



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



In the matter of:)
)
) ISCR Case No. 21-01035
)
Applicant for Security Clearance)

Appearances

For Government: Brittany C. White, Esquire, Department Counsel
For Applicant: *Pro se*

01/12/2023

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding financial considerations. Eligibility for a security clearance is granted.

Statement of the Case

On January 17, 2021, Applicant applied for a security clearance and submitted a Questionnaire for National Security Positions (SF 86). On November 12, 2021, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Services (CAS), previously known as the Department of Defense Consolidated Adjudications Facility (DOD 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 CAS 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 December 16, 2022, Applicant responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on February 3, 2022. Because of health protection protocols associated with COVID-19, hearings were essentially placed on hold. The case was assigned to me on August 17, 2022. A Notice of Microsoft Teams Video Teleconference Hearing was issued on September 23, 2022, and I convened the hearing as scheduled on October 13, 2022.

During the hearing, Government Exhibits (GE) 1 through GE 4 and Applicant Exhibits (AE) A through AE F were marked and admitted into evidence without objection. Applicant testified. The transcript (Tr.) of the hearings was received on October 25, 2022. I kept the record open until November 10, 2022, to enable Applicant to supplement it. He timely submitted a number of documents that were marked as AE G through AE L and admitted into evidence without objection. The record closed on November 10, 2022.

Findings of Fact

In his response to the SOR, Applicant admitted, with extensive comments, nearly all of the SOR allegations. (SOR ¶¶ 1.a. through 1.i.). Applicant's admissions and comments 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 39-year-old employee of a defense contractor. He has been serving as an electronics technician or troubleshooter since October 2019. He was previously employed by another employer initially as a Geek Squad consultant and then as an advanced repair agent (October 2014 – October 2019). A 2002 high school graduate, he received an associate's degree in 2012 and a bachelor's degree in 2015. He has never served in the U.S. military. He has never been granted a security clearance. He was married in 2010. He has no children.

Financial Considerations

General source information pertaining to the financial accounts discussed below can be found in the following exhibits: Item 1 (SF 86, dated January 17, 2021); Item 2 (Combined Experian, TransUnion, and Equifax Credit Report, dated February 9, 2021); Item 3 (Equifax Credit Report, dated January 28, 2022); and Item 4 (Enhanced Subject Interview (ESI), dated February 17, 2021).

In his SF 86, Applicant candidly acknowledged having some financial issues associated with delinquent student loans estimated to be approximately \$85,531, as well as a credit card used for medical care estimated to be approximately \$900. Applicant received those student loans to enable him to obtain degrees in 2012 and 2015. He indicated that the student loan issue arose in 2016 when he was confronted with insufficient income following graduation to enable him to maintain both a reasonable quality of life while his wife was unemployed and disabled, and to address his student loans. His wife has had significant physical and psychological medical issues since at least December 2013. In 2017, she was granted supplemental security income eligibility by the Social Security Administration, but because of her insufficient work credit and Applicant's income, other than a one-time payment of about \$9,000, she does not receive any funds. (AE F; Tr. at 20-21)

He acknowledged that he made a decision not to address the student loans to avoid encountering more significant financial struggles in the short term. Although the situation regarding the federal student loans had continued at the time he submitted his SF 86, he intended to contact someone to establish a loan rehabilitation agreement under terms related to his income level. As for the university student loan, he stated that he had already entered into a rehabilitation agreement with the loan processor to rehabilitate that student loan after nine months of regular payments. (GE 1 at 40-43)

On February 17, 2021, Applicant was interviewed by an investigator with the U.S. Office of Personnel Management (OPM). During that interview, he disclosed and described a substantial number of delinquent student loans: 12 loans with the U.S. Department of Education (DOE) totaling \$72,106, and one loan with a university for \$13,277. Those student loans became delinquent starting in June 2016 when he was unable to make his \$630 monthly payments for all but the university loan for which the monthly payment was \$130. Because of his failure to make timely payments, after a period of about 90 days, most of his student loans were assigned to the DOE, eventually designated as defaulted loans, and placed for collection. The one remaining student loan – the one from the university – became past due and was placed for collection.

