



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 10-01803

Appearances

For Government: D. Michael Lyles, Esquire, Department Counsel

For Applicant: *Pro se*

April 28, 2011

Decision

GALES, Robert Robinson, Administrative Judge:

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

Statement of the Case

On October 26, 2009, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a security clearance application (SF 86).¹ On an unspecified date, the Defense Office of Hearings and Appeals (DOHA) issued him a set of interrogatories. He responded to the interrogatories on April 22, 2010.² On another unspecified date, DOHA issued him another set of interrogatories. He responded to the interrogatories on April 22, 2010.³

¹ Government Exhibit 1 (SF 86), dated October 26, 2009.

² Government Exhibit 2 (Applicant's Answers to Interrogatories, dated April 22, 2010).

³ Government Exhibit 3 (Applicant's Answers to Interrogatories, dated June 29, 2010).

On July 9, 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; 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) (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. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant acknowledged receipt of the SOR on July 20, 2010. In a written statement, notarized on September 8, 2010, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on October 14, 2010, and the case was assigned to me on November 9, 2010. A Notice of Hearing was issued on January 4, 2011, and I convened the hearing, as scheduled, on January 27, 2011.

During the hearing, five Government exhibits (1-5) and eight Applicant exhibits (A-H) were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on February 3, 2011.

Findings of Fact

In his Answer to the SOR, Applicant admitted three of the factual allegations (§§ 1.b. through 1.d.) of the SOR. Applicant's admissions are incorporated herein as findings of fact. He denied the remaining allegations (§§ 1.a., and 1.e. through 1.g.). After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is 37-year-old employee of a defense contractor, currently serving as a staff engineer,⁴ and he is seeking to obtain a security clearance, the level of which was not revealed. A high school graduate, he worked for an unspecified period to enable him to attend college. He initially earned an associate's degree in pre-engineering from a local community college, and eventually obtained a bachelor's degree in civil engineering from the state university.⁵ Applicant was employed over the years as a designer, project engineer, and project coordinator, until he obtained his current position.⁶

⁴ Government Exhibit 1, *supra* note 1, at 16.

⁵ Tr. at 24-25.

⁶ Government Exhibit 1, *supra* note 1, at 17-14.

In April 1996, Applicant married his first wife, and they had one daughter (born in March 1996).⁷ They divorced in January 2003.⁸ In August 2005, Applicant married his second wife, and they divorced in October 2006.⁹ He married his current wife in April 2007, and they have one daughter (born in April 2007).¹⁰ Applicant's current wife also has a daughter (born in September 2001).¹¹

Financial Considerations

There was nothing unusual about Applicant's finances until about 2006. He was initially laid off briefly in December 2006, obtained new employment one month later at the same salary, and was laid off again in May 2009 for another month.¹² His next job was at a salary about 50 percent lower than his earlier one.¹³ He accepted his current position in October 2009, at a salary equivalent to his original salary.¹⁴ Applicant's wife was also laid off in December 2006, but it took a little longer for her to find new employment. She tried running a day care center in an effort to earn some money, but that venture closed as the economy deteriorated. Finally, she returned to school with the hopes of improving her employment opportunities.¹⁵

At some unspecified point in 2006, accounts started to become delinquent, and some were placed for collection with a variety of collection agents, and some of the accounts were charged off. His residence lapsed into foreclosure status and one automobile was repossessed.

In October 2009, Applicant attributed his current financial difficulties as follows:¹⁶

Our present financial situation is directly related to an unstable career environment within the land development/civil engineering business When the housing/development market spiraled downward in 2005, my wife and I (both in the same field) found ourselves fighting to remain employed. Since that time, we have each been laid off twice (total of four

⁷ *Id.* at 37.

⁸ *Id.* at 33.

⁹ *Id.* at 32-33.

¹⁰ *Id.* at 30-31, 38.

¹¹ *Id.* at 38.

¹² Tr. at 25, 27, 46-47, 52-53.

¹³ *Id.* at 52.

¹⁴ *Id.* at 29.

¹⁵ *Id.* at 25-27, 29.

¹⁶ Government Exhibit 1, *supra* note 1, at 55.

times in the family) and have depleted all savings trying to remain true to our financial obligations. My switch to the defense contracting field and employment with [Applicant's current employer] is an effort to regain a stable career platform and begin to repair all that has been lost over the last five years. Please note that a possible bankruptcy in my name may be required depending on the outcome of our discussions with [the mortgage lender], but all efforts are being applied to avoid this from occurring.

