



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



In the matter of:)
)
) ISCR Case No. 20-03604
)
Applicant for Security Clearance)

Appearances

For Government: Carroll J. Connelley, Esquire, Department Counsel
For Applicant: *Pro se*

01/18/2023

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 12, 2020, Applicant applied for a security clearance and submitted an Electronic Questionnaires for National Security Positions (SF 86). On September 14, 2020, 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.

In a sworn statement, dated September 16, 2021, Applicant responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on December 29, 2021. Because of health concerns associated with the COVID-19 pandemic and pandemic protocols, the case was not assigned to me until August 17, 2022. A Notice of Microsoft TEAMS Video Teleconference Hearing was issued on September 21, 2022. I convened the hearing as scheduled on October 12, 2022.

During the hearing, Government exhibits (GE) 1 through GE 5 and Applicant exhibits (AE) A through AE G were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on October 21, 2022. I kept the record open to enable Applicant to supplement it with documentation that was identified during the hearing. He took advantage of that opportunity and timely submitted three documents that were marked and admitted as AE H through AE J without objection. The record closed on November 9, 2022.

Findings of Fact

In his Answer to the SOR, Applicant admitted nearly all of the factual allegations pertaining to financial considerations. (SOR ¶¶ 1.a., 1.b., 1.d. through 1.i., and 1.k. through 1.o.). His admissions 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 52-year-old employee of a defense contractor. He has been serving as a systems analyst or subject matter expert with his current employer originally from November 2012 until December 2014 and again since about September 2015. He was unemployed on two occasions: from September 2012 until November 2012, and from July 2015 until September 2015 because of reduction in force layoffs. A 1988 high school graduate, he received an associate degree in 2010, a bachelor's degree in 2014, and a master's degree in 2018. He enlisted in the U.S. Navy in August 1988, and served on active duty until October 2011, when he was medically discharged and honorably retired with a 50 percent disability rating from the Veterans Administration (VA) (Tr. at 63-64). He was granted a variety of security clearances (secret, top secret, and sensitive compartmented information (SCI) since about 2005. He was married in 1992 and divorced in 2000. He remarried in 2001. He has seven children, born in 1991, 1993, 1999, 2004, 2005, 2008, and 2010.

Financial Considerations

General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1 (SF 86, dated January 12, 2020); GE 2 (Enhanced Subject Interview (ESI), dated June 25, 2020); GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated April 2, 2020); GE 4 (TransUnion Credit Report, dated October 17, 2019); and GE 5 (Equifax Credit Report, dated December 2, 2021).

When Applicant and his first wife were divorced, he represented himself. After the divorce, his ex-wife repeatedly filed petitions regarding child support that caused him to retain an attorney to represent him in those proceedings, and the expenses kept increasing, causing him to fall behind with his other financial obligations. In about June 2011, he filed for bankruptcy under Chapter 7, and in about September 2011, about \$150,000 in debt was discharged. (Tr. at 19-23) There were no noticeable recurrent financial problems until about 2018-19.

In early 2019, Applicant's automobile broke down and he had to repeatedly send it to a repair shop for repairs, the costs for which were not covered by insurance and had to be paid out of pocket. Those expenses caused him to be delinquent on his mortgage. Several months later, one of his children sustained an injury and had to be hospitalized. Four of his children have been diagnosed with Autism. In January 2019, his diabetic wife was diagnosed with lupus and fibromyalgia. On August 15, 2019, he entered into a debt resolution agreement with a company in an effort to resolve his debt. He listed 16 different creditors with a total unpaid balance of \$35,665 that were to be the focus of resolution efforts. Commencing on September 24, 2019, he agreed to pay the company a variety of monthly fees, service fees, and a program fee totaling approximately \$11,168 which came to approximately \$537 per month for 48 months, ending in August 2023. (AE I) He has been in compliance with the repayment arrangements. (AE H; AE J)