Applicant did not claim that he had sought either different payment arrangements or either deferment or forbearance. He did not report any specific factors, other than inadequate employment and insufficient income that might have led to his financial situation. He was unable to determine when he would be able to make payments on his delinquent student loans, but indicated he would contact his creditor in an effort to set up a payment plan with an amount that he can afford. (GE 4 at 6-10) The investigator offered him the opportunity to provide financial documentation both during the interview and for five days after the interview. He failed to do so. (GE 4 at 11)

In his Answer to the SOR, Applicant acknowledged that upon exiting from school with his degree he anticipated that he would find the employment he expected. What he found was financial desperation with due dates for payments in amounts that he had no way of satisfactorily making. He had great difficulty, "either through a failure of personal willpower or that of financial power, sometimes a combination of the two, to come to a reconciliation with them." He ignored the problem for several years, but never forgot about

it. Instead, he “emotionally distanced” himself from it. He now understands that the correct action would have been to reach out and contact someone to find the available resources to work out reasonable payment options, but instead, he fell into a state of panic, and “deliberately chose to ignore the problem.” Once he realized what he had done, it was simply too late to take the correct action. (Answer at 2)

Once he started focusing on his security clearance eligibility, he realized his previous poor financial choices. Unfortunately, his focus was interrupted by over a year’s worth of medical issues for both himself and his wife, “tightening” his finances even further. He is currently making payments on several medical bills. (Medical Statements, attached to Answer; AE D) After looking at the SF 86, he realized it was time to come to terms with his financial situation. He reached out to his two student-loan creditors. Dealing with the DOE was difficult, especially during the COVID-19 pandemic, because the website was difficult to work with and the 800 number was not always responsive. (Tr. at 35-36) The DOE initially said that he was no longer eligible for an income-based repayment plan, but the creditor of the university Perkins student loan was easier to deal with and it agreed to enter into a Rehabilitation Agreement. (Answer at 2; AE I; Tr. at 28-29)

Commencing in July 2020 – nearly a year and one-half before the SOR was issued – pursuant to the Rehabilitation Agreement, Applicant made nine automatic monthly payments of \$116.68 to rehabilitate the university Perkins student loan. In April 2021, the monthly payments changed to \$146.98, and he has remained in compliance with the agreed arrangements by making those automatic monthly payments for the rehabilitated (and no longer delinquent) Perkins student loan to at least as recently as mid-October 2022. By October 8, 2022, the payoff amount of the Perkins student loan had been reduced to approximately \$11,178. (AE B; AE G; AE H; AE I; AE J; Tr. at 26-28)

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act – the original coronavirus emergency relief bill – temporarily paused payments and involuntary collections on most federally held student loans through September 30, 2020. The pause was subsequently extended until December 31, 2022. (DOE Press Release, August 24, 2022) On April 6, 2022, the DOE announced an initiative called “Fresh Start” to help eligible borrowers whose loans were in default. Among the benefits of the new program were that the CARES relief pause would continue, collection efforts would cease, and wages would not be garnished. On October 20, 2022, the DOE informed Applicant of the CARES Act and the Fresh Start, and started communications with him about loan rehabilitation and/or reinstatement. (AE K; AE C) He looks forward to being able to open negotiations on trying to bring the defaulted student loans back into good standing under the two newly announced programs. (Tr. at 33) As of October 8, 2022, the total debt balance for his delinquent student loans held by the DOE was approximately \$72,113. (AE C)

The SOR alleged the 13 then still-delinquent student-loan accounts totaling approximately \$85,383, as set forth below:

There are 12 delinquent student-loan accounts held by the DOE that were placed for collection with the following unpaid balances: \$11,096; \$9,068; \$8,872; \$7,781; \$6,360; \$6,253; \$6,166; \$4,522; \$4,253; \$3,165; \$2,475; and \$2,095. (SOR ¶¶ 1.a. through 1.l.; GE 2 at 4-8; GE 3 at 3-7; GE 4 at 6-10) As of the date the SOR was issued, the accounts remained delinquent, but subject to the CARES Act and Fresh Start, and while they are still delinquent, Applicant has taken the initial steps to rehabilitate them.

