DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
----------	)	ISCR Case No. 09-06739
SSN: ----------	)	
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Gregg A. Cervi, Esquire, Department Counsel
For Applicant: *Pro se*

June 28, 2010

Decision

GALES, Robert Robinson, Administrative Judge:

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

Statement of the Case

On June 20, 2009, 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).[1] On a subsequent unspecified date in 2009, the Defense Office of Hearings and Appeals (DOHA) furnished him a set of interrogatories pertaining primarily to his financial situation. He responded to the interrogatories on October 30, 2009.[2] On another unspecified date in 2009, DOHA furnished him another set of interrogatories pertaining primarily to his financial situation.

[1] Item 5 (SF 86), dated June 20, 2009.

[2] Item 6 (Applicant's Answers to Interrogatories, dated October 30, 2009).

He responded to those interrogatories on October 30, 2009, as well.[3] On January 10, 2010, 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; Department of Defense 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) (hereinafter AG) for all adjudications and other determinations made under the Directive. The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why 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.

Applicant acknowledged receipt of the SOR on January 15, 2010. In a sworn, written statement, dated that same day, 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 1, 2010, 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 April 6, 2010, and submitted a substantial number of documents on May 3, 2010. The case was assigned to me on May 21, 2010.

Findings of Fact

In his Answer to the SOR, Applicant admitted the factual allegations in ¶¶ 1.a. through 1.c. of the SOR.

Applicant is a 56-year-old employee of a defense contractor, currently serving as production planner,[4] and he is seeking to retain the CONFIDENTIAL security clearance previously granted to him in 1999.[5] He graduated from high school in June 1972,[6] and completed extensive training in the local community college and from his employer for various short courses leading to the award of certificates.[7] He has no military service.[8] Upon his graduation from high school, he held a variety of positions in the private sector, including structural welder, weld supervisor, inspection supervisor, inspection controller, senior logistics engineer, and senior logistician.[9] Applicant was hired by his

[3] Item 7 (Applicant's Answers to Interrogatories, dated October 30, 2009).

[4] Resume, dated April 29, 2010, attached to Applicant's Response to the FORM, dated May 3, 2010.

[5] Item 1, *supra* note 1, at 39.

[6] Diploma, dated June 11, 1972, attached to Applicant's Response to the FORM, dated May 3, 2010.

[7] Various certificates attached to Applicant's Response to the FORM, dated May 3, 2010; Resume, *supra* note 4, at 1.

[8] Item 1, *supra* note 1, at 19.

[9] Resume, *supra* note 4, at 3-6.

current employer in June 1999.[10] Applicant and his wife were married in 1974, and they had three children, twin daughters who died shortly after their birth in 1977, and a son, born in 1979.[11]

Financial Considerations

There was nothing unusual about Applicant's finances until about 1986, when his wife sustained a back injury when the scaffolding on which she was working collapsed, causing her to fall.[12] Her employer refused to cover her medical costs or loss of income due to the injury, and she was forced to hire an attorney in an attempt to recoup damages. She was only able to recover about fifty percent of what she believed she was entitled.[13] Applicant attributed his resulting unspecified financial problems to his wife's loss of income and unexpected medical costs arising from her injury, as well as unexplained emergency room visits for her and himself.[14] Applicant never explained why he was unable to pay his delinquent accounts.

Because of those unspecified financial problems, in September 1986, Applicant and his wife filed a joint petition for bankruptcy under Chapter 7 of the U.S. Bankruptcy Code.[15] An unspecified number of debts, with an unspecified total, were discharged in December 1986.[16] Although Applicant contends he paid some of his creditors after the bankruptcy discharge date,[17] he offered no documentary evidence to support his contention.

Little is known about Applicant's finances for the next 10 years. On November 11, 1990, his family residence was engulfed by flames and destroyed. He lost two pets and sustained the loss of over $18,000 not covered by insurance.[18] The record is silent as to the cause of the fire. Applicant claims he and his wife continued to have numerous medical problems and unidentified expenditures that were not covered by insurance. He spent eight days in the intensive care unit of a hospital for irregular heart beat.[19] His

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[10] Item 1, *supra* note 1, at 13-14.

