



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



In the matter of:)
)
) ISCR Case No. 11-06888
)
Applicant for Security Clearance)

Appearances

For Government: Candace L. Garcia, Esquire, Department Counsel
For Applicant: Kenneth M. Roberts, Esquire

03/26/2013

Decision

HENRY, Mary E., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, Applicant's eligibility for access to classified information is granted.

Statement of the Case

Applicant completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP) on October 1, 2010. The Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) on August 23, 2012, detailing security concerns under Guideline F, financial considerations. 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 *Adjudicative Guidelines For Determining Eligibility for Access to Classified Information* (AG) implemented on September 1, 2006.

Applicant received the SOR on August 30, 2012, and he answered it on September 20, 2012. Applicant requested a hearing before an administrative judge with the Defense Office of Hearings and Appeals (DOHA). Department Counsel was prepared to proceed on November 23, 2012, and I received the case assignment on November 29, 2012. DOHA issued a Notice of Hearing on December 5, 2012. Applicant retained counsel, who entered his appearance on December 14, 2012, and requested a continuance. By order dated December 14, 2012, Applicant's request for a continuance was granted. The parties agreed to February 12, 2013 as the hearing date. I convened the hearing by video teleconference as scheduled on February 12, 2013. The Government offered exhibits (GE) marked as GE 1 through GE 7, which were received and admitted into evidence without objection. Applicant and three witnesses testified. He submitted exhibits (AE) marked as AE A through AE S, which were received and admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on February 21, 2013. I held the record open until February 26, 2013, for Applicant to submit additional matters, if he chose. Applicant did not submit any additional information. The record closed on February 26, 2013.

Procedural and Evidentiary Rulings

Notice

Applicant received the notice of the date, time and place of the second hearing date less than 15 days before the hearing. I advised Applicant of his right under ¶ E3.1.8 of the Directive to receive the notice 15 days before the hearing. After consulting with counsel, Applicant affirmatively waived this right under the directive. (Tr. 10.)

Evidentiary ruling

Applicant requested to correct two errors in AE A. On page two of AE A, the date for his employment at a major airline is 1997, and on page 5, the first line, the word "my" is extraneous. Applicant's request was granted, and this information is corrected. (Tr. 22)

Findings of Fact

In his Answer to the SOR, Applicant admitted the factual allegations in ¶¶ 1.a, 1.c, and 1.h of the SOR with explanation. His admissions are incorporated herein as findings of fact. He denied the factual allegations in ¶¶ 1.b, 1.e-1.g, and 1.k-1.s of the SOR with explanations.¹ He also provided additional information to support his request

¹When SOR allegations are controverted, the Government bears the burden of producing evidence sufficient to prove controverted allegations. Directive, ¶ E3.1.14. "That burden has two components. First, the Government must establish by substantial evidence that the facts and events alleged in the SOR indeed took place. Second, the Government must establish a nexus between the existence of the established facts and events and a legitimate security concern." See ISCR Case No. 07-18525 at 4 (App. Bd. Feb. 18, 2009), (concurring and dissenting, in part) (citations omitted). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See

for eligibility for a security clearance. After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant, who is 47 years old, works as an aircraft mechanic for a DOD contractor. He began his current employment in December 2004. He previously worked as an aircraft mechanic for several other private airline companies, including a major U.S. airline. As a result of the incidents of September 11, 2001, the major airline laid him off from his job in State A in 2001. Applicant found other work in his field with a newly formed airline in State B. This job lasted about a year, during which time his family continued to live in State A, where his wife worked. He continued to find work in State B, and his family moved to State B. His wife did not work for a year after the family moved. He worked two jobs during this time frame to provide for his family.²

Applicant's program manager and two co-workers testified on his behalf. All are aware of his financial problems. They describe Applicant as a professional, who acknowledges and is accountable for his mistakes, and as a highly skilled and knowledgeable aircraft mechanic. He is a highly responsible person, whom they trust. Applicant does not live extravagantly nor does he gamble. Two witnesses socialize with him outside of work and do not consider him financially irresponsible. Applicant also submitted seven letters of recommendation, including letters from his three witnesses. All describe him as conscientious, reliable, hardworking, dependable, and a man of integrity.³

