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 Adjudicative Guidelines applicable to his case. It is unclear when Applicant received the FORM as there is no receipt in the case file. After receiving an extension from DOHA, his response was due on September 16, 2019. Applicant submitted a brief response, which was accepted without objection. The case was assigned to me on October 22, 2019.

Findings of Fact

In his Answer to the SOR, Applicant admitted, with extensive comments, all of the factual allegations pertaining to financial considerations (SOR ¶¶ 1.a. through 1.d.). 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:

Background

Applicant is a 54-year-old employee of a defense contractor. He has been serving in an unspecified position with his current employer since November 2018. He previously served as a precision measurement equipment laboratory **(**PMEL**)** technician with another government contractor from May 2006 until September 2015. In September 2015, his employer lost a particular contract, and Applicant was laid off. Between his 2015 layoff and his current position, Applicant held several relatively brief part-time and full-time positions, separated by periods of unemployment.

Applicant enlisted in the U.S. Air Force, and served on active duty from March 1986 until September 1991, when he was honorably discharged. He then served in the inactive reserve from May 1991 until December 1993. He received an associate's degree in 1988 and a bachelor's degree in 1991. He has held secret, top secret, or "Q" clearances during various periods since 1986. He was married in 1983, and divorced in 1997. He remarried in 1999, and was divorced in 2003. He has three children, born in 1986, 1988, and 1991.

Financial Considerations

General source information pertaining to the financial issues discussed below can be found in the following exhibits: Item 8 (Combined Experian, TransUnion, and Equifax Credit Report, dated July 27, 2018); Item 9 (Equifax Credit Report, dated February 14, 2019); Item 3 (Enhanced Subject Interview, dated August 17, 2018); Item 3 (Subject Contact, dated August 29, 2018); Item 5 (1993 Bankruptcy File, filed March 1, 1993); Item 6 (1999 Bankruptcy File, filed July 14, 2009); Item 7 (2018 Bankruptcy File, filed March 22, 2018); Item 2 (SF 86, dated July 9, 2018); and Item 1 (Applicant's Answer to SOR, dated July 1, 2019).

In his SF 86, Applicant listed his bankruptcy, filed in March 2018, under Chapter 13 of the U.S. Bankruptcy Code. He estimated that from about January 2008 until August 2017, he had incurred gambling losses of $20,000. He added the following comments:

> Although my gambling issues are not as severe as they have been several years ago due to the fact that I have been working on this issue and slowly progressing in a positive manner. I do gamble once in a while but less frequently and less amounts in the present (sic).
>
> I have banned myself for life from the two closest casinos near me which has helped me tremendously. I have also had the help of my son that lives with me as encouragement to not go to any casino, and has accompanied me to a casino to help me control what I do while I am there if there is free play and to spend minor amounts. I am continuing to work on this issue as I will continue to work on this the rest of my life. The difference in now compared to several years ago is how frequent I go and the amounts I spend if I go. I feel like even with this issue it has not affected my ability to perform my jobs that I may have had while holding and maintaining a clearance. I have also used legal means to handle any financial issues I may have had during those times. I have never engaged in illegal activities while holding a clearance. I have always worked hard to maintain my finances and live a straight life, but I am human. Once again, I believe any financial problems I may have had while holding a clearance or not holding a clearance has not affected my duties or obligations to the United States of America.

(Item 2, at 40)

(SOR ¶ 1.d.): In August 2018, Applicant was interviewed by an investigator from the U.S. Office of Personnel Management (OPM), and during the interview, they discussed Applicant's gambling habits. Applicant claimed that he started going to casinos in January 2008, and he mainly played the slot machines and poker. He generally went to the casinos up to four times per week, and started his wagering at $20 per night, increased to $100 each night, and on about five occasions, his entire $900 pay check. In an effort to curtail his gambling habits, he voluntarily had himself banned from two of the

three local casinos. Applicant gambled for an escape and a means of relieving stress. Although he denied that gambling negatively impacted his work, he admitted that he was tired at work after being at the casino late the evening before work, and that on some occasions, he would take leave from work to rest. He acknowledged that his gambling affected his family life because his sons may have felt envious that he was spending money on gambling rather than giving it to them.