[11] *Id.* at 25-27; Item 4 (Applicant's Response to the SOR, dated January 15, 2010), at 1.

[12] *Id.* at 2.

[13] *Id.*

[14] *Id.*

[15] Item 9 (U.S. Bankruptcy Court Discharge of Debtor, dated December 31, 1986). Applicant mistakenly identified this filing as a Chapter 13 bankruptcy.

[16] *Id.*

[17] Item 4, *supra* note 11, at 2.

[18] Applicant's Response to the FORM, dated May 3, 2010, at 1. Applicant claims all of his records, including medical records and financial records, were destroyed in the fire.

[19] Item 4, *supra* note 11, at 2.

wife was supposedly injured in another workplace incident when something fell off an assembly line and injured her arm.[20] He claims she underwent three surgeries for the injury and was on morphine patches for her chronic pain.[21] Applicant offered no documentary evidence to support his claims about the medical problems. Because of his medical condition, his wife took over handling the family finances but, due to her continuing morphine treatment, "she made poor financial decisions."[22] It is unclear how her treatment affected her attentiveness and decision-making over the 10 year period, and Applicant offered no explanations regarding the same. Additionally, he offered no explanation as to what financial decisions were made poorly by her or why those decisions were considered poorly made. Applicant never explained how his accounts became delinquent or why he was unable to pay them.

Because of those unspecified financial problems, in May 1996, Applicant and his wife again filed a joint petition for bankruptcy under Chapter 7 of the U.S. Bankruptcy Code.[23] An unspecified number of debts, totaling approximately $122,186, were discharged on September 5, 1996.[24] Applicant contends he received "counseling for the problem,"[25] but he never explained what type of counseling he received, who furnished it, or what the problem was.

On January 13, 1997, his family residence was engulfed by flames and destroyed. He lost one pet and sustained the loss of between $12,000[26] and over $15,000 not covered by insurance.[27] The record is silent as to the cause of the fire. He claims his son has liver disease and almost died on two occasions.[28] His son is unemployed and has generated over $500,000 in medical expenses,[29] but there is no evidence that those expenses are Applicant's responsibility. Applicant's wife lost her job due to a lack of work in 2008, and was out of work until about the beginning of 2009.[30] In about 2004, it was discovered that Applicant has diabetes and unspecified knee

[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] Item 9 (state bankruptcy record, undated, downloaded from LexisNexis), at 3. Applicant also mistakenly identified this filing as a Chapter 13 bankruptcy.

[24] *Id.*

[25] Item 4, *supra* note 11, at 2.

[26] *Id.* at 1.

[27] Applicant's Response to the FORM, *supra* note 18, at 1. Applicant claims all of his records, including medical records and financial records, were destroyed in the fire.

[28] Item 4, *supra* note 11, at 1.

[29] *Id.*

[30] Item 7 (Personal Subject Interview, dated July 30, 2009, at 2, attached to Applicant's Answer to Interrogatories, dated October 30, 2009.

problems.[31] He estimates he incurs about $3,250 per year on medications and copays for his conditions.[32]

In February 2009, Applicant and his wife filed a joint petition for bankruptcy under Chapter 13 of the U.S. Bankruptcy Code.[33] According to the Chapter 13 Bankruptcy Trustee six month report, as of October 1, 2009, Applicant had paid the Trustee $4,516.14.[34] According to his bankruptcy plan, Applicant is obligated to pay a minimum "base" amount of $42,600.[35] As of October 1, 2009, his remaining base was $38,083.86.[36] Applicant listed numerous creditors in his bankruptcy plan, including vendors, medical providers, collection agencies, banks, credit unions, insurance agencies, finance companies, a state and a municipality, and the Internal Revenue Service (IRS).[37] A November 2009 Equifax credit report lists medical accounts, lines of credit, retail stores, mortgage, and auto accounts that had been placed for collection or charged off.[38] Applicant never explained how his accounts became delinquent or why he was unable to pay them.

