



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



In the matter of:)
)
) ISCR Case No. 20-01419
)
Applicant for Security Clearance)

Appearances

For Government: Andre M. Gregorian, Esquire, Department Counsel
For Applicant: *Pro se*

05/19/2024

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 August 4, 2019, 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 an undated statement, Applicant responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on November 13, 2020. Because of health concerns associated with the COVID-19 pandemic and pandemic protocols, the case was not assigned to me until October 25, 2021. A Notice of Microsoft TEAMS Video Teleconference Hearing was issued on April 18, 2022. I convened the hearing as scheduled on May 3, 2022.

During the hearing, Government exhibits (GE) 1 and GE 2 and Applicant exhibit (AE) A were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on May 12, 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 which were marked and admitted as AE B through AE D without objection. The record closed on May 17, 2022.

Findings of Fact

In his Answer to the SOR, Applicant admitted all of the factual allegations in the SOR (SOR ¶¶ 1.a. through 1.e.). 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 63-year-old employee of a defense contractor. He has been serving as a sheet metal worker with his current employer since about June 2013. He was previously employed by another employer overseas as a fabrication maintenance consultant. He was unemployed from July 2011 until March 2012. He is a 1977 high school graduate, and he received an associate's degree in 2000. He enlisted in the U.S. Air Force in July 1981, and served on active duty until July 2011, when he was honorably retired as a Chief Master Sergeant (E9). He was granted a secret clearance in 2009. He was married in 1983. He has two children, born in 1985 and 1987.

Military Awards and Decorations

During his military career, Applicant was awarded the following military awards and decorations: The Bronze Star Medal; the Meritorious Service Medal (with 2 oak leaf clusters); the Air Force Commendation Medal (with 1 oak leaf cluster); the Air Force Achievement Medal (with 1 oak leaf cluster); the Meritorious Unit Award; the Air Force Outstanding Unit Award with Valor Device (with 3 oak leaf clusters); the Navy Unit Commendation; the Air Force Good Conduct Medal (with 9 oak leaf clusters); the National Defense Service Medal (with 1 service star); the Global War on Terrorism Expeditionary Medal; the Global War on Terrorism Service Medal; the Korean Defense Service Medal;

the Air Force Overseas Ribbon Short (with 1 oak leaf cluster); the Air Force Overseas Ribbon Long (with 1 oak leaf cluster); the Air Force Expeditionary Service Ribbon; the Air Force Longevity Service Ribbon (with 5 oak leaf clusters); the Air Force NCO PME Graduate Ribbon (with 3 oak leaf clusters); and the Air Force Training Ribbon. (AE D)

Financial Considerations

In his 2019 SF 86, Applicant reported that he failed to timely file his federal income tax returns for the tax years 2014, 2015, 2016, and 2017. The 2014 issue arose because his wife was recovering from cancer surgery, and he failed to file on time and then did not know how to correct the situation. The problem kept building, and he also failed to file the federal income tax returns for the ensuing years. He reported that he was delinquent in paying \$7,500 in income taxes for each of those years, but claimed he was “working with” a tax resolution company to correct the problem. He called the situation an “error in judgment.” (GE 1 at 38-40)

On September 4, 2019, Applicant was interviewed by an investigator with the U.S. Office of Personnel Management (OPM), and he added that after the initial year, he simply kept putting off filing for the current year because he was not sure how to do so after failing to file for the previous year. He also corrected a statement that he had previously made in his SF 86. Rather than “working with” a tax resolution company to correct the problem, as he had previously said, he merely contacted the company on line on one occasion in July 2019, but never actually hired them or made any payments to them. (GE 2 at 5) He claimed that he had started accumulating documentation, and that he planned to hire “the company” in the very near future. (GE at 5)

The SOR alleged five still-unfiled federal tax returns for the tax years 2014, 2015, 2016, 2017, and 2018, as well as delinquent unpaid income taxes totaling approximately \$30,000. Applicant admitted that the income tax returns had still not been filed, and he had not made any payments for his unpaid income taxes. During the hearing, he also acknowledged that the Internal Revenue Service (IRS) prepared substitute federal income tax returns for him (married but filing separate) and came up with the estimated unpaid income taxes. Applicant said that his actions in failing to file his federal income tax returns was due to his stupidity and because he was scared to do so. (Tr. at 20-22, 38) With regard to hiring the tax resolution company, Applicant acknowledged that he had not done so because they wanted too much money, so he decided to stick with the IRS. (Tr. at 21, 45-46) He also acknowledged that when he started the security clearance eligibility process, he started realizing how seriously he had “screwed up.”

