



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



In the matter of:	)	
	)	
	)	ISCR Case No. 08-09601
SSN:	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Julie R. Mendez, Esquire, Department Counsel  
For Applicant: *Pro Se*

March 16, 2010

**Decision**

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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 June 6, 2008, Applicant applied for a security clearance and submitted an Electronic Questionnaires for Investigations Processing (e-QIP) version of a Security Clearance Application (hereinafter SF 86). On February 20, 2009, the Defense Office of Hearings and Appeals (DOHA) 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; and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive). The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why DOHA could not make a preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and

recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

On December 29, 2005, the President promulgated revised *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information*, and on August 30, 2006, the Under Secretary of Defense (Intelligence) published a memorandum directing implementation of those revised Adjudicative Guidelines (hereinafter AG) for all adjudications and other determinations made under the Directive and Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program* (January 1987), as amended and modified (Regulation), in which the SOR was issued on or after September 1, 2006. The AG are applicable to Applicant's case because his SOR was issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on March 3, 2009. In a sworn, written statement, dated March 16, 2009, but notarized March 23, 2009, Applicant responded to the SOR allegations and elected to have his case decided on the written record in lieu of a hearing. A complete copy of the file of relevant material (FORM) was provided to Applicant on April 2, 2009, 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 December 1, 2009,<sup>1</sup> and no submission was made by the December 31, 2009, deadline. The case was assigned to me on March 5, 2010.

### **Findings of Fact**

In his Answers to the SOR, Applicant admitted the factual allegations in ¶¶ 1.a. and 1.b. of the SOR, and denied the remaining allegation.

Applicant is a 50-year-old employee of a defense contractor, currently serving as an ROTC Administrative Technician,<sup>2</sup> and he is seeking to obtain a security clearance. He has never had a security clearance.<sup>3</sup> Applicant never served with the U.S. military, but was a Deputy Sheriff for 27 years before he retired in October 2007.<sup>4</sup> He married in 1985, and is the father of four children, born in 1986, 1987, 1992, and 1995, respectively, all of whom reside with Applicant and his spouse.<sup>5</sup> They have resided in the same house since 1992.<sup>6</sup>

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<sup>1</sup> There is nothing in the case file explaining the unusual period of delay between the April 2009 submission of the FORM to Applicant and his December 2009 receipt of same.

<sup>2</sup> Item 1 (SF 86), dated Jun. 6, 2008, at 11.

<sup>3</sup> *Id.* at 31.

<sup>4</sup> *Id.* at 13, 26.

<sup>5</sup> *Id.* at 18-21.

<sup>6</sup> *Id.* at 9.

Upon his retirement from the county sheriff's department in October 2007, and continuing until he secured his present position in June 2008, although he was receiving his retirement pension, Applicant had the misfortune of being unemployed.<sup>7</sup>

At about the time Applicant married, he and his wife made "a conscious choice that [he] would work and she would stay at home so as to not have someone else rear [their] children."<sup>8</sup> Nevertheless, she apparently has served as a substitute teacher in the city school system. Over the years, he supplemented his county income by taking part-time jobs "to make ends meet."<sup>9</sup> One of those jobs was running the family trucking business.<sup>10</sup> Business eventually improved and control was involuntarily relinquished to Applicant's father and siblings.<sup>11</sup> Unfortunately, less than a year after relinquishing control, the business essentially failed.<sup>12</sup>

There was nothing unusual about Applicant's finances until about 2003. At some point however, his salaries from his Deputy Sheriff's position and other part-time positions were insufficient to meet the family obligations, and bills eventually became delinquent. On July 6, 2003, with estimated debts between \$100,000 to \$500,000, and an estimated number of creditors of between 16 and 49, as well as estimated assets of \$100,000 to \$500,000, Applicant filed an individual Voluntary Petition for bankruptcy under Chapter 7 of the Bankruptcy Code.<sup>13</sup> The debts were characterized as "business" rather than "consumer/non-business."<sup>14</sup> Of the 16 creditors holding unsecured nonpriority claims listed on the Schedule F of the Voluntary Petition, totaling \$107,713.95,<sup>15</sup> all but two of the 16 creditors appear to be business-related, with those two referring to claims totaling \$1,088 for dental or medical services.<sup>16</sup> One of the claims was from Applicant's father, in the amount of \$13,000.00.<sup>17</sup> A judgment on the

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<sup>7</sup> *Id.* at 12.