In order to make his payments under the bankruptcy plan, $327.69 is supposed to be garnished per pay period from his salary.[39] Those payments, from May 20, 2009 through September 23, 2009, were irregular, with six payments of $327.69, one payment of $730, one payment of $710, one payment of $250, one payment of $100, and one payment of $50.[40] He offered no explanation for the irregular amounts. Applicant has furnished no current evidence, such as a newer Chapter 13 Bankruptcy Trustee six month report or Direct Deposit Advice Slip, to corroborate his payment claims. Also, Applicant contends he received "counseling for the problem,"[41] but once again, he failed to explain what type of counseling he received, who furnished it, or what the problem was.

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[31] *Id.*

[32] *Id.*

[33] Item 9, *supra* note 23, at 1.

[34] Item 7 (Chapter 13 Bankruptcy Trustee six month report, dated October 1, 2009), at 1, attached to Applicant's Answer to Interrogatories, dated October 30, 2009.

[35] *Id.* at 5.

[36] *Id.*

[37] *Id.* at 1-4.

[38] Item 8 (Equifax Credit Report, dated November 12, 2009).

[39] Item 7 (Employer Direct Deposit Advice Slip, dated October 16, 2009), attached to Applicant's Answer to Interrogatories, dated October 30, 2009; Item 4 (Employer Direct Deposit Advice Slip, dated December 11, 2009), attached to Applicant's Answer to Interrogatories, dated October 30, 2009.

[40] Item 7, *supra* note 34, at 1.

[41] Item 4, *supra* note 11, at 2.

In October 2009, Applicant submitted a personal financial statement indicating monthly net income of $3,908.22, monthly expenses of $2,677, monthly debt payments of $2,168.34, and a net remainder of minus $937.12. There are no funds available for discretionary spending.[42]

Character References

The company vice president and operations manager, as well as different program and production managers, have frequently praised Applicant's efforts, outstanding performance, and sacrifices, in meeting various deadlines under extreme pressure. He has received certificates, letters, and e-mails of appreciation.[43] Applicant is an active volunteer in his community.

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."[44] 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."[45]

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

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[42] Item 6 (Personal Financial Statement, dated October 24, 2009), attached to Applicant's Answer to Interrogatories, dated October 30, 2009.

[43] Certificates, letters, and e-mails, various dates, attached to Applicant's Response to the FORM, *supra* note 18.

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

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

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."[46] 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.[47]

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."[48]

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."[49] 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.

[46] "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).

[47] *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

[48] *Egan*, 484 U.S. at 531

[49] *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. As noted above, there was nothing unusual about Applicant's finances until about 1986. His inability or unwillingness to satisfy his debts led to a Chapter 7 bankruptcy discharge of an unspecified amount of delinquent debt in December 1986. Ten years later, because of continuing family health problems and his continued inability or unwillingness to satisfy his debts, he again filed for Chapter 7 bankruptcy, and in September 1996, $122,186 of delinquent debt was discharged. In February 2009, faced with continuing delinquent debt, Applicant filed for Chapter 13 bankruptcy. 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."[50]

[50] 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

Applicant's financial situation started to deteriorate in 1986, when his wife sustained a workplace injury. Subsequent events, including health issues for Applicant and his wife and adult son, and the loss of two residences to fires, purportedly resulted in unspecified financial problems. Despite having his unsecured delinquent debts discharged under Chapter 7 of the U.S. Bankruptcy Code on two occasions, in December 1986 and September 1996, in February 2009, Applicant and his wife again filed for bankruptcy, this time under Chapter 13 of the U.S. Bankruptcy Code.

For unspecified reasons, he continued to accumulate substantial delinquent debt. As noted above, Applicant never explained how his accounts became delinquent over a period of 24 years, or why he was unable to pay them. He offered no evidence to support his claims about the various medical problems or how they negatively impacted his finances. While he attributed some of his financial problems to his wife making poor financial decisions, it remains unclear how her medical treatment affected her attentiveness and decision-making over a 10 year period. He offered no explanation as to what financial decisions were made poorly by her or why those decisions were considered poorly made. Such evidence is critical to an analysis as to whether or not the circumstances vaguely described might recur. Likewise, it is difficult to assess Applicant's current reliability, trustworthiness, or good judgment, without such evidence. Simply claiming family medical problems and residence fires caused him to incur delinquent debts, without specific evidence of how they did so, is insufficient. The evidence fails to establish AG ¶ 20(a).

