



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



In the matter of:)	
)	
)	ISCR Case No. 08-06058
SSN:)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Fahryn E. Hoffman, Esquire, Department Counsel
For Applicant: *Pro Se*

May 13, 2010

Decision on Remand

HENRY, Mary E., Administrative Judge:

By decision dated September 21, 2009, the Appeal Board remanded this case to me to issue a new decision consistent with their opinion. Based on a review of the case file, pleadings, exhibits, and remand order, I conclude that Applicant's eligibility for access to classified information is granted.

Applicant submitted his Security Clearance Application (SF 86), on August 25, 2004. On December 5, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guidelines F and E. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on December 16, 2008. He answered the SOR in writing on January 10, 2009, and requested a hearing before an administrative judge. DOHA received the request on January 12, 2009. Department Counsel was prepared to proceed on February 12, 2009, and I received the case assignment on February 17, 2009. DOHA issued a notice of hearing on February 23, 2009, and I convened the hearing as scheduled on March 24, 2009. The government offered five exhibits (GE) 1 through 5, which were received and admitted into evidence without objection. Applicant testified on his own behalf. He did not submit any exhibits. I, however, held the record open for 30 days for Applicant to submit additional evidence. DOHA received the transcript of the hearing (Tr.) on March 31, 2009. On April 24, 2009, Applicant timely submitted nine exhibits, AE A through AE I, without objection. These exhibits have been marked and admitted into the record. The record closed on April 24, 2009.

DOHA issued my decision on May 29, 2009. Department Counsel appealed, alleging error in my findings regarding SOR allegations 1.c and 1.i and under AG ¶¶ 20 (b), (d), and (e). The Appeal Board remanded this case for further findings.

In compliance with the decision of the Appeal Board, I issued an order on November 10, 2009, reopening the record. The order instructed Applicant to obtain certain information. Applicant received the order on January 14, 2010, because his address had changed and his mail was not timely forwarded. Applicant immediately contacted DOHA. After a telephone conference with Applicant and Department Counsel, Applicant's request for an extension of time to comply with the order was granted. On January 19, 2010, an order was issued holding the record open until March 11, 2010 for Applicant to comply with the original order and giving the Government 30 days to respond. The Government submitted its response on April 15, 2010, which was received on April 16, 2010. Applicant submitted three additional exhibits, AE J through AE L, which are admitted into evidence.

Findings of Fact

Applicant, who is 52 years old, works for a Department of State contractor as a Senior Production Control Technician in the Data Processing Center. He has worked in his Department of State contractor job since 1989, with the exception of one year between 1994 and 1995 and two months in late 1997 and early 1998. He holds a top secret clearance.¹

Applicant graduated from high school, then attended a technical school for data processing training. He recently attended a bartender school and is certified as a bartender. He worked a second full-time job from 2000 until 2004, when his employer laid him off. As a result of the lay off, his income decreased from \$108,000 a year to

¹GE 1 (Applicant's security clearance application); Tr. 23, 70, 73-74.

approximately \$60,000 a year. He has not worked a second job since 2004, but he is now seeking part-time employment as a bartender.²

Applicant married in 1989. He and his wife separated in 2001, but have not divorced. For several years after his separation, Applicant continued to pay the car insurance and car payment on his wife's car. He stopped making these payments when he lost his second job in 2004. He has a 25 year-old son, who lives independently and is a diabetic. He regularly provides his son with money to pay for insulin, as his son is often short on cash.³

Applicant's father died in 1994. For several years prior to his father's death, Applicant regularly traveled between his home and his father's home, about 150 miles away, to help care for his father. He also helped his father pay for medications and has helped other family members with expenses. He used his credit cards to pay for these expenses. By 1998, his debt overwhelmed him. He enrolled in a credit management program. From October 1998 through August 2005, he paid approximately \$550 a month to this company, which then paid his creditors. Through this program, he resolved many of his outstanding debts.⁴

In 2003, the Internal Revenue Service (IRS) filed a tax lien against him personally. IRS collected the moneys due through a bi-monthly garnishment on his wages. From May 2003 until approximately November 2004, Applicant paid the IRS \$1,166 twice a month for a total payment of more than \$44,000.⁵

The SOR lists numerous debts, which are listed at least once on each credit report and sometimes more than once because the debt is under other creditor's names. After reviewing the credit reports dated November 4, 2004, May 25, 2006, August 12, 2008, October 16, 2008, and the SOR, I have compiled a list of the total debts owed, excluding any duplicate entries. I find that Appellant's actual debts are as follows:⁶

²Tr. 75, 79-80, 84-85.