The SOR identified seven purportedly continuing delinquencies, as reflected by credit reports from 2009 and 2010, totaling approximately \$222,992, in collection or charged off accounts. Some accounts reflected in the credit reports have been transferred, reassigned, or sold to other creditors or collection agents. Other accounts are referenced repeatedly, in many instances duplicating other accounts listed, either under the same creditor name or under a different creditor name. Some accounts are identified by complete account numbers, while others are identified by partial account numbers, in some instances eliminating the last four digits and in others eliminating other digits. Some accounts reflect no account number. The information reflected is not necessarily accurate or up to date.

Of the seven accounts in the SOR, Applicant is the authorized user, as opposed to the joint holder, of three of them. The accounts are those of his wife that existed before their marriage (SOR ¶¶ 1.e. 1.f., and 1.g.).¹⁷ A joint holder is a co-owner of an account and essentially shares legal responsibility for the account, having previously entered into a contractual relationship with the account grantor. An authorized user, on the other hand, is one who is permitted by the owner of the account to use it to make charges to the account, and such individual has no contractual relationship with the account granter. A joint holder may request a higher credit limit and will be responsible for the debt, but an authorized user may not alter the original account terms. As Applicant noted, one of the accounts is in his wife's previous married name.¹⁸ Although the accounts are listed in Applicant's credit reports, as merely the authorized user, Applicant is not personally liable for the account balances.

Applicant is not aware of the nature of one of the accounts or the identity of the original creditor (SOR ¶ 1.a.).¹⁹ The 2010 credit report is of little assistance in furnishing meaningful information as the original creditor is not identified, the nature of the account is not specified, and no contact information for the collection agent is provided.²⁰ The account is not listed in the 2009 credit report. Applicant was disinterested in the account

¹⁷ Government Exhibit 4 (Combined Experian, TransUnion, Equifax Credit Report, dated November 17, 2009), at 8, 16, 18-19; Government Exhibit 5 (Equifax Credit Report, dated May 25, 2010), at 1-2; Applicant's Answer to the SOR, dated August 27, 2010, at 1; Tr. at 65-67.

¹⁸ Tr. at 66.

¹⁹ Applicant's Answer to the SOR, *supra* note 17, at 1.

²⁰ Government Exhibit 5, *supra* note 17, at 2.

because he could not pay it; he never sought the specifics of the account, and did not dispute it.²¹

In October 2007, Applicant financed the purchase of a home, in the amount of \$201,438.²² When he fell behind in his monthly mortgage payments, in an effort to reduce them, Applicant sought a loan modification. In September 2008, with the mortgage loan in default, the bank offered Applicant a special forbearance designed “to demonstrate [Applicant’s] financial ability and willingness to make [Applicant’s] monthly payment in a timely manner.”²³ Applicant was pre-approved for a loan modification, and the initial plan called for four monthly payments, each in the amount of \$1,446.97, to be made by the first day of the next four months.²⁴ Applicant subsequently failed to make some of his monthly payments and the default resolution was denied.²⁵ Negotiations between the mortgage lender and Applicant continued until March 2009, when Applicant was, once again, offered a special forbearance.²⁶ Applicant was again unable to comply with the required monthly payments and the process started anew, only to fail.²⁷ Applicant vacated the residence in January 2010.²⁸ The residence was foreclosed and sold at auction, and it is unclear what Applicant’s remaining financial responsibility may be.²⁹

Applicant purchased an automobile financed with a loan of approximately \$24,000 from a bank.³⁰ At some unspecified point, he was unable to continue making his \$560 monthly payments, and the account became delinquent.³¹ Applicant sought a loan extension from the bank in June 2008,³² but the record is silent as to what the response, if any, the bank made to Applicant’s request. Upon receiving a notice that if he did not make an immediate payment of the delinquent balance of about \$1,200 the

²¹ Tr. at 56-60.

²² Government Exhibit 4, *supra* note 17, at 5.

²³ Applicant Exhibit B (Various communications from the mortgage lender – in this instance, a letter, dated September 10, 2008), at 1.

²⁴ *Id.*

²⁵ Applicant Exhibit B (Letter from the mortgage lender, dated January 6, 2009).

²⁶ Applicant Exhibit B (Letter from the mortgage lender, dated March 9, 2009), at 1-2.

²⁷ Applicant Exhibit B (Letter from the mortgage lender, dated August 7, 2009), at 1; (Applicant Exhibit B (Letter from the mortgage lender, dated October 3, 2009).