There is one delinquent Perkins student-loan account with an unpaid balance of \$13,277 that was placed for collection. (SOR ¶ 1.m.; GE 2 at 9; GE 3 at 7) As of the date of the SOR was issued, the account was no longer delinquent, as it had been successfully rehabilitated. Applicant is making monthly payments towards the current account. The account has been resolved.

Applicant submitted a Personal Financial Statement (PFS), dated October 8, 2022, in which he reported a net monthly income of \$3,529; total monthly expenses of \$2,395; and \$822 in monthly debt payments, including his Perkins student loan; leaving a net remainder of about \$312 available for savings or spending. (AE A; AE E) The PFS gave him some ideas on how he might improve his saving and spending under a budget. (Tr. at 31)

There is no evidence of financial counseling. (Tr. at 32) Applicant's current focus is on paying off his family medical bills and his Perkins student loan, and arriving at a reasonable monthly payment on a consolidation of his remaining student loans held by the DOE. With his newly acquired paradigm of full fiscal responsibility and accountability with regard to his delinquent student loans, there is clear evidence to indicate that his financial problems are now under control, and he 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; and
- (c) a history of not meeting financial obligations.

The SOR alleged 13 still-delinquent student-loan accounts totaling approximately \$85,383. Applicant admitted that at the time the SOR was issued he had the 12 delinquent student loans held by the DOE and he acknowledged the one rehabilitated Perkins student loan. He contended that the situation was brought about essentially because of insufficient income that left him unable to make student-loan payments and maintain a reasonable quality of life while his wife was unemployed and disabled. AG ¶¶ 19(a) and 19(c) have been established, but there is no evidence to indicate an unwillingness to satisfy debts regardless of an ability to do so, and AG ¶ 19(b) is not 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(a), 20(b), and 20(d) apply, but none of the other conditions applies. The student loan issue arose in 2016. Applicant had insufficient income following graduation to pay his student loans and maintain a reasonable quality of life because his wife was unemployed and disabled with significant physical and psychological medical issues. He made a decision not to address the student loans to avoid encountering more significant financial struggles in the short term. As a result, his student loans were eventually designated as defaulted loans, and placed for collection. He did not claim that he had sought either different payment arrangements or either deferment or forbearance. He simply said that inadequate employment and insufficient income led to his financial situation. He had great difficulty, "either through a failure of personal willpower or that of financial power, sometimes a combination of the two, to come to a reconciliation with them." He ignored the problem and "emotionally distanced" himself from it for several years, but never forgot about it. He now understands that the correct action would have been to reach out and contact someone to find the available resources to work out reasonable payment options, but instead, he fell into a state of panic, and "deliberately chose to ignore the problem."

When Applicant finally realized his previous poor financial choices, he started to focus on taking corrective actions. His focus was interrupted by over a year's worth of medical issues for both himself and his wife, "tightening" his finances even further. Well before the SOR was issued, he reached out to his two student-loan creditors. Dealing with the DOE was difficult, especially during the COVID-19 pandemic, because the website was difficult to work with and the 800 number was not always responsive. The DOE initially said that he was no longer eligible for an income-based repayment plan, but the creditor of the university Perkins student loan was easier to deal with and it agreed to enter into a Rehabilitation Agreement. Commencing in July 2020 – nearly a year and one-half before the SOR was issued – Applicant started making agreed automatic monthly payments to rehabilitate the university Perkins student loan. He has remained in

compliance with the agreed arrangements by making those automatic monthly payments for the rehabilitated (and no longer delinquent) Perkins student loan to at least as recently as mid-October 2022. By October 8, 2022, the payoff amount of the Perkins student loan had been reduced to approximately \$11,178. With the CARES Act and Fresh Start programs, he hopes his eligibility for a repayment program will be recognized so that he can start making acceptable monthly payments on those student loans.

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 is clear that Applicant reluctantly but intentionally ignored his delinquent student-loan accounts for a multi-year period. Insufficient income, his wife’s significant physical and psychological medical issues, and his own medical issues, caused him to make a difficult choice: maintain a reasonable lifestyle and focus on family health and welfare, or focus on paying student loans and ignoring the family welfare. He made the difficult, but unpopular, choice, at least in the eyes of his creditors. His financial problems were not fully under control until he made the initial efforts to finally address his student loans. Commencing in July 2020 – nearly a year and one-half before the SOR was issued – Applicant started making the agreed automatic monthly payments to rehabilitate the university Perkins student loan. He acted responsibly by addressing his family health and welfare issues while temporarily delaying any attempt to address the delinquent student-loan accounts. In fact, his earlier attempts to address the DOE-held student loans were seemingly thwarted by an inflexible refusal to accept repayment plans after a certain time as well as COVID-19 pandemic protocols that made dealing with the DOE rather difficult. 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.

