



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



In the matter of:)
)
 ----) ISCR Case No. 14-01602
)
 Applicant for Security Clearance)

Appearances

For Government: Eric Borgstrom, Esquire, Department Counsel
For Applicant: *Pro se*

09/03/2015

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant has mitigated the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is granted.

Statement of the Case

On January 30, 2013, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.¹ On June 5, 2014, the Department of Defense (DOD) Consolidated Adjudications Facility (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 the *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December 29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. The SOR alleged security concerns under Guideline F (Financial

¹ Item 5 (e-QIP, dated January 30, 2013).

Considerations), and detailed reasons why the DOD CAF was unable to make an affirmative finding under the Directive 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.

It is unclear when Applicant received the SOR as there is no receipt in the case file. In a statement, dated July 30, 2014, Applicant responded to the SOR allegations,² and by separate e-mail, dated August 4, 2014, he elected to have his case decided on the written record in lieu of a hearing.³ A complete copy of the Government's file of relevant material (FORM) was provided to Applicant on May 11, 2015, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. Applicant received the FORM on June 1, 2015. A response was due by July 1, 2015. On an unspecified date before that due-date, Applicant submitted his Response to the FORM, including documents. Department Counsel had no objections to the documents submitted, and I marked them as Applicant Items (AI) A through AI J. The case was assigned to me on August 12, 2015.

Findings of Fact

In his Answer to the SOR, Applicant admitted nearly all of the factual allegations pertaining to financial considerations in the SOR (¶¶ 1.b. through 1.i., 1.k through 1.q., and 1.s.). He denied the remaining allegations. 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 44-year-old employee of a defense contractor. He has been serving as a contract specialist with his current employer since November 2012,⁴ as well as the president and chief of operations for his own consulting firm since April 2011.⁵ He was unemployed from September 2007 until July 2008, following his discharge from military service,⁶ from May 2010 until August 2010, after being subjected to racial discrimination (for which he has a pending complaint filed with the U.S. Equal Employment Opportunity Commission) and fired;⁷ and again from September 2011 until

² Item 2 (Applicant's Answer to the SOR, dated July 30, 2014).

³ Item 3 (Applicant's e-mail, dated August 4, 2014).

⁴ Item 5, *supra* note 1, at 11-12.

⁵ Item 5, *supra* note 1, at 12-13; Item 10 (Personal Subject Interview, dated May 10, 2013), at 1. Applicant explained that since he started his own consulting firm, that firm did not generate any income as it did not yet qualify as a small socially and economically disadvantaged business set-aside under the U.S. Small Business Administration's 8(a) Business Development Program. See AI A (Applicant's Answer to the FORM, undated), at 1.

⁶ Item 5, *supra* note 1, at 18; Item 10, *supra* note 5, at 2.

⁷ Item 5, *supra* note 1, at 15-16; Item 10, *supra* note 5, at 1-2; AI E (Unemployment Insurance Claim, undated).

November 2012, after being laid off as part of a company downsizing.⁸ He received a bachelor's degree in 1998.⁹ Applicant enlisted in the U.S. Army in April 1988, and he served in the active reserve until October 1989, and on active duty from October 1989 until August 1992. He was commissioned in August 1992. He returned to active duty in an officer status in August 1998 and remained on active duty until August 2007.¹⁰ He was deployed to Bosnia for an unspecified period during 2000-01.¹¹ Applicant was granted a top secret security clearance while serving with the U.S. Army.¹² He was married in 1998, and divorced in 2001.¹³ He has four children, born in 1992, 1998, 2003, and 2011.¹⁴

Financial Considerations

There was nothing unusual about Applicant's finances until about 2000-01. While he was deployed, without his knowledge, Applicant's wife left their marriage and stopped paying the family bills. Accounts became delinquent. When he returned from his deployment, Applicant found out about his delinquent accounts and began addressing them. He managed to keep them current until he was discharged, but the ensuing period of unemployment as well as subsequent periods of unemployment destabilized his efforts.¹⁵ In addition, in 2011, as a result of an arbitration hearing at the state child support enforcement office, Applicant was ordered to pay monthly child support in the amount of \$350. If it is determined that Applicant is not the biological father of the child, the child's mother has agreed to petition the agency to terminate the order.¹⁶

During his lengthy periods of unemployment, Applicant was forced to prioritize his accounts. He paid some bills off when he could, but generally he had to focus on child support (for both current and arrearage), housing, and searching for, or getting to, work. Since his credit reports contained a substantial number of negative accounts, the task seemed overwhelming to him. Applicant subsequently adjusted his strategy and sought the assistance of a credit counselor. He met with his credit counselors regularly, received monthly updated reports, prepared monthly expenditure reports, and monitored his accounts. He keeps a calendar to alert him as to when his bills are due to

⁸ Item 5, *supra* note 1, at 13-14; Item 10, *supra* note 5, at 1; AI A, *supra* note 5, at 1-2; AI C (Letter, dated September 1, 2011); AI F (Unemployment Insurance Claim, dated September 7, 2011).

