



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 13-01342

Appearances

For Government: Robert J. Kilmartin, Esquire, Department Counsel
For Applicant: *Pro se*

09/23/2014

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is denied.

Statement of the Case

On August 12, 2013, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application (SF 86).¹ On March 3, 2014, the Department of Defense (DOD) Consolidated Adjudications Facility – Division A (CAF) issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 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 *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (effective within the DOD on September

¹ GE 1 ((SF 86), dated August 12, 2013).

1, 2006) (AG) for all adjudications and other determinations made under the Directive. The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant acknowledged receipt of the SOR on April 28, 2014. In a sworn statement, dated May 12, 2014, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. On July 1, 2014, Department Counsel indicated the Government was prepared to proceed. The case was assigned to me on July 10, 2014. A Notice of Hearing was issued on July 25, 2014. I convened the hearing as scheduled on August 11, 2014.

During the hearing, three Government exhibits (GE 1 through GE 3) and four Applicant exhibits (AE A through AE D) were admitted into evidence without objection. Applicant testified. The transcript of the hearing (Tr.) was received on August 19, 2014. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity. He submitted five additional documents which were marked as exhibits AE E through AE I and admitted into evidence without objection. The record closed on August 25, 2014.

Findings of Fact

In his Answer to the SOR, Applicant admitted all of the factual allegations (¶¶ 1.a. through 1.j.) of the SOR. Applicant's admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact.

Applicant is a 52-year-old self-employed owner of a small technology company as well as prospective employee of a defense contractor.² He was previously an assistant professor at a university and a high school mathematics teacher. He has never served with the United States military.³ He has never held a security clearance.⁴

A June 1979 high school graduate, Applicant earned a bachelor's degree in June 1983, a master's degree in June 1985, and a doctorate in June 1989.⁵ Applicant was married in August 1990 and has six children, born between 1994 and 2004.⁶

² While Applicant has been employed by his new employer, he has not yet earned any salary, and is awaiting a security clearance before becoming eligible for a salary. See GE 2 (Personal Subject Interview, dated October 3, 2013), at 1.

³ GE 1, *supra* note 1, at 15.

⁴ GE 1, *supra* note 1, at 35; GE 2, *supra* note 2, at 1.

⁵ GE 1, *supra* note 1, at 10-11.

⁶ GE 1, *supra* note 1, at 22-25.

Financial Considerations

There was nothing unusual about Applicant's finances until 1999. A series of events occurred commencing in 1995 that contributed to the accumulation of debt, which became a problem by 1999.⁷ From 1988 until 1995, Applicant had been an assistant professor in the mechanical engineering department at a university. Because of his perception that he would be denied tenure because of unspecified discrimination at the university, he searched for another university position. He eventually received an offer from another university, but declined the offer, deciding instead to start his own niche business.⁸ The business prospered with several customers, and generally generated between \$60,000 and \$80,000 per year.⁹ In 2013, that income had decreased to \$47,817.¹⁰

It was Applicant's opinion that his annual income was insufficient to support his family.¹¹ Furthermore, when the national economy collapsed, Applicant's anticipated business growth evaporated. While he filed his income tax returns, self-employment taxes and income taxes were prioritized after household expenses, and were essentially unpaid.¹² In May 2013, the Internal Revenue Service (IRS) determined that he owed \$261,880.10 for unpaid taxes, penalties, and interest for the tax years 2002 through 2011.¹³ In an effort to generate additional income, in 2012, Applicant took a full-time position with a local high school as a mathematics teacher with an annual salary of \$40,000.¹⁴ Applicant's school salary during the 2013 school year was \$19,514.78.¹⁵ That amount, when added to his company income, enabled him to pay his 2013 taxes.¹⁶ The following year, he was offered a position with a government contractor for \$160,000. The school system was experiencing budgetary issues, and, at about the time he resigned his position, all new faculty members were laid off.¹⁷ The government contractor position is the one that requires a security clearance, and until he obtains one, Applicant cannot be paid.

⁷ Tr. at 41.

⁸ Tr. at 31-33.

⁹ Tr. at 35.

¹⁰ AE D (Form 1040, dated April 15, 2014), at 1.