Applicant attended college, but did not finish. Applicant and his wife married in July 1992. They have two sons, ages 18 and 16. His oldest son is a college student. Applicant has held a security clearance since 2004 without incident.⁴

After he moved to State B, and he began his current employment, Applicant and his wife decided to improve their finances by closing credit card accounts and paying purchases with cash. During his 2010 background investigation,⁵ issues arose with his finances. His credit reports for 2010 showed many unpaid and charged off debts for accounts unknown to him and not opened by him. He, along with his wife, sought help to manage and resolve this problem. He and his wife enrolled with a credit identity theft reporting service and in the fall of 2012, Applicant enrolled in an enhanced identification protection service through his banking service. He also consulted a law firm about the

ISCR Case No. 08-06605 at 3 (App. Bd. Feb. 4, 2010); ISCR Case No. 08-07290 at 2 (App. Bd. Nov. 17, 2009).

²GE 1; Tr. 76-83, 129, 130, 132-133, 139-141.

³AE M - AE S; Tr. 24-75.

⁴GE 1.

⁵Applicant's wife has a security clearance which was granted after her background investigation in 2010 which also showed unpaid debts.

debts on his credit report. This firm advised him to dispute the debts with the credit reporting companies, which he has done on several occasions, including on April 18, 2012. If the creditors contacted him or began to harass him, the law firm advised that it would work with him to resolve any debts the creditors sought to collect from him. After receiving the SOR, Applicant filed a fraud and identity theft notice with the credit reporting companies. His November 5, 2012 credit report notes that he is a victim of fraud. This is the first time such a notice is listed on his credit reports.⁶

The SOR identified 19 purportedly continuing delinquencies as reflected in credit reports dated January 26, 2005, April 2, 2010, and November 5, 2012, totaling approximately \$31,411. Some accounts have been transferred, reassigned, or sold to other creditors or collection agents. Other accounts are referenced repeatedly in both credit reports, in many instances duplicating other accounts listed, either under the same creditor or collection agency name or under a different creditor or collection agency 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.⁷

Applicant denied most of the debts, asserting that the debts are not his and are the result of identity theft. He has disputed most of the debts listed in the SOR. He submitted two credit reports, dated September 18, 2012 and January 21, 2013. I have reviewed all the credit reports in the record and make the following findings about the SOR debts.

SOR allegation 1.a concerns a \$4,364 credit card debt with a credit union associated with the major airline where Applicant worked until 2001. The credit report dated January 26, 2005 lists five accounts with this credit union with a notation "pays as agreed." Three accounts are real estate accounts, one account is a line of credit, and the last account is a credit card. The 2005 credit report shows the two real estate accounts and the line of credit as closed, paid, and a zero balance. The remaining real estate debt is shown as paid on the October 13, 2010 credit report. The October 2010, April 2012, and November 2012 credit reports show the credit card as paid, and the account closed at the consumer's request, as Applicant testified he did. The SOR debt with this credit union contains an account number different from the above five accounts, and this SOR debt first appeared on the October 13, 2010 credit report, which shows the date the account opened as September 2000 and the date of last activity on the account as January 2006. Applicant denies any knowledge of this account and believes some person used his employee information to open the account. He disputed this account with the credit reporting agencies on April 18, 2012, and it is not listed on his January 21, 2013 credit report.⁸

⁶GE 1; GE 3; GE 7; AE K; AE L; Tr. 88-89, 114-116, 160,183-191, 200-202.

⁷GE 4 - GE 7.

⁸Response to SOR; GE 3 - GE 7; AE C; AE D; Tr. 90-92, 146, 177.