Applicant's continuing delinquent debts, even after two Chapter 7 discharges, constitute "a continuing course of conduct" under the Appeal Board's jurisprudence.[51] There was apparently a temporary loss of employment by his wife in 1986, and unexpected medical emergencies for both his wife and himself in the past. But Applicant has not indicated how those circumstances impacted his finances in the past or how they continue to impact his current finances. Without such evidence, it is difficult to assess Applicant's actions under those unspecified circumstances as responsible or irresponsible. AG ¶ 20(b), only partially applies because his financial situation may have been initially caused by the factors he summarily described, but there is little evidence that Applicant acted responsibly under the circumstances.[52]

> 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)).

[51] *See* ISCR Case No. 07-11814 at 3 (App. Bd. Aug. 29, 2008) (citing ISCR Case No. 01-03695 (App. Bd. Oct. 16, 2002)).

[52] "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)).

While there is some unsubstantiated evidence to indicate Applicant received "counseling," he never explained what type of counseling he received, who furnished it, or what the problem was. I cannot speculate as to the nature of the counseling and whether or not it included debt management, debt consolidation, payment plans, budgeting, or bankruptcy guidance. The evidence fails to establish AG ¶ 20(c).

Applicant claimed he paid some of his creditors after each of his two earlier discharges in bankruptcy in 1986 and 1996, yet he offered no evidence of same. It appears that under the guidance of the Chapter 13 Bankruptcy Trustee, he has established a plan for eventually repaying overdue creditors. There is evidence that during the initial six months of his plan he paid the Trustee $4,516.14. There is no evidence of continuing payments. Applicant's net monthly remainder was minus $937.12. Thus, there were no funds available for discretionary spending as of October 2009. It is not clear if the net monthly remainder has yet reached the positive level. The evidence only partially establishes AG ¶ 20(d).

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 his financial problems first began, Applicant's wife had been injured in a workplace incident. Eventually, there were family health issues and two devastating house fires. Applicant failed to explain how those circumstances negatively impacted his finances and caused his accounts to become delinquent, or how he responded to his financial difficulties. It is unclear if Applicant ignored his creditors or attempted to deal with his financial delinquencies. In 1986 and 1996, his financial problems were eliminated when his delinquencies were discharged under Chapter 7 bankruptcy. But the financial

delinquencies continued, and as of February 2009, his delinquent accounts are being handled under a Chapter 13 bankruptcy.

The disqualifying evidence under the whole-person concept is more substantial. While the family health issues and residence fires were circumstances beyond his control, Applicant continued to obtain services and goods from a wide variety of creditors, but he either had no ability or intention to pay for them. As a result, he continued to accumulate extensive delinquent debt, even after benefiting from bankruptcy discharges of his debts. Applicant has been gainfully employed since 1972, and with his current employer since 1999. Nevertheless, except for his Chapter 13 repayment plan, established in February 2009, there is no evidence that he made any good-faith efforts to pay a variety of delinquent debts. There is no evidence that he made any prior efforts to arrange repayment plans, and it is unclear if he preferred to wait and consider other options. (*See* AG ¶ 2(a)(1) through AG ¶ 2(a)(9).) While his current delinquent debts may eventually be paid off, his earlier failures to repay creditors in a more timely manner, or even make efforts to arrange payment plans, 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 or at least under repayment arrangements; 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.[53] The absence of any reasonable good-faith efforts, other than his Chapter 13 efforts, or little evidence to reflect actual payments, are sufficient to raise continuing security concerns.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:[54]

> 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

[53] *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).

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

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 and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has failed to mitigate the security concerns arising from his financial considerations.

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant

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