Although he is not on an installment agreement, Applicant claimed he periodically made some payments if he has some extra money at the time, and that his outstanding balance had been reduced to about \$10,130. (Tr. at 22-23, 40) During the hearing, he did not submit any documentation to verify payments supposedly made or the amount he claimed was left outstanding. After the hearing, he submitted two Account Transcripts prepared by the IRS on May 3, 2022, for the tax years 2014 and 2016. A third transcript for the tax year 2017 turned out to be a duplicate of the 2016 transcript. For 2014, as of May 3, 2022, based on a substitute federal income tax return reflecting an adjusted gross

income of \$104,018 and a taxable income of \$93,868, Applicant's account balance plus accruals was approximately \$10,277. (AE B) While the IRS acknowledged that two separate amounts were transferred as credits from Applicant's 2020 federal income tax payments (\$4,003 in April 2021 and \$407 in August 2021), there were zero separate payments made by Applicant for the delinquent balance. (AE B) For 2016, as of May 3, 2022, based on a substitute federal income tax return reflecting an adjusted gross income of \$128,302 and a taxable income of \$117,952, Applicant's account balance plus accruals was approximately \$9,824. (AE C) Despite Applicant's contentions, there were zero payments made by Applicant for the delinquent balance. (AE C) For those two years alone, his present unpaid balance is approximately \$20,101. He did not address the delinquent income taxes for the tax years 2015, 2017, or 2018. He claimed that his federal income tax returns for the tax years after 2018 were all timely filed. (Tr. at 21-22)

Applicant explained that when he first enlisted in the service, he lived pay day to pay day. Now that he has approximately \$18,000 or \$19,000 in the bank he intends to keep it as his emergency fund, instead of paying off all of his delinquent taxes. In addition, his wife spends money on their grandchildren; he spends time on his 22-foot fishing boat, which cost him \$63,000; and they drive two vehicles. He reported \$11,193 in net monthly family income; \$3,324 in monthly expenses; and \$5,160 in debt payments, including \$44,864 remaining for his boat, and a signature loan for approximately \$16,855, used to consolidate other bills and buy what he called "toys," leaving \$2,709 as a monthly remainder available for savings or spending. There was no entry designated for paying any amounts to the IRS. (Tr. at 30-31; AE A) Regarding his "toys" comment, Applicant noted that he still liked his toys – including his boat and truck – and that "he wants his cake and he wants to eat it too." (Tr. at 39)

Applicant received financial counseling – regarding the importance of having a good budget – while he was in the service. (Tr. at 31, 45) He now understands the seriousness of the situation, and anticipated that he would lose his clearance at the hearing, so he spoke with someone in his office and told that person that he would probably quit "today." (Tr. at 24-25)

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;
- (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.

Applicant failed to timely file his federal income tax returns for the tax years 2014 through 2018, and for at least three of those years, the IRS prepared substitute income tax returns in 2019. He has never had an installment agreement with the IRS. For 2014, as of May 3, 2022, based on a substitute federal income tax return reflecting an adjusted gross income of \$104,018 and a taxable income of \$93,868, Applicant's account balance plus accruals was approximately \$10,277. For 2016, as of May 3, 2022, based on a substitute federal income tax return reflecting an adjusted gross income of \$128,302 and a taxable income of \$117,952, Applicant's account balance plus accruals was approximately \$9,824. For those two years alone, his present unpaid balance is approximately \$20,101. He did not address the delinquent income taxes for the tax years

2015, 2017, or 2018. His reported income information seemingly negates any inability to pay his debts, but his general attitude regarding his “toys” and his emergency fund; his expenditures for things other than his federal income taxes; and his payment history raise questions as to an unwillingness to pay his delinquent federal income taxes. AG ¶¶ 19(b), 19(c), and 19(f) have been established.

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

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

(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;

(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; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

None of the mitigating conditions apply. Applicant said that his actions in failing to file his federal income tax returns was due to his stupidity and because he was scared to do so after missing the initial year. When he started the security clearance eligibility process, he started realizing how seriously he had “screwed up.” Although he repeatedly stated that he would address his income tax issues by hiring a tax resolution company, in fact, he never actually did so. Applicant never entered into installment agreements with the IRS. His claimed periodic payments to the IRS are essentially unverified. His financial counseling from many years ago was basically for budgeting.