The \$75 debt in SOR allegation 1.b is with the credit union identified in SOR allegation 1.a. None of the credit reports in the record reflect a \$75 debt with this credit union. Applicant denies any knowledge of this debt.⁹

The creditor for the \$2,035 debt in SOR allegation 1.c obtained a judgment against Applicant for the debt. Applicant denied receiving the court papers and unsuccessfully disputed the debt. Upon advice of counsel and after weighing the legal expense to dispute the judgment, Applicant took no legal action to dispute the garnishment. The creditor garnished his salary, and this debt is paid.¹⁰

Applicant denies possessing a credit card with the creditor in SOR allegation 1.d (\$267). This account is shown on the October 13, 2010 credit report as a closed account with a zero balance and transferred to recovery. Applicant disputed the debt, which is not listed on the four later credit reports in the record.¹¹

Applicant acknowledged having an account with this creditor before he married in 1992. He stopped using the credit card in the early 1990s, which is the reason he disputed the debt in SOR allegation 1.e (\$1,081) as not his. The January 2005 credit report reflects a "pays as agreed" account. The October 13, 2010 credit report shows the account as a delinquent debt, and the April 2, 2012 credit report indicates the debt has been charged-off. Applicant disputed this debt on April 18, 2012. The dispute result indicates the account was paid in March 2002, and the account closed by the consumer. The debt is not listed on the September 18, 2012, November 5, 2012, and January 21, 2013 credit reports.¹²

Applicant admitted that he had a company credit card with a large retail store, but denies he had a second bank credit card with the retail store. He closed the company credit card account when he moved in 2001 to State B. The 2005 credit report indicates Applicant had two credit card accounts with the retail store, which were in good standing. One account was opened in 1991, and the second account was opened in 2001. The second account showed up on his October 13, 2010 credit report as a collection account, which was sold to the current collection agency (SOR ¶ 1.f). The collection agency obtained a judgment for \$11,000, including interest, against Applicant, and his salary is being garnished. Applicant denies receiving the court papers and any knowledge of the judgment until he received notice of the garnishment. His legal counsel recommended payment of the garnishment. He has paid more than \$6,800 on this debt as of the hearing. He did dispute this debt on April 18, 2012.¹³

⁹Response to SOR; GE 4 - GE 7; AE D; Tr. 93.

¹⁰GE 5 - GE 7; AE C - AE F; Tr. 93-95, 147.

¹¹Response to SOR; GE 3; GE 5 - GE 7; AE C; AE D; Tr. 95-96.

¹²Response to SOR; GE 3 - GE7; AE C; AE D; Tr. 96-98, 147.

¹³GE 3 - GE 7; AE G; AE H; Tr. 98-99, 147.

Concerning the debts in SOR allegations 1.g (\$1,683), 1.h (\$627), and 1.i (\$568), Applicant denied any past-due accounts with these creditors, although he acknowledged he had an account in the past with the creditor in allegation 1.h. He closed this account in 2007 with a zero balance. The debts in allegations 1.g and 1.i appear only on the April 2012 credit report. Applicant disputed these debts on April 18, 2012. The debts in allegations 1.g and 1.i have been removed from his credit report. He continues to dispute the debt in 1.h, even though an earlier investigation of his dispute showed the debt as paid in 2008, and the account closed by the consumer.¹⁴

Applicant acknowledged that the \$147 debt in allegation SOR 1.j related to a car lease. He paid the car lease in full and provided documentation to show this debt is paid. All the credit reports of record show this debt as paid.¹⁵

Applicant acknowledges that he had a credit card with the creditor identified in SOR allegation 1.k in the 1990s, but denies that he owes this creditor \$1,584. He closed this account in 2002. The January 2005 credit report reflects that Applicant opened this account in March 1997 and that he paid the account "as agreed". The October 2010 credit report shows that the account was in collections. Applicant disputed this debt on several occasions beginning on April 18, 2012, and he has not received information on the results of his dispute, although two credit reporting agencies have resolved the dispute without providing information about their findings. Applicant currently maintains accounts with this bank and can find no information about this debt on the bank's website.¹⁶