³GE 1, *supra* note 2; Tr. 25, 70-72, 85-86, 89.

⁴AE A; Tr. 96-98, 117.

⁵AE E (Leave and earnings statement showing garnishment); AE F (Leave and earnings statements showing garnishment), total at 21; Tr. 29-31, 67-68.

⁶GE 2 (Applicant's response to Interrogatories, including credit report, dated August 12, 2008); GE 3 (Credit report, dated October 16, 2008); GE 4 (Credit report, dated May 25, 2006); GE 5 (Credit report, dated November 4, 2004).

SOR ¶	CREDITOR	AMOUNT	STATUS	EVIDENCE
1.a	Judgment	\$ 4,810	Unpaid	GE 2 - GE 5; Tr. 27-29, 83
1.b	Federal tax lien	\$24,701	Paid \$44,000 by November 2004	AE E; AE F; Tr. 29-31, 68, 91
1.c	Collection agency (unknown creditor)	\$ 1,377	Denies, unpaid	GE 2; GE 3; Tr. 31-39
1.d	Telephone	\$ 401	Paid	AE G
1.e	Credit card ⁷	\$ 4,660	Disputed; Paid	GE 3 at 4; GE 4 at 12
1.f	Store account	\$ 5,699	Settlement offer accepted, Paid 5/1/09	AE H
1. g	Jewelry store	\$ 541	Paid	AE B
1.h	Store account	\$ 3,463	Paid; same as 1.f	Tr. 48-50
1.i	Retail creditor unknown	\$ 1,525	Denies, unpaid	Tr. 54, 99
1.j	Cell phone	\$ 866	Denies, unpaid	Tr. 57-60
1.k	Credit card	\$ 1,941	Paid	GE 3 at 3; Tr. 60-61
1.l	Jewelry store	\$ 340	Paid, same as 1.g	AE B
1.m	Store account	\$ 1,017	Paid	GE 3 at 3; Tr. 62-63
1.n	Cable bill	\$ 750	Denies, unpaid	Tr. 63-67, 106-109

In 2004, after he lost his second job, Appellant fell behind in paying his apartment rent and other expenses because of the IRS garnishment.⁸ At this time, he paid not only his car payment and insurance, but also the car payment and insurance for his wife for a total of \$1,300 a month (which he no longer pays). He acknowledges that his former

⁷Applicant believed this account had been paid in his payment plan developed in 1998, but the account number is different. See AE A. The credit reports show conflicting information on the status of this debt (all the same account number), including paid, a zero balance and transferred or sold. See GE 2, *supra* note 7, at 11; GE 3, *supra* note 7, at 3; GE 4, *supra* note 7; GE 5, *supra* note 7.

⁸Appellant skipped his car payment one month and the creditor repossessed his car. He immediately made the payment and regained possession of his car. Tr. 86.

landlord obtained a judgment for unpaid rent in 2005 and that he has not paid this debt. He contacted this creditor sometime ago, but has not resolved the debt as the creditor demanded full payment and refused to accept a monthly payment.⁹

Two debts listed in the SOR ¶¶ 1.c and 1.i are unknown to Applicant as he does not recognize the listed creditor. Applicant's credible denial of knowledge of these two debts is sufficient to refute the allegations of delinquent debts. The pertinent credit report did not have sufficient information for Applicant to locate the account.¹⁰

Appellant denied owing a debt to the cable company listed in SOR allegation 1.n. In the past, he received cable service from another cable company and two satellite companies. Although he acknowledged at the hearing that he returned a cable box for his girlfriend who had service with this cable company, he strongly denies any service in his name. Subsequent to the hearing, he filed an identity theft claim on this debt.¹¹

Applicant also credibly denied owing the unpaid cell phone listed in allegation 1.j. He previously had a cell phone with three other cell phone companies, but not this company. Several years ago, he asked this creditor to provide him with evidence that he owed them money. At that point, the creditor sent him a bill.¹²

Applicant currently earns \$5,915 in gross income each month and \$4,214 a month in net income. His monthly expenses total approximately \$4,000 and include rent, utilities, a car payment, gasoline, credit cards, food, and a time share. He uses his remaining income to help his son with medicine and occasionally other family members.¹³