Applicant acknowledged that he does not go to the casino every day, but that when he is at the casino, it is hard for him to leave. He does better when he has a companion at the casino who can help him leave. Furthermore, since he filed for bankruptcy in 2018, he does not gamble as frequently because he does not have money to do so, and he has to drive 50 miles to the nearest casino from which he is not banned. Although he agrees that he may have had an "addiction" to gambling, he no longer believes that he has an addiction, and considers it more of a "habit." He has never sought counseling or treatment for his gambling, but has done some research on the Internet regarding coping strategies. If he felt his gambling was out of control to cope with, he would voluntarily seek help. Applicant intends to not go to casinos any more, and if his financial status improves, he will try to abstain from going to casinos or by going less often. (Item 3, at 7)

The SOR alleged that Applicant had filed for bankruptcy on three occasions, in March 1993; July 2009; and March 2018. It also alleged that his financial problems are the result of his gambling habits, and that he continues to gamble at casinos, despite his ongoing financial difficulties.

(SOR ¶ 1.c.): On March 1, 1993, Applicant and his wife filed a joint voluntary petition for bankruptcy under Chapter 7, not Chapter 13, as erroneously alleged in the SOR. Because there were no reported assets, an unspecified amount of liabilities was discharged on June 14, 1993, and the case was terminated on June 17, 1993. (Item 5) Although Applicant admitted the allegation, he noted that he was under the impression that the bankruptcy was actually under Chapter 7, but he could not recall the specifics of the bankruptcy. (Item 1)

(SOR ¶ 1.b.): On July 14, 2009, Applicant filed a voluntary petition for bankruptcy under Chapter 13. He listed nearly $159,300 in liabilities, including nearly $79,000 in creditors holding secured claims (a timeshare, two mortgages, county taxes, and a vehicle); nearly $3,000 in creditors holding unsecured priority claims (attorney fees); and nearly $78,000 in creditors holding unsecured nonpriority claims (credit cards and charge accounts). He estimated that his net monthly income was nearly $3,900; and his average monthly expenses were nearly $3,100, leaving him approximately $800 available for discretionary spending or savings. Applicant claimed that his 2007 income from employment was nearly $56,500; his 2008 income from employment was nearly $58, 500; and his 2009 income from employment at the time of the filing was nearly $31,000. He also reported two additional sources of income during 2007: $1,440 and $11,200 from gambling. It was determined that Applicant had available nearly $450 in monthly disposable income. Although the available exhibit does not include a bankruptcy trustee's report, and there is no indication as to payments made to creditors, an unspecified

payment plan was confirmed in September 2009, and the debtor was discharged on June 11, 2014. The case was terminated on August 8, 2014. (Item 6) Applicant contended that he paid the trustee about $50,000, or $800 per month over a period of five years, and that he relinquished a house worth about $59,000. (Item 1)

(SOR ¶ 1.a.): Less than four years after his 2009 bankruptcy was discharged, on March 22, 2018, Applicant again filed a voluntary petition for bankruptcy under Chapter 13. He listed nearly $64,900 in liabilities, including nearly $11,500 in creditors holding secured claims (a vehicle); nearly $4,200 in creditors holding unsecured priority claims (attorney fees, and federal and state income taxes from the 2017 tax year); and nearly $49,300 in creditors holding unsecured nonpriority claims (credit cards, charge accounts, and medical accounts). He estimated that his net monthly income was nearly $2,200; and his average monthly expenses were nearly $1,900, leaving him approximately $300 available for discretionary spending or savings. Applicant claimed that his 2016 income from employment was nearly $37,000; his 2017 income from employment was nearly $33,900; and his 2018 income from employment at the time of the filing was nearly $3,500. He also reported additional sources of income during 2016: $7,440 from unemployment; and for 2017: $4,500 from gambling. It was determined that Applicant had available nearly $300 in monthly disposable income. Under the approved Bankruptcy Payment Plan, Applicant was to make total payments of $18,300, or monthly payments of $305, to the trustee for a period of 60 months. The payment plan was confirmed in May 2018. (Item 7; Item 4)

