



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



In the matter of:)
)
) ISCR Case No. 21-01810
)
Applicant for Security Clearance)

Appearances

For Government: Benjamin R. Dorsey, Esquire, Department Counsel
For Applicant: *Pro se*

02/07/2022

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 June 30, 2020, Applicant applied for a security clearance and submitted a Questionnaire for National Security Positions (SF 86). On July 10, 2021, the Defense Counterintelligence and Security Agency (DCSA) 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* (December 10, 2016) (AG), effective June 8, 2017.

The SOR alleged security concerns under Guideline F (Financial Considerations) and detailed reasons why the DCSA 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.

On September 21, 2021, Applicant responded to the SOR and elected to have his case decided on the written record in lieu of a hearing. (Item 2) 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 November 4, 2021, 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. Applicant received the FORM on November 15, 2021. His response was due on December 15, 2021. Applicant chose not to respond to the FORM, for as of January 11, 2022, no response had been received. The case was assigned to me on February 1, 2022. The record closed on December 15, 2021.

Findings of Fact

In his response to the SOR, Applicant admitted, with brief comments, a number of the SOR allegations pertaining to financial considerations (SOR ¶¶ 1.d. through 1.h., 1.k., 1.n., and 1.o.). Attached to the Answer were several documents which were marked as Exhibits A through Exhibit F. Applicant's admissions and comments, as well as the Exhibits, are incorporated herein. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact:

Background

Applicant is a 47-year-old employee of a defense contractor. He has been serving as a support technician with his current employer since June 2020. He was previously self-employed as a part-time security installation contractor (July 2016 – June 2020); or employed by other employers as a senior account manager (January 2019 – November 2019); sales representative (November 2016 – July 2017); senior account manager (July 2015 – July 2016); and sales engineer (May 2012 – July 2015). His preliminary education was not reported. He attended a technical school for six months and a university for eight months, but never received a degree. He has never served with the U.S. military. He was granted a confidential clearance in 2013. He was married in 2010 and divorced in 2019. He has one daughter, born in 2013. He has been cohabiting since August 2017.

Financial Considerations

General source information pertaining to the financial accounts discussed below can be found in the following exhibits: Item 3 (SF 86, dated June 30, 2020); Item 4 (Enhanced Subject Interview, dated August 10, 2020); Item 6 (Combined Experian, TransUnion, and Equifax Credit Report, dated July 30, 2020); Item 5 (Verato Credit Report, dated February 3, 2021); and Item 2 (Answer to the SOR, dated September 21, 2021).

In his SF 86, Applicant reported having a number of financial issues, including federal and state income tax issues, child support issues, and various delinquent accounts. He contended that the major factors leading to his financial problems were a divorce, child custody battle, and a loss of income when he opened a restaurant that failed to generate income. He acknowledged that he had taken no action regarding most of his accounts and stated an intention to file for bankruptcy "in the next 30 days." (Item 3 at 42-52) Eight months later, on August 10, 2020, he was interviewed by an investigator from the U.S. Office of Personnel Management (OPM). During that interview, Applicant initially acknowledged a number of delinquent accounts, but had to be confronted with other accounts that he failed to address. He repeated both the factors he claimed caused his financial problems as well as his intention to file for bankruptcy. (Item 4 at 8-12)

In his Answer to the SOR, Applicant stated that he decided that it would be in his best interest to make efforts to pay off his debts rather than filing for bankruptcy. In that regard, shortly before receiving the SOR, he finally started to contact some of his creditors (Item 2 at 1)

The SOR alleged 16 still-delinquent accounts totaling approximately \$59,631, as set forth below:

SOR ¶ 1.a. is a state tax lien in the amount of \$7,016 that was entered against Applicant in June 2018. (Item 7 at 1) In his Answer to the SOR, Applicant contended that he had moved out of the state in November 2007, and that there was no obligation to file in his previous state of residence for 2008. An audit was supposedly ordered and Applicant claimed that he would hear the final result up to 90 days after the review. He submitted a copy of his 2008 income tax return (Exhibit A), but while it has been more than 90 days after the audit was to have been completed, he has not submitted any documentation to support his contentions about the audit or his liability regarding the lien. The lien has not been resolved.