⁹ Item 10, *supra* note 5, at 1.

¹⁰ Item 5, *supra* note 1, at 18-22.

¹¹ Item 10, *supra* note 5, at 4.

¹² Item 5, *supra* note 1, at 37-38.

¹³ Item 5, *supra* note 1, at 24-25.

¹⁴ Item 5, *supra* note 1, at 28-39.

¹⁵ Item 10, *supra* note 5, at 4.

¹⁶ Item 10, *supra* note 5, at 8.

make sure his bills are paid on time. He also engaged the services of an attorney to assist him in resolving certain financial issues.¹⁷ His credit counselors also monitor Applicant's finances to guard against false reporting of negative information on his credit reports.¹⁸

The SOR identified 19 purportedly continuing delinquent accounts, totaling approximately \$33,710, which had been placed for collection, charged off, or went to judgment. Those debts and their respective current status, according to a March 2013 Combined Experian, TransUnion, and Equifax credit report;¹⁹ a May 2014 Equifax credit report;²⁰ and an October 2014 Equifax credit report;²¹ Applicant's Answer to the SOR; his Response to the FORM; and various submissions by him, are described as follows:

(SOR ¶¶ 1.b. through 1.i., and 1.k., 1.l., and 1.q.): This is a variety of different accounts that were placed for collection or charged off in varying amounts: a power utility account for \$222 (SOR ¶ 1.b.);²² a gas utility account for \$747 (SOR ¶ 1.c.);²³ an unspecified medical account for \$183 (SOR ¶ 1.d.);²⁴ another unspecified medical account for \$42 (SOR ¶ 1.e.);²⁵ another unspecified medical account for \$142 (SOR ¶ 1.f.);²⁶ another unspecified medical account for \$285 (SOR ¶ 1.g.);²⁷ an electric utility account for \$229 (SOR ¶ 1.h.);²⁸ a credit card account for \$358 that was charged off (SOR ¶ 1.i.);²⁹ a telephone account for \$160 that was charged off (SOR ¶ 1.k.);³⁰ a telephone account for \$203 (SOR ¶ 1.l.);³¹ a cable and internet account for \$829 (SOR

¹⁷ Al A, *supra* note 5, at 2-3; Item 2, *supra* note 2, at 1.

¹⁸ Al A, *supra* note 5, at 4.

¹⁹ Item 9 (Combined Experian, TransUnion, and Equifax Credit Report, dated March 2, 2013).

²⁰ Item 8 (Equifax Credit Report, dated May 16, 2014).

²¹ Item 7 (Equifax Credit Report, dated October 8, 2014).

²² Item 9, *supra* note 19, at 8.

²³ Item 9, *supra* note 19, at 7.

²⁴ Item 9, *supra* note 19, at 9.

²⁵ Item 9, *supra* note 19, at 10.

²⁶ Item 8, *supra* note 20, at 1.

²⁷ Item 9, *supra* note 19, at 9.

²⁸ Item 9, *supra* note 19, at 8.

²⁹ Item 9, *supra* note 19, at 8.

³⁰ Item 9, *supra* note 19, at 13; Item 8, *supra* note 20, at 2.

³¹ Item 9, *supra* note 19, at 6. Applicant discovered that the accounts alleged in SOR ¶¶ 1.k. and 1.l. are the same account during different stages of its development. See Item 2, *supra* note 2, at 3.

¶ 1.q.);³² and a cable account for \$232 that was purportedly charged off (SOR ¶ 1.s.).³³ Applicant paid off each of the accounts and they were removed from his June 2015 Experian credit report.³⁴ These accounts have been resolved. Primary documentation supporting Applicant’s resolution of these accounts is set forth below:

SOR ¶	Document Identification & Date	Location
1.b.	Bank Statement, dated July 28, 2014	Item 2, at 12
1.c.	Letter, dated July 11, 2014	Item 2, at 14
1.d. – 1.g.	Payment Receipt, dated July 3, 2014	Item 2, at 15
1.h.	Receipt, dated July 15, 2014	Item 2, at 24
1.i.	Letter, dated July 4, 2014	Item 2, at 25
1.k. & 1.l.	Bank Account Details, undated	Item 2, at 28
1.q.	Letter, dated June 27, 2014 [paid in May 2012]	AI H
1.s.	Account Activity, dated July 14, 2014	AI I