Applicant contended that he started making his monthly $305 payments on April 21, 2018, and that he has made those payments now for over one year. (Item 1) However, he failed to submit any documents, such as cancelled checks, copies of money orders, a bank register, receipts, allotment authorization, or an updated report from the Bankruptcy Trustee, to support his contentions that payments are being made.

On August 21, 2018, Applicant submitted a Personal Financial Worksheet. In it, he reported a $2,442 net monthly income from his position at that time. However, based on his anticipated new and current position, he modified his estimate upward to $3,058. He had $1,703 in monthly expenses, including the $305 payments to the trustee; and a monthly remainder of $739 that might be available for discretionary spending or savings. There is no evidence of a budget. Other than the on-line credit counseling associated with his bankruptcies, there is no evidence of financial counseling. There is no evidence that he ever received treatment for his gambling problem.

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." (*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988)) 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." (Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.)

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 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." "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))

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

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." (*Egan, 484 U.S. at 531*)

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." (*See* Exec. Or. 10865 § 7) 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 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;
>
> (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;

(h) borrowing money or engaging in significant financial transactions to fund gambling or pay gambling debts; and

(i) concealing gambling losses, family conflict, or other problems caused by gambling.

Applicant has a gambling problem, characterized by him as being formerly an "addiction," but now merely a "habit." His gambling has caused some issues in both his professional and family lives, and, by his own estimation, he has incurred gambling losses of at least $20,000. Also, in part, due to his gambling and failure to maintain his accounts in a current status, Applicant filed for bankruptcy under Chapter 7 in 1993, and he had his liabilities discharged. He filed for bankruptcy under Chapter 13 in 2009, with over $159,000 in liabilities, and apparently after making monthly $800 payments to the trustee, totaling $50,000, and relinquishing a house worth about $59,000, that bankruptcy was discharged. Less than four years later, he filed for bankruptcy again under Chapter 13, with nearly $64,900 in liabilities. Under the approved Bankruptcy Payment Plan, Applicant was to make total payments of $18,300, or monthly payments of $305, to the trustee for a period of 60 months. AG ¶¶ 19(a), 19(c), 19(e), 19(h), and 19(i) have been established, but there is no evidence that Applicant has been unwilling to satisfy his debts regardless of an ability to do so, and AG ¶ 19(b) has not 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;

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

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

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

AG ¶ 20(b) minimally applies, but none of the other conditions apply. 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. Sept. 13, 2016)). The nature, frequency, and recency of Applicant's continuing financial difficulties, and his failures to voluntarily and timely resolve his delinquent accounts for several years, make it rather easy to conclude that it was not infrequent and it is likely to remain unchanged, much like it has been for several years. His Chapter 7 bankruptcy wiped away his delinquent debts. His 2009 bankruptcy saw him resolve only about $109,000 of his over $159,000 liabilities when, over a period of five years, he relinquished a residence and made only $50,000 in debt payments. His 2018 bankruptcy with $64,900 in liabilities, is expected to see him make total payments of $18,300, or monthly payments of $305, to the trustee for a period of 60 months, meaning some debts will not be resolved.

While Applicant contends that he has changed his gambling habits, he still gambles, in spite of placing some interference blocks in his way by getting banned from two of the three casinos near him, and by taking along his son or someone else to control him. Thus, his gambling frequency may have been reduced, but his continuing pattern of gambling still persists. Furthermore, Applicant has never completed any inpatient or outpatient treatment related to his gambling condition. Also, because Applicant fails to understand the full significance of his gambling problem by claiming his former gambling addiction is now merely a gambling habit, he continues to be a problem gambler and not merely an "at-risk" gambler. Thus, his gambling problem is expected to continue, and it may recur at its former level.