<sup>8</sup> Item 3 (Response to SOR, dated March 16, 2009), at 1.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Item 6 (Voluntary Petition, dated July 6, 2003), at 1-2, attached to Response to Financial Interrogatories, dated Dec. 4, 2008.

<sup>14</sup> *Id.* at 1.

<sup>15</sup> Although the SOR indicates the liabilities total approximately \$160,893, with listed assets of \$125,552, and Applicant has admitted the allegation containing those estimates, the extract of the bankruptcy file in evidence does not support those numbers. Furthermore, the totals set forth in Schedule F – Creditors Holding Unsecured Nonpriority Claims of the Voluntary Petition are apparently inaccurate as well. *Id.* 3-5. No other schedules from the Voluntary Petition are in evidence.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 3.

claim, in the amount of \$15,738 was filed in June 2003.<sup>18</sup> Applicant's debts were discharged on October 22, 2003.<sup>19</sup>

Less than five years later, with estimated debts, primarily consumer debts rather than business debts, between \$100,000 to \$500,000, and an estimated number of creditors of between 1 and 49, as well as estimated assets of \$100,000 to \$500,000, on June 11, 2008, Applicant and his wife filed a joint Voluntary Petition for bankruptcy under Chapter 13 of the Bankruptcy Code.<sup>20</sup> The Summary of Schedules listed assets, including real and personal property, in the amount of \$118,100, and liabilities in the amount of \$143,382.95.<sup>21</sup> Among the secured liability claims are a mortgage (\$87,370.30), 2<sup>nd</sup> mortgage (\$15,888.79), and judgment lien (\$8,370.46) on the family residence, totaling \$111,629.55; and loans for a 2001 Volkswagen and 2002 Jeep, totaling \$19,873.61.<sup>22</sup> The unsecured nonpriority claims listed on the Schedule F of the Voluntary Petition, totaling \$11,879.79, appear to be for such things as cell phone service, parking tickets, professional dental service, cable service, and other unspecified purposes.<sup>23</sup> The Chapter 13 Plan was filed on August 1, 2008, with a schedule of payments which supposedly commenced on July 12, 2008.<sup>24</sup> The Plan was approved by the Standing Trustee and ordered by the court.<sup>25</sup> The term of the Plan is 60 months.<sup>26</sup> There is no evidence to indicate Applicant has complied with the payment terms of the Plan.

According to the Schedule I – Current Income of Individual Debtor(s) of his Chapter 13 Voluntary Petition, Applicant was receiving \$1,600.50 as a monthly retirement pension, and his wife was earning \$1,342 monthly gross salary. Their combined average net monthly income as of June 2008 was \$2,781.33.<sup>27</sup> Six months later, in December 2008, Applicant submitted a Personal Financial Statement to DOHA, which reflected a combined monthly income of \$2,778, not including his retirement pension.<sup>28</sup> Applicant listed two debts (the mortgage and 2<sup>nd</sup> mortgage) with monthly

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<sup>18</sup> Item 5 (Combined Experian, Trans Union, Equifax Credit Report, dated Jun. 12, 2008), at 5.

<sup>19</sup> Discharge of Debtor, dated Oct. 22, 2003, attached to Response to Financial Interrogatories, *supra* note 13.

<sup>20</sup> Item 7 (Voluntary Petition, dated Jun. 11, 2008), at 1-3.

<sup>21</sup> *Id.* at 8.

<sup>22</sup> Schedule D – Creditors Holding Secured Claims, *id.* at 16-17.

<sup>23</sup> Schedule F – Creditors Holding Unsecured Nonpriority Claims, *id.* at 20-23.