A debt that became delinquent several years ago is still considered recent because “an applicant’s ongoing, unpaid debts evidence a continuing course of conduct and,

therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions.” (ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sept. 13, 2016))).

The DOHA Appeal Board has observed:

Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. See, e.g., ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward inducing an applicant to file tax returns. Rather, it is a proceeding aimed at evaluating an applicant’s judgment and reliability. *Id.* A person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. See, e.g., ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). See *Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff’d*, 367 U.S. 886 (1961).

ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016). See ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016) (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002)); ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015).

The Appeal Board clarified that even in instances where an applicant has purportedly corrected his or her federal tax problem, and the fact that the applicant is now motivated to prevent such problems in the future, does not preclude careful consideration of an applicant’s security worthiness in light of his or her longstanding prior behavior evidencing irresponsibility including a failure to timely file federal income tax returns. (See ISCR Case No. 15-01031 at 3 and note 3 (App. Bd. June 15, 2016) (characterizing “no harm, no foul” approach to an Applicant’s course of conduct and employed an “all’s well that ends well” analysis as inadequate to support approval of access to classified information with focus on timing of filing of tax returns after receipt of the SOR).

Based on the evidence, it appears that Applicant actually ignored his delinquent taxes for a substantial multi-year period, preferring instead to acquire and play with his “toys.” Because of his failure to furnish more complete documentation regarding his unfiled federal tax returns and delinquent federal taxes, the overwhelming evidence leads to the conclusion that his financial problems are not under control or that he is not truly interested in resolving them. He has not acted responsibly by failing to more aggressively address his federal tax returns and delinquent taxes. 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 has failed to furnish sufficient verifiable evidence that he actually began making such efforts – to file federal income tax returns or pay delinquent income taxes – before the SOR was issued in September 2020 – approximately one and one-half years ago. While he may have timely filed his federal income tax returns for the tax years 2019, 2020, and 2021, he has actually made no efforts to address the earlier years.

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 general statements regarding alleged payments, but those statements remain unverified.

The nature, frequency, and continued recency of Applicant's financial difficulties, and his general failure to voluntarily and timely start to resolve them until after the SOR was issued, is sufficient to conclude that his financial difficulties were not infrequent. The general absence of meaningful efforts to file his federal income tax returns or resolve his delinquent federal tax debts is not good, and they constitute negative factors.

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 scant recent evidence of financial counseling or a budget. Applicant's relative 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 63-year-old employee of a defense contractor. He has been serving as a sheet metal worker with his current employer since about June 2013. He was previously employed by another employer overseas as a fabrication maintenance consultant. He is a 1977 high school graduate, and he received an associate's degree in 2000. He enlisted in the U.S. Air Force in July 1981, and served on active duty until July 2011, when he was honorably retired as a highly decorated Chief Master Sergeant (E9). He was granted a secret clearance in 2009. He was married in 1983. He has two children, born in 1985 and 1987.

The disqualifying evidence under the whole-person concept is simply more substantial and compelling. Applicant failed to timely file his federal income tax returns over a multiple-year period (2014 through 2018) and failed to make his federal income taxes during the same period. The IRS filed substitute income tax returns for him and it was determined that he still owed over \$30,000 in delinquent income taxes. He never entered into installment agreements with the IRS, and according to the IRS records in

evidence, there is no evidence that he ever made any payments for his delinquent income taxes. He acknowledged that his actions were stupid, and that he paid no attention to his situation until he started preparing his SF 86 in anticipation of a security clearance eligibility review. Although he appeared to have sufficient salary and savings to start addressing his federal income tax problems, he was more focused on enjoying his “toys,” including his fishing boat. There is no verifiable evidence that he even made periodic or inconsistent payments – something he claimed to have made. Although he repeatedly stated that he would address his delinquent tax issues over the past few years, there is no evidence that he has done so.

The overwhelming evidence leads to the conclusion that Applicant’s financial problems are not under control. He has not acted responsibly by failing to more timely and aggressively address his federal income tax issues. 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.

Applicant’s track record of minimal, if any, verifiable efforts to resolve the federal tax issues 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

Subparagraphs 1.a. through 1.e.: 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