I make the following additional findings of fact. With the exception of the judgment in SOR allegation 1.a, Applicant denied owing all the debts listed in the SOR. At the hearing, each debt was discussed. Through this discussion, the status of some debts was determined. Applicant again denied any knowledge of the creditor in SOR allegation 1.c. (Creditor C). Creditor C first appeared on the credit report dated August 12, 2008 and again on the October 16, 2008 credit report. Creditor C is a credit collection company, not the original creditor. The original creditor is unknown. The August 12, 2008 credit report indicated that Applicant became delinquent on this account in March 2008. This credit report also had an extensive list of creditors with the relevant contact addresses and telephone numbers, but it did not have any information

⁹Tr. 26-29, 84-88.

¹⁰See generally ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006).

¹¹Tr. 63-67, 106-109. At the conclusion of the hearing, I requested Applicant obtain a statement from this creditor showing he did not owe any debt. Tr. 156. Instead, Applicant provided AE I, which disputes the debt.

¹²Tr. 57-60, 103-105.

¹³GE 2, *supra* note 7, at 4, 35-37; AE D; Tr. 118-136.

regarding Creditor C. The Government agreed that neither credit report provided an address or telephone number for Creditor C, leaving Applicant without any means to obtain information from Creditor C about this debt and to pay the debt, if his. (Tr. 37-39). Applicant challenged this debt with one of the credit reporting companies, following the remand decision of the Appeal Board. Creditor C is not listed on Applicant's latest credit report, dated February 13, 2010, which is from a company which previously listed the Creditor C debt. Since the debt became delinquent in March 2008, the credit reporting company did not remove Creditor C because the information was stale. Under these facts, I find that the debt owed Creditor C has been removed as a result of his challenge.¹⁴

Applicant disputed the debt in SOR allegation 1.e (Creditor E-\$4,660) sometime prior to the issuance of the SOR, as shown on the August 12, 2008 credit report. Applicant continued to dispute this debt. He filed a second dispute with the credit reporting agency and a dispute directly with Creditor E, the collection agency. The information provided to Applicant by Creditor E, after receiving his dispute, indicated that the debt is a personal loan Applicant obtained from Bank A in March 2001. The November 4, 2004 credit report shows a personal loan with Bank B that was being managed by a financial counseling service, and a credit card with Bank A that was either closed or past due or with no balance. The May 25, 2006 credit report reflects that the personal loan debt with Bank B was closed/paid and had a zero balance, and that the credit card debt with Bank A had been sold to Bank B. Creditor E, the current creditor, purchased one debt in April 2006 from Bank B. The August 12, 2008 credit report showed that one of the Bank B accounts (not specified) was paid, transferred, or derogatory. Based on information from the credit reports, I find that the Creditor E debt is the credit card debt that originated at Bank A, then transferred to Bank B, and later sold to Creditor E, which now holds the debt.

Applicant provided a history of his debt repayment program from October 1998 through February 2005. This record showed two separate accounts with Bank B and three different account numbers for Bank B. The personal loan account number is listed for this program. The remaining two account numbers do not match the account numbers listed on the May 25, 2006 and August 12, 2008 credit reports for Bank B. However, the credit reports going back to November 2004 do not show more than two accounts with Bank B and Bank A. After reviewing all the information of record, I find that the credit card account that originated at Bank A, then transferred to Bank B, and later sold to Creditor E, which now holds the debt was included in the debt repayment program.¹⁵

At the hearing, Applicant did not deny he had accounts with the creditors listed in SOR allegations 1.d, 1.g, and 1.i. He denied owing these creditors any money, as he believed the debts had been paid. After the hearing, he paid the debts. His change in

¹⁴GE 2; AE K; Tr. 31-40.

¹⁵GE 2; GE 4; GE 5; AE A; AE J; AE K..

position is not explained. Concerning the debts in SOR allegations 1.f and 1.h, which are the same debt, Applicant testified that a settlement offer had been made. Subsequent to the hearing, the creditor accepted his offer and he paid the debt. Applicant consistently denied owing the debt in SOR allegation 1.n, stating that his cable account had been paid.¹⁶ Following the hearing and after further discussion with Department Counsel and investigation, Applicant decided to file an identity theft report on this debt. This debt is now disputed. He did not file a similar report on any other debt.¹⁷