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.

It should be noted that the Appeal Board has indicated that promises to pay off delinquent debts in the future are 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)) In this instance, Applicant has relied on the bankruptcy options on three occasions during a 25-year period to resolve some of his delinquent debts. There are unverified comments by Applicant that he has started to resolve his most recent delinquent accounts, with approved payment plan, but he offered no documentation to support his contentions. He offered no documentation to indicate payments have been made to the trustee or that the trustee has made payments to any creditors. His contentions regarding the status of some accounts in the payment plan, and his unverified comments claiming that he had taken certain actions, without documents, to support his claims, are insufficient to reflect good-faith actions. 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).

While filing for bankruptcy under Chapter 13 is more reasonable and responsible than simply ignoring delinquent debts, Applicant's course of conduct with respect to his accounts indicates that he ignores those accounts for lengthy periods before turning to the bankruptcy option. As stated above, with the exception of the online credit counseling associated with the bankruptcies, there is no evidence of financial counseling. There is no evidence of a budget. There is no evidence of gambling treatment. In the absence of such information, it remains difficult to determine if Applicant is currently in a better position financially (and emotionally with regard to his gambling) than he had been. Applicant's actions, or inaction, under the circumstances cast doubt on his current reliability, trustworthiness, and good judgment. *See* ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

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. *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).

There is some evidence in favor of mitigating Applicant's financial concerns. Applicant is a 54-year-old employee of a defense contractor. He has been serving in an unspecified position with his current employer since November 2018. He previously served as a PMEL technician with another government contractor from May 2006 until September 2015, when his employer lost a particular contract, and Applicant was laid off. Between his 2015 layoff and his current position, Applicant held several relatively brief part-time and full-time positions, separated by periods of unemployment. He enlisted in the U.S. Air Force, and served on active duty from March 1986 until September 1991, when he was honorably discharged, and then served in the inactive reserve from May 1991 until December 1993. He received an associate's degree in 1988 and a bachelor's degree in 1991. He has held secret, top secret, or "Q" clearances during various periods since 1986.

The disqualifying evidence under the whole-person concept is simply more substantial. Applicant has a gambling problem, characterized by him as being formerly an addiction, but now merely a habit. His gambling has caused some issues in both his professional and family lives, and, by his own estimation, he has incurred gambling losses of at least $20,000. Applicant filed for bankruptcy under Chapter 7 in 1993, and he had his liabilities discharged. He filed for bankruptcy under Chapter 13 in 2009, with over $159,000 in liabilities, and with $50,000 in payments to the trustee, and a relinquished house worth about $59,000, that bankruptcy was discharged in 2014. Less than four years later, he filed for bankruptcy again under Chapter 13, with nearly $64,900 in liabilities. Under the approved Bankruptcy Payment Plan, Applicant is expected to make total payments of $18,300 to the trustee for a period of 60 months, but he failed to submit any documents to reflect any payments to the trustee or any payments by the trustee to the creditors. Nevertheless, Applicant continues to gamble, albeit at a reduced level.

In ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008), the Appeal Board addressed a key element in the whole-person analysis in financial cases stating:

> 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 chosen his preferred method of handling his delinquent debts by either having them discharged under Chapter 7, or eventually paying off many of them by entering payment plans under Chapter 13. While Applicant contended that he took certain actions with respect to his most recent delinquent debts and his most recent Chapter 13 bankruptcy, he submitted no documentary evidence to indicate that he is actually paying the trustee the mandated amount or that the trustee has made any payments to the creditors. Considering Applicant's continuing gambling habits, and his previous gambling losses, his current track record is poor or fair at best. 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).

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. through 1.d.: 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 eligibility for a security clearance. Eligibility for access to classified information is denied.

ROBERT ROBINSON GALES
Administrative Judge