¹¹ Tr. at 35.

¹² Tr. at 38.

¹³ AE E (IRS Installment Agreement, dated May 15, 2013), at 1-2.

¹⁴ Tr. at 36.

¹⁵ AE C (Wage and Tax Statement (W-2), undated); AE D, *supra* note 10, at 1.

¹⁶ Tr. at 38-39.

¹⁷ Tr. at 37, 42-43.

As a result of his limited company income, the loss of his teaching position and income, the uncertainty of his new government contractor job, and the absence of a security clearance, over the years, as noted above, taxes remained unpaid, and he was unable to continue making all of his monthly payments. In addition, after he resigned from the high school system, he lost his health insurance. That situation remained until February 2014, when he enrolled for health insurance under the Affordable Care Act.¹⁸ Several tax liens were filed¹⁹ and some of his accounts became delinquent and were placed for collection. Applicant apparently contacted the IRS in July 2012, and established an installment agreement requiring monthly payments of \$414, but he was unable to make any payments.²⁰ He did another installment agreement in May 2013, and that agreement also failed through non-payments. In February 2014, an additional tax lien was filed in the amount of \$14,283.21, covering the tax year 2012.²¹ In May 2014, the IRS determined that Applicant does not have the ability to pay the money he owes the IRS and temporarily closed his collection case for the tax periods 2003 through 2012.²² Applicant was advised that the case may be reopened in the future when his financial situation improves.²³ Until such time, penalties and interest will continue to accrue.²⁴

While Applicant has had financial problems, including tax liens and delinquent accounts since 1999, during those 15 years before the hearing in August 2014 he had not sought any financial counseling.²⁵ He finally took some online credit counseling on managing money.²⁶ It is unclear if he ever obtained financial counseling on developing a debt management plan.

Applicant's company income during the months of June through August 24, 2014 was \$14,799.92.²⁷ He estimated his monthly family expenses to be \$5,447.²⁸ Those figures indicate that there are little, if any, funds left over each month for discretionary spending or savings.

¹⁸ Tr. at 44.

¹⁹ GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated September 26, 2013), at 5.

²⁰ AE E, *supra* note 13, at 1; AE E (Installment Agreement Activity, dated July 8, 2013).

²¹ AE E (Notice of Federal Tax Lien, dated February 7, 2014).

²² AE A (IRS Letter, dated May 7, 2014).

²³ AE A, *supra* note 22.

²⁴ AE A, *supra* note 22.

²⁵ Tr. at 63-64.

²⁶ AE I (Internet Communication, dated August 25, 2014).

²⁷ AE H (Monthly Sales Reports, undated).

²⁸ AE G (Monthly Expenses, undated).

The SOR identified ten purportedly continuing delinquencies, including five federal tax liens, four medical accounts, and one telephone account. Some accounts listed in the credit report have been transferred, reassigned, or sold to other creditors or collection agents. None of the accounts listed in the SOR reflect an account number. Those debts listed in the SOR and their respective current status, according to the credit report and other evidence in the case file, including Applicant's submissions regarding the same, are described below.

(SOR ¶¶ 1.a.-1.e.): There are five federal tax liens in varying amounts totaling approximately \$201,486 that were filed in 2005 (\$49,478), 2010 (\$20,021), 2011 (\$11,654), 2012 (\$106,093), and 2013 (\$14,240).²⁹ As noted above, they were for unpaid self-employment taxes and income taxes. The IRS temporarily closed his collection case for the tax periods 2003 through 2012 when it determined that Applicant did not have the ability to pay the money he owes the IRS. Applicant established installment agreements on several occasions over the years, but he was unable to make any payments. He contends he made payments at irregular intervals totaling about \$7,000,³⁰ but did not submit any documentation to support his contentions or to indicate if the payments were made for his 2013 taxes or for his overall tax delinquency. The IRS collection action against him may be reopened in the future when his financial situation improves, and until such time, penalties and interest will continue to accrue. In addition, Applicant's financial condition continues to deteriorate, and in February 2014, an additional tax lien (not listed in the SOR) was filed covering the tax year 2012. The accounts have not been resolved.