²⁸ Government Exhibit 2, *supra* note 2 (Personal Subject Interview, dated January 24, 2010), at 12, attached to Applicant’s Answers to the Interrogatories.

²⁹ Tr. at 60-61.

³⁰ *Id.* at 62.

³¹ Government Exhibit 2, *supra* note 2 (Personal Subject Interview), at 1.

³² Applicant Exhibit C (Letter to bank, dated June 19, 2008).

vehicle would be repossessed, Applicant advised the bank to do so.³³ The vehicle was repossessed and sold at auction, leaving an unpaid balance of approximately \$11,000.³⁴ Several days before the hearing, Applicant received an offer of settlement in the range of \$5,000 - \$5,400, but Applicant did not reply to the offer because he had insufficient funds to make the payment.³⁵

Applicant opened a charge account with a home improvement center with a credit limit of \$1,000.³⁶ He used the maximum amount available on two occasions and managed to pay off the balances each time within about eight months.³⁷ Applicant subsequently used the account and maintained a small balance to improve his credit, but the limit was reduced and further use of the account was denied.³⁸ Applicant was so angered by the credit denial, without more notice, that he intentionally did not address the remaining \$248 balance.³⁹

In April 2010, Applicant had a monthly net income of \$3,174;⁴⁰ monthly expenses, including \$600 child support, of \$2,355;⁴¹ monthly debt payments of \$813;⁴² and a monthly remainder of \$6 available for discretionary spending.⁴³ By the date of the hearing, Applicant was able to sell his boat to pay off his loan, and reduce his monthly debt payments by \$260 each month,⁴⁴ thereby increasing his monthly remainder to \$266. Applicant intends to eventually pay off or settle all of his delinquencies “as soon as possible,” or whenever his wife graduates and becomes gainfully employed.⁴⁵

Applicant has never received financial counseling for budgeting, debt repayment, and handling finances.⁴⁶

³³ Government Exhibit 2, *supra* note 2 (Personal Subject Interview), at 1.

³⁴ Tr. at 62-63.

³⁵ *Id.* at 63.

³⁶ *Id.*

³⁷ *Id.* at 63-64.

³⁸ *Id.* at 64.

³⁹ *Id.* at 64-65.

⁴⁰ Government Exhibit 3, *supra* note 3 (Personal Financial Statement, dated April 15, 2010), attached to Applicant's Answers to the Interrogatories.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*; Tr. at 40.

⁴⁵ Tr. at 30.

⁴⁶ *Id.* at 55.

Character References and Work Performance

The president and the human resources director of the employer that laid Applicant off in May 2009 due to a personnel reduction, arising from the current economic conditions, were highly impressed by Applicant's performance. Applicant was "identified as a team member on whom we can depend to make key contributions."⁴⁷ Applicant received performance reviews that entitled him to regular increases as a result of his "stellar performance."⁴⁸ It was noted that Applicant received a final bonus in excess of nine percent of his base pay as well as a fair severance package.⁴⁹ A friend, who has known Applicant for over 20 years, said Applicant has maintained a high regard for moral values that he would not compromise due to his current financial condition.⁵⁰ Other friends, who have known Applicant between six and ten years, characterize Applicant as intelligent, capable, dedicated, and personable,⁵¹ as well as loyal and trustworthy.⁵²

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."⁵³ 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."⁵⁴

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.

⁴⁷ Applicant Exhibit G (Letter from president, dated March 17, 2008).

⁴⁸ Applicant Exhibit H (Letter from human resources director, dated January 26, 2011).

⁴⁹ *Id.*; Applicant Exhibit G, *supra* note 47.

⁵⁰ Applicant Exhibit E (Character reference, dated January 26, 2011).

⁵¹ Applicant Exhibit F (Character reference, undated).

⁵² Applicant Exhibit D (Character reference, dated January 26, 2011).

⁵³ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁵⁴ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision.

In the decision-making process, facts must be established by "substantial evidence."⁵⁵ 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.⁵⁶

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."⁵⁷

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."⁵⁸ Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are

⁵⁵ "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).

⁵⁶ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁵⁷ *Egan*, 484 U.S. at 531

⁵⁸ See Exec. Or. 10865 § 7.

reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an "inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly, under AG ¶ 19(c), "a history of not meeting financial obligations" may raise security concerns. As noted above, there was nothing unusual about Applicant's finances until about 2006. At some point, he failed to keep up with his monthly payments, and accounts started to become delinquent. Some accounts were placed for collection, and some accounts were charged off. He lost his home to foreclosure and his automobile to repossession. 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."⁵⁹ Also, AG ¶ 20(e) may apply where "the individual has a reasonable

⁵⁹ 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

basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.”