In his SF 86, Applicant reported a number of delinquent charged off consumer accounts. He noted that the accumulation of medical bills and car repairs coupled with the rise in medical co-pays and living expenses resulted in monthly expenses being more than his monthly take-home income. He said his wife had reentered the workforce resulting in a slight increase of monthly household income. (GE 1 at 47-58) He sought credit counseling in an effort to resolve his revolving credit card debt and to assist him to catch up on his health-related bills. (GE 1 at 45)

On June 25, 2020, Applicant was interviewed by an investigator with the U.S. Office of Personnel Management (OPM), and he confirmed that he had previously filed for bankruptcy under Chapter 7 in June 2011 in an effort to resolve multiple credit-card debt, auto loans, and medical expenses. He could not recall the amount discharged. (GE 2 at 2) He also acknowledged that during 2018-19, because his wife was not working, he experienced new financial issues with mounting medical expenses (approximately \$400 per month) for his children and student-loan accounts. His wife's student loans, totaling around \$80,000, had been either in default or deferred during the past seven years, but she entered into a payment plan in March 2020 to pay \$150 per month. His student loans,

totaling about \$30,000, were deferred in 2019, and he was still in the process of establishing a reasonable payment agreement. (GE 2 at 4)

Applicant contended that all the accounts discussed with the investigator, including ones that he had previously failed to list in his SF 86, “are being paid through a debt consolidation company.” With his wife working since March 2020, and the payment arrangements made with the company assisting him (he said he was making monthly payments of \$500 that is distributed to his creditors), he expected to have all of his debts resolved by April 2022. (GE 2 at 4) That date was much more optimistic than the end-date of his debt resolution program plan that was projected for August 2023. Based on the evidence presented, he is expected to fail meeting either goal. However, in an effort to more fully address his financial problems, Applicant has also routinely focused on various other (non-SOR) accounts and has successfully resolved them. He took out a \$71,000 equity loan to help pay off his debts. (AE A; AE D; AE F; Tr. at 50-52, 54-55)

In addition to the Chapter 7 bankruptcy, the SOR alleged 15 still delinquent accounts, totaling approximately \$34,632, as follows:

SOR ¶ 1.b. refers to a credit-card account with an unpaid balance of \$6,065 that was placed for collection and charged off. (GE 3 at 17; GE 5 at 4) The account is not yet enrolled in the list of debts being covered by the debt resolution company repayment program, but Applicant is in constant discussions with the creditor and it will either be settled by him or be included as other accounts are resolved. (Tr. at 35-38) The account is not yet in the process of being resolved.

SOR ¶ 1.c. refers to a credit-card account with an unpaid balance of \$5,989 that was placed for collection and charged off. (GE 3 at 17-18; GE 5 at 4) The account was included in the debt resolution company repayment program and settled for approximately \$2,995 on August 27, 2021 – before the SOR was issued. (Answer to the SOR; AE C at 2; Tr. at 38-39) The account has been resolved.

SOR ¶ 1.d. refers to a credit-card account with an unpaid balance of \$4,134 that was placed for collection and transferred or sold to another creditor. (GE 3 at 18; GE 5 at 3) The account was not included in the debt resolution company repayment program. Nevertheless, on July 6, 2022, the new creditor offered to settle the account in full for \$2,500. (AE A) Applicant contended that he made the agreed payment, but he failed to submit any documentation to verify the payment had been made. (Tr. at 40) Without such documentation, it remains unclear if the account has been resolved.

SOR ¶¶ 1.e. and 1.h. refer to credit-card accounts with unpaid balances of \$3,554 and \$2,076 that were placed for collection. (GE 3 at 18-19; GE 5 at 5) The accounts were included in the debt resolution company repayment program, but they have not yet been settled, and it is unclear if negotiations to do so have yet been conducted. (Tr. at 40; AE C at 3) The accounts are not yet in the process of being resolved.

SOR ¶¶ 1.f. and 1.g. refer to credit-card accounts with unpaid balances of \$2,642 and \$2,176 that were placed for collection and charged off. (GE 3 at 18-19; GE 5 at 10)

The accounts were included in the debt resolution company repayment program, but they have not yet been settled, and it is unclear if negotiations to do so have yet been conducted. (Tr. at 40; AE C at 2) The accounts are not yet in the process of being resolved.