<sup>24</sup> Item 8 (Chapter 13 Proceeding Order of Confirmation, dated Sep. 12, 2008).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 1.

<sup>27</sup> Schedule I – Current Income of Individual Debtor(s), *supra* note 20, at 26.

<sup>28</sup> Personal Financial Statement, dated Dec. 4, 2008, attached to Response to Financial Interrogatories, *supra* note 13.

payments totaling \$1,035, in addition to his normal monthly expenses of \$1,605 (including \$705 of monthly payments under the terms of his bankruptcy), leaving a monthly net remainder of \$138 available for discretionary spending.<sup>29</sup> It remains unclear as to why his pension is no longer included in his available monthly income.

The SOR contained one additional allegation identified as an account with the local public library, in the amount of \$100, placed for collection in September 2007.<sup>30</sup> Applicant denied responsibility for the overdue book charges and collection fee, attributing those charges to his two younger children who purportedly used his library card to check out books without his knowledge.<sup>31</sup> He claims to have worked out a payment plan with those children (now 18 and 15, respectively), and expected the debt to be resolved by the end of March 2009.<sup>32</sup> There is no evidence that the debt has been paid to the creditor.

## 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.”<sup>33</sup> 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.”<sup>34</sup>

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 over-arching adjudicative goal is a fair, impartial, and

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<sup>29</sup> *Id.*; Item 8, *supra* note 24, at 1.

<sup>30</sup> The overdue item fees were incurred on Apr. 12, 2007, and consisted of a \$5 charge for each overdue book. A \$10 fee was added on May 23, 2007, as a collection charge. Item 3, *supra* note 8.

<sup>31</sup> *Id.* item 3, at 2.

<sup>32</sup> *Id.*

<sup>33</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>34</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

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.”<sup>35</sup> 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.<sup>36</sup>

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.”<sup>37</sup>

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.”<sup>38</sup> 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 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.

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<sup>35</sup> “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 (4<sup>th</sup> Cir. 1994).

<sup>36</sup> *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>37</sup> *Egan*, 484 U.S. at 531

<sup>38</sup> *See* Exec. Or. 10865 § 7.

## 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 condition initially collapsed in 2003, when he became involved in the family trucking business and incurred substantial business-related indebtedness. Accounts became delinquent and his liabilities increased to over \$100,000. Unable to resolve his delinquent accounts, despite still holding a position as a Deputy Sheriff, he turned to Chapter 7 of the Bankruptcy Code for relief. The result was the discharge of his unsecured nonpriority liabilities. That enabled him to start all over with a clean financial slate.

Nevertheless, more financial obligations were created, and once again, become delinquent because of his inability to satisfy them. His financial difficulties were exacerbated with his retirement from the county sheriff's department in October 2007, and his subsequent unemployment until June 2008. As noted above, that same month, Applicant was receiving a \$1,600.50 monthly retirement pension, and his wife was earning \$1,342 monthly gross salary. Their combined average net monthly income as of June 2008 was \$2,781.33. Later that month, Applicant increased his monthly income when he accepted his new position. However, Applicant's financial difficulties caused his delinquent debts to increase to \$143,382.95, and once again, he turned to the Bankruptcy Code for relief. What was initially, purportedly a willingness, accompanied by an inability, to satisfy debts, became more clearly an ability, accompanied by an apparent reluctance, to satisfy them. 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.” Applicant’s financial situation collapsed in June 2003, but was restored with his bankruptcy discharge in October 2003. Thereafter, he continued to accumulate substantial delinquent debt, due in some measure to eight months of unemployment. It should not be overlooked, however, that despite his period of unemployment, Applicant continued to draw his pension. In June 2008, the same month he obtained a new job, Applicant, once again, filed for bankruptcy protection, this time under Chapter 13 of the Bankruptcy Code. His liabilities during the previous five years rose to \$143,382.95. Those new debts constituted “a continuing course of conduct” under the Appeal Board’s jurisprudence.<sup>39</sup> The unemployment circumstances have not been present since 2008, and both he and his wife have been gainfully employed. Nevertheless, his refusal or inability to address his financial delinquencies between 2003 and 2008, along with his refusal to address something as minor as the delinquent charges with the local library, raises concerns about recurrence of delinquent debts and his current reliability, trustworthiness, or good judgment. The evidence fails to establish AG ¶ 20(a). While the evidence regarding the period leading up to the 2003 bankruptcy initially established AG ¶ 20(b), the evidence of events since 2003 vitiates the applicability of this mitigating condition.<sup>40</sup>