Applicant’s financial problems commenced sometime in 2006, when he and his wife were both laid off. He managed to find another position within a month, but it took her a little longer. They were both laid off again. Applicant subsequently obtained another job, but his wife turned first to operating a day care center, and then when the economy deteriorated even further, she returned to school to better her opportunities for eventual employment. Although Applicant currently is gainfully employed, the financial problems have continued. Applicant made some efforts to address two of his accounts by seeking loan modifications, but his efforts were subsequently unsuccessful. His actions pertaining to one account were clouded by his anger over the loss of credit privileges. In light of Applicant’s five years of continuing financial problems, it is unlikely that they will be resolved in the short term, and are likely to recur. Accordingly, Applicant failed to mitigate his financial situation, and under the circumstances, his actions do cast doubt on Applicant’s current reliability, trustworthiness, and good judgment.⁶⁰ AG ¶ 20(a) only partially applies.

AG ¶ 20(b) partially applies because there were several conditions, largely beyond Applicant’s control, that made a substantial negative effect on Applicant’s financial situation. The recession in the economy and lack of available work negatively effected Applicant’s ability, as well as his wife’s ability, to maintain their employment on several occasions, at least in the short term, until the present. While those events were clearly beyond Applicant’s control, it should be remembered that Applicant’s unemployment or underemployment were of short durations, and he received a final bonus in excess of nine percent of his base pay as well as a fair severance package, following one lay off. Despite a continuing salary, Applicant did not act responsibly to address the debts that resulted.⁶¹

AG ¶ 20(c) does not apply because Applicant never received financial counseling, and there is clear and abundant evidence that his financial problems are not being resolved and are not under control. He still has delinquent accounts, and has not presented a repayment plan to reduce his delinquencies, other than waiting for his wife to graduate and become gainfully employed.

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)).

⁶⁰ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁶¹ *Id.* at 4.

AG ¶ 20(d) only partially applies because Applicant attempted to address only two of his delinquent debts well before the SOR was issued. Nevertheless, circumstances were such that he was unable to resolve either the mortgage or the automobile loan by settling them or by paying them off.⁶² He has not paid off or settled, or otherwise resolved the accounts with his mortgage lender, automobile loan lender, or the account with the home improvement center, and has not pursued repayment plans because he either did not have sufficient money to do so or he was too angry to do so. He failed to address the remaining account simply because he did not recognize the creditor.

AG ¶ 20(e) partially applies because Applicant is listed in his credit reports as merely the authorized user of three accounts, as opposed to joint-owner of those accounts, and, as such, he is not personally liable for the account balances. He disputed those accounts in his personal subject interview, in his answers to interrogatories and the SOR, as well as during the hearing. While he did not follow through with the credit reporting agencies or the creditors themselves, the evidence developed from Government exhibits and Applicant's stated positions, document the basis of the dispute. The Government did not challenge Applicant's position and offered no evidence to contradict it.

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.

⁶² "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

There is some evidence in favor of mitigating Applicant's conduct. Applicant has a history of financial delinquencies commencing in 2006. He and his wife went through repeated periods of unemployment or underemployment and his accounts became delinquent and placed for collection or charged off. He lost his home to foreclosure and his automobile to repossession. As a worker and a friend, he was highly thought of and characterized in favourable terms.

The disqualifying evidence under the whole-person concept is substantial. Applicant's financial delinquencies were the unfortunate consequence of a devastated economy and a lack of work which resulted in multiple layoffs. He attempted to obtain mortgage modification on several occasions but was unable to keep up with the necessary payments even when the bank granted him the opportunities to do so. Despite a substantial bonus and a fair severance package, he was unable to address his delinquent debts. His current permanent position pays him a salary equal to what he was earning before his initial layoff.

Claiming he had insufficient funds to make any payments, Applicant simply chose not to address them. He did not pay off or settle or otherwise resolve even the smallest of his accounts. The \$248 delinquent balance remains because of Applicant's anger over the loss of credit privileges. The \$253 delinquent balance was not addressed because Applicant claimed to have no knowledge of the creditor. 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.⁶³ Applicant's lack of a substantial good-faith effort is not sufficient to mitigate continuing security concerns. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁶⁴

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

⁶³ 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).

⁶⁴ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

Applicant failed to establish a meaningful track record of the type discussed above. Overall, the record evidence leaves me with substantial questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all of 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
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant

Conclusion

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

ROBERT ROBINSON GALES
Administrative Judge