SOR ¶ 1.b. is a civil judgment on an automobile loan in the amount of \$13,084 obtained by a federal credit union against Applicant in July 2018. (Item 4 at 10; Item 5 at 5; Item 6 at 11; Item 7 at 2) On August 18, 2021, Applicant paid the creditor \$10,300 to settle the account for less than what was owed, and the creditor acknowledged that it would release the judgment. (Exhibit B) The judgment has been resolved.

SOR ¶ 1.c. is a civil judgment on an unspecified type of account in the amount of \$8,626 obtained by a federal credit union against Applicant in December 2018. (Item 4 at 10; Item 5 at 3; Item 6 at 11; Item 7 at 2; Item, 3 at 49) On August 18, 2021, Applicant paid the creditor \$10,300 to settle the account for less than what was owed, and the creditor acknowledged that it would release the judgment. (Exhibit B) The judgment has been resolved.

SOR ¶ 1.d. is a civil eviction judgment in the amount of \$2,980 obtained by a property management company in October 2019. (Item 7 at 4) Applicant contacted the creditor on September 13, 2021, after the SOR was issued, and he disputed the amount owed. As of one week later, he had not heard a response. No other activity regarding the

account has been reported since that time. (Item 2 at 2) The judgment has not been resolved.

SOR ¶ 1.e. is a child-support-arrearage in the approximate amount of \$14,768 on an account that was opened in 2016. (Item 5 at 2; Item 6 at 8) Applicant admitted the allegation, but claimed he was making additional payments over and above the required payments to reduce the arrearage. As of September 2021, he had reduced the balance to approximately \$11,925, including arrears, interest, and fees. (Exhibit C) The account is in the process of being resolved.

SOR ¶ 1.f. is an alarm-system account with an unpaid balance of \$2,065 that was placed for collection in 2018. (Item 5 at 3; Item 6 at 8; Item 3 at 48-49) He initially refused to pay for the service claiming that he did not agree to a five-year contract. In his Answer to the SOR, Applicant contended that he had reached a settlement agreement with the contractor, and that he would pay the contractor \$1,400 within 30 days of October 1, 2021. (Item 2 at 2) Applicant failed to submit any documentation such as a written agreement, receipt, cancelled check, or credit-card payment to support his contention. In the absence of any verifiable documentation, the account has not been resolved.

SOR ¶ 1.g. is a credit-card account with an unpaid balance of \$992 that was placed for collection in 2019. (Item 4 at 11; Item 5 at 3; Item 6 at 9; Item 3 at 50-51) In his Answer to the SOR, Applicant contended that he had reached a settlement agreement with the contractor, and that he would pay the contractor \$694.62 within 30 days of October 1, 2021. (Item 2 at 2-3) Applicant failed to submit any documentation such as a written agreement, receipt, cancelled check, or credit-card payment to support his contention. In the absence of any verifiable documentation, the account has not been resolved.

SOR ¶ 1.h. is a credit-card account with an unpaid balance of \$881 that was placed for collection in 2019. (Item 4 at 11; Item 5 at 3; Item 6 at 9) In his Answer to the SOR, Applicant contended that he had reached a settlement agreement with the contractor, and that he would pay the contractor \$661.92 within 30 days of October 1, 2021. (Item 2 at 3) Applicant failed to submit any documentation such as a written agreement, receipt, cancelled check, or credit-card payment to support his contention. In the absence of any verifiable documentation, the account has not been resolved.

SOR ¶ 1.i. is a department store charge-account with an unpaid balance of \$836 that was placed for collection and charged off in 2012. (Item 4 at 9; Item 5 at 3; Item 6 at 9; Item 3 at 45) Applicant acknowledged the account during his OPM interview, but now disputes the account. (Item 2 at 3) Applicant failed to submit any documentation such as a written dispute stating the basis for the dispute. The account has not been resolved.

SOR ¶ 1.j. is a credit-card account with an unpaid balance of \$494 that was placed for collection and charged off in 2009. (Item 4 at 9; Item 5 at 4; Item 6 at 9; Item 3 at 45-46) On September 22, 2021, Applicant paid the creditor an unspecified amount to settle the account for less than what was owed, and the creditor acknowledged that it would reduce the unpaid balance to zero. (Exhibit D) The account has been resolved.

SOR ¶ 1.k. is a cable-television account with an unpaid balance of \$426 that was placed for collection in 2016. (Item 4 at 9; Item 5 at 4; Item 6 at 10; Item 3 at 46-47) In his Answer to the SOR, Applicant contended that he had reached a settlement agreement with the contractor, and that he would pay the contractor \$256.18 within 30 days of October 1, 2021. (Item 2 at 3) Applicant failed to submit any documentation such as a written agreement, receipt, cancelled check, or credit-card payment to support his contention. In the absence of any verifiable documentation, the account has not been resolved.