SOR ¶ 1.i. refers to a credit-card account with an unpaid balance of \$1,264 that was placed for collection and charged off. (GE 3 at 19; GE 5 at 6) The account is not yet enrolled in the list of debts being covered by the debt resolution company repayment program, but Applicant is in constant discussions with the creditor and it will either be settled by him or be included as other accounts are resolved. (Tr. at 41) The account is not yet in the process of being resolved.

SOR ¶¶ 1.j. and 1.k. refer to credit-card accounts with unpaid balances of \$1,243 and \$1,200 that were placed for collection and charged off. (GE 3 at 20; GE 5 at 4, 9) The accounts were included in the debt resolution company repayment program and one was settled for approximately \$498 on November 16, 2020 – before the SOR was issued, and the other was settled for an unspecified amount on either March 28, 2022 or July 20, 2022. Applicant failed to submit documentary evidence to support his contention that the smaller account had actually been resolved. (Answer to the SOR; AE C at 1-2; Tr. at 42-46) One account has been resolved, and it appears that the other account may have been resolved.

SOR ¶ 1.l. refers to a credit-card account with an unpaid balance of \$1,139 that was placed for collection and transferred or sold to another creditor. (GE 3 at 20-21; GE 5 at 7) The account is not enrolled in the list of debts being covered by the debt resolution company repayment program, but Applicant is in constant discussions with the attorneys for the creditor in an effort to reach a favorable resolution. (Tr. at 46, 48) The account is not yet in the process of being resolved.

SOR ¶ 1.m. refers to a credit-card account with an unpaid balance of \$1,117 that was placed for collection and transferred or sold to another creditor. (GE 3 at 21; GE 5 at 7) The account is not enrolled in the list of debts being covered by the debt resolution company repayment program, but after discussions with the creditor in an effort to reach a favorable resolution, Applicant reportedly reached a settlement arrangement to pay the full amount under a repayment plan that is expected to last 24 months. He made his initial modest payment before the hearing, but he failed to submit any documentation to verify the payment had been made. (Tr. at 46-48) The account apparently is in the process of being resolved.

SOR ¶ 1.n. refers to a credit-card account with an unpaid balance of \$1,114 that was placed for collection, charged off, and transferred or sold to another creditor. (GE 3 at 21-22) The account is not enrolled in the list of debts being covered by the debt resolution company repayment program, but on June 9, 2022 – several months before the hearing – after discussions with the creditor, Applicant reached a settlement arrangement to pay an unspecified amount that reduced the balance to zero. (AE E; Tr. at 50) The account has been resolved.

SOR ¶ 1.o. refers to a credit-card account with an unpaid balance of \$555 that was placed for collection, charged off, and transferred or sold to another creditor. (GE 3 at 22; GE 5 at 8) The account is not enrolled in the list of debts being covered by the debt resolution company repayment program. Applicant is trying to work his way down his list of creditors. (Tr. at 48-49) The account is not yet in the process of being resolved.

SOR ¶ 1.p. refers to a utility account with an unpaid balance of \$364 that was placed for collection. (GE 3 at 22) Applicant contended that he had paid the creditor his final bill in 2014-15 when he moved, but that it came back and issued him another final bill claiming that he still had an unpaid balance. (Tr. at 50) Applicant disputed the account but failed to submit any documentation to support his contention that the final bill had actually been paid. In the absence of such documentation, I must conclude that the account has not been resolved.

As of August 15, 2019, the family net income was approximately \$6,779 and monthly expenses were about \$6,142, leaving a remainder of about \$637 available for saving or spending. (AE I) On October 7, 2022, Applicant submitted a Personal Financial Statement (PFS). He reported a family net income of approximately \$11,236 and approximately \$7,597 in monthly expenses, as well as debt payments totaling approximately \$3,476, leaving a monthly remainder of approximately \$163 available for saving or spending. (AE G)

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.