(SOR ¶¶ 1.a., 1.j., 1.m. through 1.p., 1.r., and 1.s.): This is a variety of different accounts that were placed for collection, charged off, or went to judgment in varying amounts: a furniture rental account for \$2,093 that went to judgment (SOR ¶ 1.a.);³⁵ a wireless telephone account for \$1,351 (SOR ¶ 1.j.);³⁶ a telephone account for \$203 (SOR ¶ 1.m.);³⁷ student loan accounts for \$53,274, of which \$665 was past due (SOR ¶ 1.n.);³⁸ a wireless telephone account for \$1,797 (SOR ¶ 1.p.);³⁹ and a wireless television account for \$515 (SOR ¶ 1.r.).⁴⁰ Applicant disputed each of the accounts with the creditor, the credit reporting agencies, or both, and it was determined that there was a mistaken identity, the account was listed in error, it had previously been resolved, or other mistakes had been made. The accounts were either acknowledged to be in error, the credit report listing was updated, or the accounts were removed from Applicant’s credit reports. Most of them have been removed from his June 2015 Experian credit report.⁴¹ These accounts have been resolved. Primary documentation supporting Applicant’s resolution of these accounts is set forth below:

³² Item 9, *supra* note 19, at 7.

³³ Item 9, *supra* note 19, at 13; Item 7, *supra* note 21, at 2.

³⁴ AI A, *supra* note 5, at 3-6; AI J (Experian Credit Report, dated June 12, 2015); Item 2, *supra* note 2, at 1-5.

³⁵ Item 9, *supra* note 19, at 4.

³⁶ Item 9, *supra* note 19, at 12; Item 8, *supra* note 20, at 2.

³⁷ Item 9, *supra* note 19, at 6. Applicant discovered that the accounts alleged in SOR ¶¶ 1.k., 1.l., and 1.m. are the same account during different stages of its development. See Item 2, *supra* note 2, at 3.

³⁸ Item 8, *supra* note 20, at 3.

³⁹ Item 9, *supra* note 19, at 6.

⁴⁰ Item 9, *supra* note 19, at 7.

⁴¹ AI A, *supra* note 5, at 3-6; AI J, *supra* note 33; Item 2, *supra* note 2, at 1-5.

SOR ¶	Document Identification & Date	Location
1.a.	Letter, dated May 20, 2013	AI G
1.j.	Letter, dated July 1, 2014	Item 2, at 27
1.m.	Bank Account Details, undated	Item 2, at 28
1.n.	Credit Report reflecting account is deferred	AI J, at 12
1.p.	Letter, dated July 4, 2014	Item 2, at 25
1.r.	Awaiting documentation [mistaken identity]	Item 2, at 5

(SOR ¶ 1.o.): This is an automobile loan for \$23,454 that was charged off.⁴² Applicant had purchased the 2005 vehicle while he was on active duty, but his lengthy unemployment situation made it difficult for him to maintain his monthly payments. He voluntarily relinquished the vehicle to the lender in 2008. The lender apparently sold the vehicle for nearly \$6,000, but never informed Applicant that there was a deficiency of approximately \$23,000. Applicant indicated he was willing to resolve the debt if it is valid, and he requested validation and verification of the debt, but the lender failed to sufficiently respond.⁴³ He subsequently disputed the debt with the credit reporting agencies, and because the lender could not support the claim, the debt was removed from Applicant's June 2015 Experian credit report.⁴⁴ The account has been resolved.

Applicant's net monthly income fluctuates between \$4,000 and \$6,000. His normal monthly expenses, including \$150 for credit monitoring services, are \$2,535, leaving him approximately \$1,500 available for discretionary savings or spending. While he has five credit cards, he does not carry over any balances.⁴⁵ He has no other delinquent accounts.

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."⁴⁶ 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."⁴⁷

⁴² Item 9, *supra* note 19, at 12.

⁴³ Item 2, *supra* note 2, at 4. See also Item 4 (E-mail, dated August 28, 2014), at 1.

⁴⁴ AI A, *supra* note 5, at 6; AI J, *supra* note 33.

⁴⁵ AI B (List of Monthly Expenditures, undated).

⁴⁶ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁴⁷ 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 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.

In the decision-making process, facts must be established by "substantial evidence."⁴⁸ 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.⁴⁹

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."⁵⁰

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."⁵¹ Thus, nothing

⁴⁸ "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).

⁴⁹ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁵⁰ *Egan*, 484 U.S. at 531.

⁵¹ See Exec. Or. 10865 § 7.

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 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. Applicant's financial problems initially arose in about 2000-01 during a military deployment and continued for several years thereafter. He was unable to continue making his routine monthly payments and some accounts became delinquent, were placed for collection, charged off, or went to judgment. 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.”⁵² Under AG ¶ 20(e) it is potentially mitigating if “the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.”

AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) all apply. Applicant’s financial problems were not caused by frivolous or irresponsible spending, and he did not spend beyond his means. Instead, those financial problems were initially caused by his wife when she decided to abandon her bill-paying responsibilities as well as the marriage while Applicant was on a military deployment. He eventually managed to repair his accounts, but his continuing efforts were essentially thwarted by subsequent events that were largely beyond his control. Upon his discharge from the U.S. Army, Applicant was unemployed from September 2007 until July 2008. That status resumed in May 2010 and remained unchanged until August 2010. He was again unemployed from September 2011 until November 2012. Applicant did not ignore his accounts as some of them spiraled into delinquency status. Instead, he was forced to prioritize his accounts. He paid some bills off when he could, but generally he had to focus on a few essential obligations, including child support, housing, and potential work-related expenses. The task seemed overwhelming to him.

Applicant sought the assistance of a credit counselor. He met regularly with his credit counselors, received monthly updated reports, prepared monthly expenditure reports, and monitored his accounts. He established a calendar to alert him as to when his bills are due to make sure his bills are paid on time. He also obtained the services of an attorney to assist him in resolving certain financial issues.

While the SOR identified 19 purportedly continuing delinquent accounts, three of those accounts were actually the same account in various phases. Some accounts identified were not Applicant’s, and when he disputed them, those accounts were removed from his credit reports. The alleged delinquent status of some accounts was simply in error. As they had been previously resolved, the listings were corrected in his credit report. When faced with insufficient funds to maintain or resolve some accounts, he maintained his prioritizing efforts. Upon becoming employed in November 2012, Applicant returned to his good-faith efforts of resolving his remaining delinquent

⁵² 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) in order to claim the benefit of [the “good-faith” mitigating condition].

(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. June 4, 2001)).

accounts. While it took him approximately one and one-half years to do so, Applicant's has managed to pay off or otherwise resolve all of the accounts listed in the SOR.⁵³

Applicant has no other more recent delinquent debts, and his financial situation is stable and steadily improving. He is able to meet all of his monthly financial obligations. Applicant's financial problems appear to be under control, largely attributed to his continuing good-faith efforts to pay his creditors. Applicant's actions under the circumstances confronting him, do not cast doubt on his current reliability, trustworthiness, or good judgment.⁵⁴

There is a substantial risk when one accepts, at face value, the contents of a credit report without obtaining original source documentation to verify entries. Credit bureaus collect information from a variety of sources, including public records and "other sources," and it is these other unidentified sources that are the cause for concern. Likewise, when accounts are transferred, reassigned, sold, or merely churned, an individual's credit history can look worse than it really is. In this particular instance, the credit report referred to various creditors for the same delinquent accounts. Because of abbreviated names and acronyms, as well as incomplete account numbers, many of those entries are garbled and redundant, and have inflated the financial concerns. Furthermore, the absence of the identity of original creditors, especially those simply listed as "medical creditor" in the credit reports and the SOR makes the analysis that much more difficult.

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 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.

⁵³ "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.

⁵⁴ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

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. 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.⁵⁵

There is some evidence against mitigating Applicant's conduct. Applicant's financial status deteriorated to the point where he was no longer capable of maintaining his normal monthly payments. Various accounts became delinquent or were charged off.

The mitigating evidence under the whole-person concept is more substantial. There is no evidence of misuse of information technology systems, mishandling protected information, substance abuse, or criminal conduct. Applicant's financial problems were not caused by frivolous or irresponsible spending, and he did not spend beyond his means. Rather, Applicant's problems were largely beyond his control. His wife's actions while he was deployed, the eventual divorce, the child support order, being laid off or fired, and repeated periods of unemployment, were events over which Applicant had little control. Applicant did not ignore his accounts as some of them spiraled into delinquency status. Instead, he was forced to prioritize his accounts. He paid some bills off when he could, but generally he had to focus on a few essential obligations. He sought the assistance of a credit counselor and an attorney. The results were successful, and Applicant has resolved all of the accounts listed in the SOR as well as other non-SOR accounts. He now has approximately \$1,500 available each month for discretionary savings or spending. While he has five credit cards, he does not carry any balances. He has no other delinquent accounts. Applicant's financial problems appear to be under control.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁵⁶

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,

⁵⁵ 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).

⁵⁶ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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 “meaningful track record” of debt reduction and elimination efforts. That effort commenced before the SOR was issued. His actions, under the circumstances confronting him, do not cast doubt on his current reliability, trustworthiness, or good judgment. The entire situation occurred under such circumstances that it is unlikely to recur.

Overall, the evidence leaves me without questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has mitigated the security concerns arising from his financial considerations. See AG ¶ 2(a)(1) through AG ¶ 2(a)(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.s.:	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