SOR ¶ 1.l. is a cable-television account with an unpaid balance of \$383 that was placed for collection in 2019. (Item 4 at 10; Item 5 at 4; Item 6 at 10; Item 3 at 49-50) On September 20, 2021, Applicant paid the creditor an unspecified amount to settle the account for less than what was owed, and the creditor acknowledged that the account was satisfied. (Exhibit E) The account has been resolved.

SOR ¶ 1.m. is an automobile-loan account with an unpaid balance of \$374 that was placed for collection and charged off in 2009. (Item 4 at 11; Item 5 at 4; Item 6 at 10) On August 18, 2021, Applicant paid the creditor \$374.27 to pay off the account, and the creditor acknowledged that the account was paid in full. (Exhibit B) The account has been resolved.

SOR ¶ 1.n. is an unspecified type of account with an unpaid balance of \$341 that was placed for collection in 2017. (Item 4 at 11; Item 5 at 4-5; Item 6 at 10) In his Answer to the SOR, Applicant contended that he had reached a settlement agreement with the contractor, and that he would pay the contractor \$238.64 within 30 days of October 1, 2021. (Item 2 at 4) Applicant failed to submit any documentation such as a written agreement, receipt, cancelled check, or credit-card payment to support his contention. In the absence of any verifiable documentation, the account has not been resolved.

SOR ¶ 1.o. is an automobile-loan account with an unpaid balance of \$5,415 that was placed for collection after a vehicle was repossessed. (Item 4 at 11; Item 5 at 5; Item 6 at 5; Item 3 at 51-52) In his Answer to the SOR, Applicant contended that he had reached a settlement agreement with the contractor, and that he would pay the contractor \$1,355 within 30 days of October 1, 2021. (Item 2 at 4) Applicant failed to submit any documentation such as a written agreement, receipt, cancelled check, or credit-card payment to support his contention. In the absence of any verifiable documentation, the account has not been resolved.

SOR ¶ 1.p. started out as an unpaid balance of \$950 on an unspecified type of account that was placed for collection, charged off, and sold. It transitioned into a civil judgment in the amount of \$1,464.94 plus \$55 in costs obtained by purchaser of the account against Applicant in 2019. (Item 4 at 14; Item 6 at 11) Applicant contended that his wages were garnished in 2019 to satisfy the judgment. (Item 2 at 4) While he did not submit evidence of such garnishment action regarding this particular creditor, the court record indicates that the judgment was satisfied on October 21, 2020. (Exhibit F) The account and successor judgment have been involuntarily resolved.

There is no evidence of financial counseling, a budget, or anything to describe with any specificity Applicant's current financial situation. Applicant did not report his net monthly income, his monthly household expenses, or any monthly debt payments. In the absence of such information, I am unable to determine if he has any monthly remainder available for savings or spending. There is a paucity of evidence to indicate that his financial problems are now under control, and it is difficult to determine if Applicant is currently in a better position financially than he had been.

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. Sept. 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; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

The SOR alleged 16 still-delinquent accounts totaling approximately \$59,631. Applicant attributed his inability to maintain those accounts in a current status to a divorce, a child-custody battle, and a loss of income when he opened a restaurant that failed to generate income. Although he offered an explanation for his 2007 state income tax issue, he failed to submit any documentation to support his contentions that it was a mistake made by the state. AG ¶¶ 19(a), 19(c), and 19(f) 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;
- (d) the individual initiated and is adhering to 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

AG ¶¶ 20(b) and 20(d) minimally apply, but none of the other conditions apply. Applicant's marital difficulties and child-custody battle appear to have commenced in 2016, and while he may have fought with his wife over custody, for reasons that he never fully explained, his new restaurant expenses took priority over his child-support responsibilities. Over a multi-year period, Applicant avoided contact with his creditors. In his June 2020 SF 86, and again during his OPM interview in August 2020, Applicant stated an intention to file for bankruptcy "in the next 30 days." That action never took place. It was not until his September 2021 Answer to the SOR that he claimed to have reconsidered and decided to address his debts and not seek bankruptcy. While he did address several of his delinquent debts, he did not do so for the majority of them until after his OPM interview. Of the 16 alleged delinquent accounts, he settled or otherwise resolved (by voluntary payment or involuntary garnishment) 6 of them. In addition, the child-support arrearage was reduced from approximately \$14,768 to \$11,925. Applicant contended that several other accounts were resolved, but he failed to submit any documentation to support his contentions. He also disputed several accounts, but failed to provide any reasonable basis to do so.