In about June 2011, Applicant filed for bankruptcy under Chapter 7, and in about September 2011, about \$150,000 in debt was discharged. The SOR alleged 15 still delinquent accounts totaling approximately \$34,632, most of which became delinquent during 2018-19. AG ¶¶ 19(a) and 19(c) 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(a), 20(b), 20(c), and 20(d) apply. Applicant acknowledged having some financial issues as far back as 2011 when he filed for bankruptcy under Chapter 7, essentially due to lingering divorce and child support issues with his ex-wife. Although he was unemployed on two occasions, things stabilized financially after his bankruptcy discharge until 2018-19 when a variety of automobile expenses and medical expenses developed. Four of his children were diagnosed with Autism and his diabetic wife was diagnosed with lupus and fibromyalgia. The accumulation of medical bills and car repairs coupled with the rise in medical co-pays and living expenses resulted in monthly expenses being more than his monthly take-home income. His wife reentered the workforce resulting in a slight increase of monthly household income. He sought credit counseling in an effort to resolve credit card debt and to assist him to catch up on his health-related bills. He focused on paying his medical bills and his wife's student loans with the eventual intention of transitioning to his other delinquent accounts.

On August 15, 2019 – two years before the SOR was issued – Applicant entered into a debt resolution agreement with a company in an effort to resolve his debt. He listed 16 different creditors with a total unpaid balance of \$35,665 that were to be the focus of resolution efforts. Commencing on September 24, 2019, he agreed to pay the company a variety of monthly fees, service fees, and a program fee totaling approximately \$11,168 which came to approximately \$537 per month for 48 months, ending in August 2023. He has been in compliance with the repayment arrangements. He also focused on non-SOR accounts and has successfully resolved them. He took out a \$71,000 equity loan to help pay off his debts. In October 2022, he reported a family net income of approximately \$11,236 and approximately \$7,597 in monthly expenses, as well as debt payments totaling approximately \$3,476, leaving a monthly remainder of approximately \$163 available for saving or spending.

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 acted in a reasonable manner when dealing with the significant medical issues over which he had no control. Treatment came first, followed by efforts to maintain his medical accounts current, something he appears to have been successful in doing as no medical accounts are delinquent. Two years before the SOR was issued, he started the effort to address his other delinquent accounts. 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 initially focused on the family medical bills before turning to their other bills. The transition began in August 2019 and some SOR debts as well as other delinquent bills have been resolved or are in the process of being resolved.

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 offered documentary evidence to reflect his settlement program, the resolution of various accounts, and payments made.

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 evidence of financial counseling and a budget. Applicant's aggressive action commencing two years before the SOR was issued, eliminates doubt regarding 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. In addition to a Chapter 7 bankruptcy in 2011, the SOR alleged 15 still-delinquent accounts (most of which had been charged off) totaling approximately \$34,632. Applicant attributed his inability to maintain those accounts in a current status to several factors, described more fully above.

The mitigating evidence under the whole-person concept is simply more substantial and compelling. Applicant is a 52-year-old employee of a defense contractor. He has been serving as a systems analyst or subject matter expert with his current employer originally from November 2012 until December 2014 and again since about September 2015. A 1988 high school graduate, he received an associate degree in 2010, a bachelor's degree in 2014, and a master's degree in 2018. He enlisted in the U.S. Navy in August 1988, and served on active duty until October 2011, when he was medically discharged and honorably retired with a 50 percent disability rating from the VA. He was granted a variety of security clearances (secret, top secret, and SCI since about 2005). He remarried in 2001, and he has seven children.

Applicant candidly reported financial issues in his SF 86, discussed them during his OPM interview, and furnished documentary evidence regarding his efforts to resolve all of his delinquent debts, including some that were not alleged in the SOR. It is significant that in August 2019, two years before the SOR was issued, he entered into a debt resolution program and started to resolve his accounts and repair his finances. Several non-SOR as well as SOR accounts have either been resolved or in the process of being resolved.

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’s track record of claimed or verifiable efforts to resolve the debts is growing and improving, and, considering the circumstances his family has been dealt, his efforts have been reasonable, 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.a. through 1.p.:	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