(SOR ¶¶ 1.f., 1.g., 1.i., and 1.j.): There are four delinquent medical accounts with varying past-due balances totaling approximately \$2,458 that were placed for collection in 2009 (\$1,047, \$51, and \$27), and 2012 (\$1,333).³¹ Two of the accounts (\$1,047, and \$51) were apparently transferred or sold to other debt collection agents in 2013. All of the accounts were for medical services Applicant's children received in hospital emergency rooms during periods when Applicant did not have medical coverage.³² He approached two of the creditors but he was unable to settle with one of them (SOR ¶ 1.f. for \$1,333) because he had insufficient funds to make any payments to them.³³ In May 2014, Applicant "settled" a delinquent account with a \$27 balance (SOR ¶ 1.j.).³⁴ He indicated he searched the internet and was unable to locate the creditor on his two remaining medical accounts (SOR ¶¶ 1.g. and 1.i.),³⁵ but it should be noted that the

²⁹ GE 3, *supra* note 19, at 5.

³⁰ GE 2, *supra* note 2, at 4.

³¹ GE 3, *supra* note 19, at 6-7.

³² Tr. at 46-50.

³³ Tr. at 46-47.

³⁴ Tr. at 50; Applicant's Answer to the SOR, dated May 12, 2014, at 2; AE F (Debit Card Purchase, dated May 14, 2014).

³⁵ Tr. at 47, 49.

contact address is located in his credit report.³⁶ One of the four medical accounts has been resolved, and the remaining three medical accounts have not been resolved.

(SOR ¶ 1.h.): There is one delinquent telephone account with an unpaid balance of \$414 that was placed for collection in 2013.³⁷ In an effort to settle the account, Applicant contacted the creditor, and made two payments of \$217 in June 2014.³⁸ The account has been resolved.

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.”³⁹ 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.”⁴⁰

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG 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.

³⁶ GE 3, *supra* note 19, at 6-7.

³⁷ GE 3, *supra* note 19, at 6.

³⁸ Tr. at 49; AE F (Transaction Information, dated June 2, 2014); AE F (Transaction Information, dated June 16, 2014).

³⁹ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁴⁰ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

In the decision-making process, facts must be established by “substantial evidence.”⁴¹ 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.⁴²

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.”⁴³

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.”⁴⁴ 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:

⁴¹ “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).

⁴² See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴³ *Egan*, 484 U.S. at 531

⁴⁴ See Exec. Or. 10865 § 7.

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an *inability or unwillingness to satisfy debts* is potentially disqualifying. Similarly, under AG ¶ 19(c), a *history of not meeting financial obligations* may raise security concerns. Commencing in 1999, Applicant found himself with insufficient funds to continue making his routine monthly payments, or his self-employment tax payments, various accounts became delinquent, and they were placed for collection, or federal tax liens were filed. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where *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*. Also, under AG ¶ 20(b), financial security concerns may be mitigated where *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, or a death, divorce or separation), and the individual acted responsibly under the circumstances*. Evidence that *the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control* is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows *the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*.⁴⁵

AG ¶ 20(b) only minimally applies. Applicant's financial problems commenced when a series of events occurred that Applicant contends negatively impacted his finances. In 1995, he stepped down from an assistant professorship at a university when he perceived he would be denied tenure because of unspecified discrimination at

⁴⁵ The Appeal Board has previously explained what constitutes a "good-faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good-faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term 'good-faith.' However, the Board has indicated that the concept of good-faith 'requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.' Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy [or statute of limitations]) in order to claim the benefit of [the "good-faith" mitigating condition].

ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (internal citation and footnote omitted, quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

the university. Although he was offered another position at a different university, he chose, instead, to start his own business. While the business generated between \$60,000 and \$80,000 per year, in 2013, the income had decreased to \$47,817. It was not until 2012 that he obtained a position teaching high school mathematics for \$40,000 per school year. After one year, he again resigned, hoping for a better-paying position elsewhere.