Applicant eventually attempted to enter into a repayment plan with the DOE, but its refusal to accept such a plan should not be attributable to his failure to request one in a more timely manner.

An applicant who begins to resolve his or her 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 offered clear evidence that he began making payments on the Perkins student loan nearly a year and one-half before the SOR was issued. His unsuccessful efforts to work with the DOE started even earlier.

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 clearly stated that such efforts were made well before the SOR was issued. His first payment was made in July 2020.

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 verifiable evidence of financial counseling. Because of Applicant's partially successful efforts to start rehabilitating his delinquent student-loan accounts after several years of inaction, his actions under the circumstances no longer cast any 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 disqualifying evidence regarding Applicant's financial considerations under the whole-person concept. His history of financial difficulties and delinquent student-loan debt is well documented. The SOR alleged 13 still-delinquent student loans totaling approximately \$85,383. While the issues first arose in 2016, Applicant did not fully address any of them until 2020. He did not claim that he had sought either different payment arrangements or either deferment or forbearance. He simply said that inadequate employment and insufficient income led to his financial situation. He had great difficulty, "either through a failure of personal willpower or that of financial power, sometimes a combination of the two, to come to a reconciliation with them." He ignored the problem and "emotionally distanced" himself from it for several years. He fell into a state of panic, and "deliberately chose to ignore the problem."

The mitigating evidence under the whole-person concept is simply more substantial and compelling. Applicant is a 39-year-old employee of a defense contractor. He has been serving as an electronics technician or troubleshooter since October 2019. He was previously employed by another employer initially as a Geek Squad consultant and then as an advanced repair agent. A 2002 high school graduate, he received an associate's degree in 2012 and a bachelor's degree in 2015. He was married in 2010.

Applicant's student loan issue arose in 2016. Inadequate employment and insufficient income led to his financial situation following graduation. He was unable to pay his student loans and maintain a reasonable quality of life because his wife was unemployed and disabled with significant physical and psychological medical issues. He made a decision not to address the student loans to avoid encountering more significant financial struggles in the short term. When he finally realized his previous poor financial choices, he started to focus on taking corrective actions, but his focus was interrupted by over a year's worth of medical issues for both himself and his wife, "tightening" his finances even further. However, well before the SOR was issued, he reached out to his two student-loan creditors. Dealing with the DOE was difficult to work with and initially said that he was no longer eligible for an income-based repayment plan, but the creditor of the university Perkins student loan was easier to deal with and it agreed to enter into a Rehabilitation Agreement. Commencing in July 2020 – nearly a year and one-half before the SOR was issued – Applicant started making agreed automatic monthly payments to

rehabilitate the university Perkins student loan. He has remained in compliance with the agreed arrangements by making those automatic monthly payments for the rehabilitated (and no longer delinquent) Perkins student loan to at least as recently as mid-October 2022. By October 8, 2022, the payoff amount of the Perkins student loan had been reduced to approximately \$11,178. With the CARES Act and Fresh Start programs, he hopes his eligibility for a repayment program will be recognized so that he can start making acceptable monthly payments on those student loans. He has no other delinquent debts.

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 him] 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 him] 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 furthermore of a reasonable debt plan be the ones listed in the SOR.

Applicant’s track record of substantial verifiable efforts to resolve the his delinquent student-loan debts, his early successful efforts regarding his Perkins student loan, and even his lengthy unsuccessful efforts with the DOE, despite the period of non-contact with her creditors, during which he focused on family welfare rather than student loan payments, is positive and encouraging. Overall, the evidence leaves me without substantial questions and doubts as to Applicant’s eligibility and suitability for a security clearance. Accordingly, I conclude Applicant has successfully mitigated 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: FOR APPLICANT

Subparagraphs 1.b. through 1.m.: For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

ROBERT ROBINSON GALES
Administrative Judge