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.”<sup>41</sup> There is no evidence to indicate Applicant ever received counseling in handling his finances, or guidance on how to address financial delinquencies, or getting his financial problems under control. Likewise, other than seeking protection under the Bankruptcy Code on two separate occasions, nearly five years apart, and getting his earlier delinquencies discharged in 2003, there is credible

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<sup>39</sup> See ISCR Case No. 07-11814 at 3 (App. Bd. Aug. 29, 2008) (citing ISCR Case No. 01-03695 (App. Bd. Oct. 16, 2002)).

<sup>40</sup> “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)).

<sup>41</sup> 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].

(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)).



evidence Applicant initiated a good-faith effort in 2008 to repay overdue creditors or otherwise resolve his debts, but there is no evidence to reflect actual payments under Chapter 13 of the Bankruptcy Code. The evidence fails to establish AG ¶ 20(c) or AG ¶ 20(d).

Considering Applicant's extensive financial delinquencies, one of which continues unaddressed, and his spending of discretionary funds for everything but his overdue debts, Applicant has not demonstrated his financial responsibility.

### **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.

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. When these problems first began, Applicant was a Deputy Sheriff and his wife was a substitute teacher in the local school system. He took control of the family trucking business and nursed it to success, only to lose control to his family, who eventually destroyed the business, leaving Applicant with business-related delinquencies. Unable to meet the family financial obligations, in October 2003, his debts were discharged in bankruptcy. Four years later, he retired from the county sheriff's department and started drawing his pension. He also endured an 8-month period of unemployment.

The disqualifying evidence under the whole person concept is more substantial. While the unemployment was a circumstance beyond his control, Applicant continued to draw his pension and obtained services and goods from a wide variety of creditors, but either had no ability or intention to pay for them. As a result, he accumulated extensive new delinquent debt. (See AG ¶ 2(a)(1) and AG ¶ 2(a)(2).) Applicant and his wife have been gainfully employed. While their combined net monthly income in December 2008 was \$2,778, not including his pension, he refused to make any good-faith efforts to pay a variety of delinquent debts until he chose to do so under Chapter 13 of the Bankruptcy Code. Instead, he preferred to wait to pay delinquent debts at a very moderate rate over

the course of 60 months. (See AG ¶ 2(a)(6), AG ¶ 2(a)(7), and AG ¶ 2(a)(9).) While these debts may eventually be paid off, his failure to repay creditors in a more timely manner reflects traits which raise concerns about his fitness to hold a security clearance.

Of course, the issue is not simply whether all his debts are resolved; it is whether his financial circumstances raise concerns about his fitness to hold a security clearance. I am mindful that while any one factor, 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.<sup>42</sup> Considering what Applicant had gone through financially and emotionally, and mindful of his 2003 and 2008 bankruptcies, intermediate clean slate, the absence of any earlier good-faith efforts, and his failure to address his library debt, his current financial situation, in the absence of any evidence to reflect actual payments under Chapter 13 of the Bankruptcy Code, is sufficient to raise continuing security concerns. (See AG ¶ 2(a)(1).)

The Appeal Board has addressed a key element in the whole person analysis in financial cases stating:<sup>43</sup>

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.

Overall, the record evidence leaves me with substantial questions or 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.

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<sup>42</sup> 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).

<sup>43</sup> 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:	For Applicant
Subparagraph 1.c:	Against Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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ROBERT ROBINSON GALES  
Administrative Judge