Applicant denied the debt in SOR allegation 1.i because he did not recognize the creditor. This debt is currently owned by a credit collection agency, which listed as the original creditor, a creditor unknown to Applicant. Applicant has not resolved or disputed this debt.¹⁸

The debts in SOR allegations 1.b, 1.d, 1.e, 1.f, 1.g, 1.i, 1.j, 1.k, 1.l, 1.m, and 1.n are listed on the November 2004 credit report. Applicant paid 1.b by late 2004 through garnishment. He also paid 1.e, 1.k, and 1.m under his payment plan.¹⁹

Applicant's credit reports reflect many "paid as agreed" accounts over many years and many paid collection accounts. Since November 2004, his credit reports show an improvement in his financial situation. His 2008 and 2010 credit reports indicate that he pays his bills in a timely manner, and that he has few old unpaid debts.²⁰

Policies

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 used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing 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. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as

¹⁶Applicant testified to having several satellite accounts.

¹⁷Response to SOR; AE B; AE G; Tr. 49-50, 64-67.

¹⁸AE K.

¹⁹GE 5; AE A; AE E; AE F.

²⁰GE 2; GE 3; GE 4; GE 5; AE K.

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 decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” 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.

Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” An applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

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. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or 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.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

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 accumulated delinquent debt and was unable to pay some obligations for a period of time. In compliance with the Appeal Board’s decision, I find that the Government established its case on all allegations in the SOR. The evidence is sufficient to raise these two potentially disqualifying conditions.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), mitigation may occur when “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.” Applicant’s financial worries arose in the mid-1990s and continue. His financial problems did not occur long ago or under such unusual circumstances that it is unlikely to recur. This mitigating condition does not apply..

Under AG ¶ 20(b), it may be mitigating 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 problems began in the mid-1990s when he father became ill. Applicant provided his father with money to buy medications and regularly traveled several hundred miles to help care for his father for a number of years. By 1998, Applicant realized that he could not pay his bills and sought help with a financial counseling company. For seven years, he paid this company monthly and it resolved a number of his bills, including the debts in SOR allegations 1.e, 1.k, and 1.m. Applicant also began working a second job in 2000. In 2001, Applicant and his wife separated. He assumed certain financial responsibilities from their marriage until 2004, when his second job ended. Between 2000 and 2004, Applicant paid his financial obligations by working two jobs. He had sufficient income to pay two obligations from his marriage. When he lost his second job, he decided he could not afford to pay his estranged wife’s bills and stopped. Applicant acted reasonably in 1998 by working with a credit counseling company and through 2005 by working a second job to pay his living expenses, garnishment, and debt payment plan. This mitigating condition applies SOR allegations 1.b, 1.e, 1.k, and 1.m.

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). Applicant has not received credit counseling recently, but did receive credit counseling when he worked with the credit counseling company. He resolved three SOR debts through his counseling plan. Through the garnishment of his wages, his federal tax lien was paid by 2004. Applicant’s current

finances are under control and his current bills are paid. This mitigating condition applies to SOR allegations 1.b, 1.e, 1.k, and 1.m.²¹

Similarly, AG ¶ 20(d) applies where the evidence shows “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.” Applicant contacted the creditor and paid the debts he owed in SOR allegations 1.d, 1.f, 1.g, 1.h, and 1.i. At the hearing, Applicant indicated that a settlement offer had been made to the creditor in SOR allegations 1.f and 1.h, which are the same debt. After the hearing, the creditor accepted his offer and Applicant quickly settled and paid the debt. Negotiations are a back-and-forth process until the parties reach an agreement. The process takes time to reach a conclusion and Applicant successfully resolved this debt by working through the process. As for the bill with the jeweler (SOR allegations 1.g and 1.i), Applicant initially believed that he did not owe any money on this debt as he had received refund payments from the creditor in the past. Following the hearing, he investigated the debt and learned that he did owe additional money to the creditor. He paid his debt upon learning this information. Even though Applicant paid both debts after the hearing, he had developed a working relationship with the one creditor prior to the hearing and paid the second after developing additional information that showed he owed these debts. His actions indicate a good-faith effort on his part to resolve these debts.