Applicant contends his financial problems were largely beyond his control. However, his loss of employment with the university and the high school were not generated by those institutions, but rather by Applicant's freedom of choice and his perceived perceptions. When he left the university, he could have accepted another university position, but he chose not to. Instead, he opted to start his own business. The business downturn in 2013 did not cause his financial problems with the IRS, as those financial difficulties had already existed for several years. The initial tax lien was filed in 2005 because of his failure to pay self-employment and income taxes. While Applicant had four delinquent medical accounts totaling approximately \$2,458, unexpected medical emergencies did not cause his financial problems, they were merely the result of his continuing financial problems.

Applicant generally ignored his increasing federal tax debt until 2012, when the first of two failed installment agreements were established. Both installment agreements collapsed when Applicant could not make his monthly payments to the IRS. Likewise, he generally ignored his delinquent medical accounts from 2009 and 2012 until he paid one off (for \$27) in May 2014. His delinquent telephone account was ignored until June 2014. While the IRS has temporarily closed his collection case for the tax periods 2003 through 2012, Applicant's overall financial issues have been left unresolved. Applicant has failed to act responsibly under the circumstances.⁴⁶

AG ¶ 20(a) does not apply. The nature, frequency, and relative recency of Applicant's financial difficulties since 1999, or even before that time, make it difficult to conclude that it occurred "so long ago" or "was so infrequent," especially since those financial problems are continuing.

AG ¶ 20(c) does not apply because while Applicant took some online credit counseling on managing money in August 2014, there is no evidence that he has ever received financial counseling or debt consolidation guidance. In addition, he failed to establish that there are clear indications that his finances are under control and his SOR debts are being paid. To the contrary, it is apparent that given his current financial situation, Applicant's finances are far from being under control.

AG ¶ 20(d) minimally applies because Applicant failed to initiate a "good-faith effort," to start repaying any of five federal tax liens or three of his four delinquent

⁴⁶ "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. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)).

medical accounts. There is evidence that he did resolve two SOR accounts for \$27 and \$414. Applicant made repayment arrangements with the IRS, but never made any payments. His delinquent medical account for \$27 remained unresolved until 2014, and another delinquent medical account for \$51 remains unresolved. Applicant's excuse that he was unable to locate the collection agent for two of the delinquent medical accounts cannot withstand scrutiny when the address of the collection agent appears on the credit report. Over the years since 1999, Applicant did not act aggressively, timely, or responsibly to resolve his delinquent debts. Instead, he ignored all but two of his debts and generally continues to do so, claiming he is hoping to obtain a security clearance in order to commence work with the government contractor that was willing to offer him a position for \$160,000. More positive movements should have already taken place to resolve some of his delinquent accounts.

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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (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 AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

There is some evidence in favor of mitigating Applicant's conduct. He is an educated individual who has held significant positions as a university assistant professor and high school mathematics teacher. He is a good parent. He has repeatedly declared his intention of resolving his delinquent accounts once he has the funds to do so.

The disqualifying evidence under the whole-person concept is more substantial than the mitigating evidence. When he left the university, he could have accepted another university position, but he chose not to. Instead, he opted to start his own business. As noted above, his business downturn in 2013 did not cause his financial problems with the IRS, as those financial difficulties had already existed for several years. The initial tax lien was filed in 2005 because of his failure to pay self-employment and income taxes. Applicant generally ignored his increasing federal tax debt until 2012. He agreed to two installment agreements, but both installment agreements collapsed when Applicant could not make his monthly payments to the IRS. Likewise, he generally

ignored his delinquent medical accounts from 2009 and 2012 until he paid one off (for \$27) in May 2014. His delinquent telephone account was ignored until June 2014.

I am mindful that one or more factors such as his years of relatively low income and large family to support, considered in isolation, might put Applicant's credit history in a sympathetic light. 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.⁴⁷ The absence of any efforts or evidence to reflect actual payments to his SOR creditors are sufficient to raise continuing security concerns. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁴⁸

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has ". . . established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan." The Judge can reasonably consider the entirety of an applicant's financial situation and his [or her] actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ("Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.") There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

Applicant has demonstrated a poor track record of making minimal efforts to pay his creditors (especially his taxes), and generally ignoring them until he is financially able to address his delinquent debts. Overall, the record evidence leaves me with substantial questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has failed to mitigate the security concerns arising from his financial considerations.

⁴⁷ 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).

⁴⁸ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	Against Applicant
Subparagraph 1.j:	For 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