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))).

Based on the evidence, it appears that Applicant actually ignored his delinquent accounts (and his child-support obligations) for a substantial multi-year period. Because of his failure to confirm resolution of a number of delinquent accounts that he claimed he had settled, and his failure to furnish documentation regarding those accounts, the overwhelming evidence leads to the conclusion that his financial problems are not under control. Furthermore, he is still substantially in arrears regarding his child-support obligations. He has not acted responsibly by failing to address his delinquent accounts while employed and by failing to make limited, if any, efforts of working with his creditors. The Appeal Board has previously commented on such a situation:

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

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. (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) In this instance, Applicant failed to offer any evidence that he began making such efforts before his OPM interview.

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. Mere promises to pay debts in the future, without further confirmed action, are insufficient. In this instance, Applicant repeatedly claimed that he would file for bankruptcy. He then changed his mind and chose to address some of the delinquent accounts, apparently motivated by the issuance of the SOR. One account was resolved by involuntary garnishment.

The nature, frequency, and recency of Applicant's financial difficulties, and his general failure to voluntarily and timely start to resolve them until substantial investigatory action was taken, is sufficient to conclude that his financial difficulties were not infrequent. The timeliness of his efforts to resolve his debts is not good, and the delay in commencing to do so, is another negative factor. The subsequent verifiable positive and partially successful efforts are good, but not timely.

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."

(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. Jun. 4, 2001)).

There is no evidence of financial counseling, a budget, or current financial information. Applicant's in-action under the circumstances casts 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 considerations. Applicant is a 47-year-old employee of a defense contractor. He has been serving as a support technician with his current employer since June 2020. He was previously self-employed as a part-time security installation contractor (July 2016 – June 2020); or employed by other employers as a senior account manager (January 2019 – November 2019); sales representative (November 2016 – July 2017); senior account manager (July 2015 – July 2016); and sales engineer (May 2012 – July 2015). He attended a technical school for six months and a university for eight months, but never received a degree. He was granted a confidential clearance in 2013. Of the 16 alleged delinquent accounts, he settled or otherwise resolved (by voluntary payment or involuntary garnishment) 6 of them. In addition, the child-support arrearage was reduced from approximately \$14,768 to \$11,925.

The disqualifying evidence under the whole-person concept is simply more substantial and compelling. Applicant had 16 still-delinquent accounts totaling approximately \$59,631. Included in that amount was a child-support arrearage of \$14,768 that was caused when Applicant prioritized a new restaurant over his child's welfare. Over a multi-year period, he avoided contact with his creditors. He repeatedly stated an intention to file for bankruptcy "in the next 30 days." That action never took place. It was not until late 2021 that he claimed to have reconsidered, and decided to address his debts and not seek bankruptcy. Although he offered an explanation for his 2007 state income tax issue, he failed to submit any documentation to support his contentions that it was a mistake made by the state.

Because of Applicant's failure to confirm a significant number of purported settlement agreements with his creditors, and his failure to furnish documentation regarding those particular accounts, the overwhelming evidence leads to the conclusion that his financial problems are not under control. He has not acted responsibly by failing to address his delinquent accounts while employed and by failing to make limited, if any, efforts of working with his creditors over a multi-year period. There are lingering questions if Applicant is currently in a better position financially than he had been, as well as continuing doubt about his current reliability, trustworthiness, and good judgment.

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.

While Applicant did eventually resolve several of his delinquent debts, and he has reduced his child-support arrearage, his track record of unverifiable efforts to resolve a number of his delinquent debts, and the lengthy period of non-contact with his creditors, is negative and disappointing. 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
Subparagraph 1.a.:	Against Applicant
Subparagraphs 1.b., 1.c., and 1.e.:	For Applicant
Subparagraphs 1.d., 1.f. through 1.i.:	Against Applicant
Subparagraphs 1.j., 1.l., and 1.m.:	For Applicant
Subparagraphs 1.k., 1.n. and 1.o.:	Against Applicant
Subparagraph 1.p.:	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