An Applicant can mitigate security concerns under AG ¶ 20(e) when “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 evidence of actions to resolve the issue.” Applicant disputed the debt in SOR allegation 1.e after receiving the interrogatories and prior to October 16, 2008, two months before the issuance of the SOR. He continued to dispute this debt with the credit reporting companies and the collection agency, which now holds the debt. His dispute of this debt is legitimate, because he paid all his debts with the original creditor through his earlier payment plan. Applicant continually denied owing a cable bill. His decision to file a fraud report, following the hearing arose after further investigation and discussions with Department Counsel about this debt, is reasonable in light of his continued denial of this bill. These discussions provided him further insight on how to address the issue of this bill. Applicant also disputed the debt in allegation 1.c after the hearing. He continually denied any knowledge of this creditor. The credit reports failed to identify the original creditor, and did not list an address or telephone number for this creditor. Thus, Applicant had no way to contact the creditor or pay the debt if it was his. Given that the Appeal Board considered this debt proven, Applicant properly disputed after remand under these facts. This mitigating condition applies to SOR allegations 1.c, 1.e, and 1.n only.

²¹Although Applicant has disputed this debt with Creditor E, I found that the debt was paid through his earlier debt repayment plan.

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 an 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. The decision to grant or deny a security clearance requires a careful weighing of all relevant factors, both favorable and unfavorable. In so doing, an administrative judge must review all the evidence of record, not a single item in isolation, to determine if a security concern is established and then whether it is mitigated. A determination of an applicant's eligibility for a security clearance should not be made as punishment for specific past conduct, but on a reasonable and careful evaluation of all the evidence of record to decide if a nexus exists between established facts and a legitimate security concern.

Applicant paid the following SOR debts: 1.b (\$24,701), 1.d (401), 1.e (\$4,660), 1.f (\$5,699), 1.g (\$541), 1.h (\$3,463), 1.k (\$1,941), 1.l (\$340), and 1.m (\$1,017). His credit reports listed many paid non-SOR debts, including at least five personal loans, several store accounts, four or more credit card accounts, and car leases. In assessing whether an applicant has established mitigation under Guideline F, the Appeal Board provided the following guidance in ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008):

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." See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 200). However, an applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006). All that is required is that an applicant demonstrate that he has ". . . established a plan to resolve his financial problems and taken significant actions to implement that plan." See, e.g., ISCR Case No. 04-09684 at 2 (App. Bd. Jul. 6, 2006). The Judge can reasonably consider the entirety of an applicant's financial situation and his 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. See, e.g., ISCR Case No. 06-25584 at 4 (App. Bd. Apr. 4, 2008). 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.

The evidence in support of granting a security clearance to Applicant under the whole-person concept is more substantial than the evidence in support of denial. In reaching a conclusion, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. His financial problems are the result, in part, of poor choices made about spending money. While providing care and money for medicine for his ailing father, Applicant incurred significant debt, which he tried to pay. For four years after his father died, he unsuccessfully attempted to pay his debts. In 1998, he sought and received financial counseling through a debt consolidation company. Through this company, he developed a payment plan to address his large debts. For the next seven years, he routinely paid the counseling service, which then paid his creditors until the bills were paid. His decision to seek help with his finances and his compliance with the program shows that he not only acted in a responsible manner, but that he is willing to accept responsibility for his debts. He completed his payment plan, resolving his largest debts, several of which are listed in the SOR. During this period of time, he repaid his federal tax lien and more through a substantial wage garnishment, which impacted his available net income. To further help with managing his finances and family obligations, he obtained a second full-time job. Through these efforts, he resolved much of his debt. After losing his second job in 2004, Applicant encountered some financial difficulties, but not to the level he incurred in the 1990s. Over the last five years, he has worked slowly to resolve his new financial issues. His one major unpaid debt, the judgment, is not resolved or being resolved because the creditor is uncooperative, not for lack of effort on Applicant’s part. Because of his long history of debt resolution, his statement that he tried to resolve the judgment debt is credible.

Applicant has taken affirmative action to pay or resolve most of the delinquent debts raising security concerns. (See AG ¶ 2(a)(6).) He has not paid the cable bill, a cell phone bill, and a collection debt listed in the SOR because these debts are not his or unknown to him. These debts represent about 15 % of the debts listed in the SOR. Even though he has had financial problems, he has demonstrated a meaningful track record of debt repayment. He is not required to be debt free to hold a security clearance. Rather, he must manage his finances and live within his financial means. The newer credit reports show that Applicant pays his current bills, has resolved many of his old debts, has paid many his of debts in a timely manner, and has done so through his financial difficulties.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from his finances under Guideline F.

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

Subparagraph 1.a-1.n: 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 granted.

MARY E. HENRY
Administrative Judge