Applicant denies that he or his family ever shopped at the retail establishment for the debt in SOR allegation 1.l or had a credit card with this company. He disputed the \$291 debt, which is not listed on his four most recent credit reports after being shown on the October 2010 credit report.¹⁷

The three credit card debts identified in SOR allegations 1.m (\$1,326), 1.n (\$254), and 1.s (\$720) are with the same credit card company. Applicant acknowledged one credit card with this company, which he opened in the 1990s and later closed. The 2005 credit report listed four accounts with this credit card company, all with a zero balance and noted as "pays as agreed." One account also indicates that the account was paid and "closed at the consumers request". The debts in allegations 1.m and 1.s are not listed on the January 2005 credit report. The October 2010 credit report lists five credit card accounts opened in 1995 or 1999 with this credit company, and it notes that three accounts were closed by the consumer with a zero balance. The debts in

¹⁴Response to SOR; GE 3 - GE 7; AE C; AE D; AE J; Tr. 99-101; 148.

¹⁵Response to SOR; GE 4- GE 7; AE D; AE I; Tr. 101-103.

¹⁶Response to SOR; GE 3 - GE7; AE J; Tr. 104-105, 148-149.

¹⁷Response to SOR; GE 5 - GE 7; AE D; Tr. 106, 149.

allegations 1.m and 1.s appear on this report with similar account numbers. Applicant disputed these debts, which do not appear on his four most recent credit reports.¹⁸

Applicant acknowledged that he had account with the original creditor identified in SOR allegation 1.o (\$553) while a college student in the 1980s. He denies continued use of this account after college, stating that he closed the account. The account is listed as disputed on the recent credit reports. Applicant disputed this debt on April 18, 2012, and the dispute result reflects that the debt was settled and paid in September 2009.¹⁹

SOR allegation 1.p (\$2,519) concerns a credit card with a membership retailer. Applicant acknowledged having a membership with this retailer, but denies opening a credit card account with this retailer. The January 2005 credit report indicates that this account was opened in March 2002, that Applicant paid as agreed, that there was a current balance of \$1,018, that the date of last activity was October 2004, and that the card was lost or stolen. The October 2010 credit report shows a zero balance on the account with a date of last activity of December 2009 and notes that the credit card was lost or stolen as well as a charged-off collection account. Applicant disputed this account, which does not appear on his four most recent credit reports.²⁰

The account in SOR allegation 1.q (\$1,449) concerns a charge account, which the January 2005 and October 2010 credit reports reflect was opened in December 2004. The creditor number is the same and the account number is the same except two additional digits appeared on the October 2010 account number. The account was current in January 2005 and a charge-off by October 2010. Applicant denied that this account was his, as it was unknown to him. He disputed the debt on April 18, 2012. The dispute result showed that the account was paid in March 2002 and closed by the consumer. This debt does not appear on his four most credit reports.²¹

Finally, SOR debt 1.r (\$713) concerns a gasoline credit card administered by a large bank. Applicant denies having a gasoline credit card with this company, but acknowledged a gasoline credit card in the past with another gasoline company. The January 2005, October 2010, and January 2013 credit reports show an account with the same account number, a zero balance, and as a current account. The October 2010 credit report indicates that the account was transferred and closed. This report shows another account with the same creditor and a different account number, which was sold to the collection company identified in the SOR. Applicant disputed this account, and it

¹⁸Response to SOR; GE 4 - GE 7; AE D; Tr. 107-109, 113, 150.

¹⁹Response to SOR; GE 3 - GE 7; AE D; AE J; Tr. 109-110, 150.

²⁰Response to SOR; GE 4 - GE 7; AE D; Tr. 110-111, 150-151.

²¹Response to SOR; GE 4 - GE 7; AE D; Tr. 111.

was removed from his credit reports. This account is not listed on his four most credit reports.²²

Applicant and his wife's net monthly incomes total \$7,425 after deductions, including his garnishment deduction. Their monthly expenses total \$6,674, leaving \$751 a month to pay other debts and unexpected expenses.²³

The January 2005 credit report reflects that Applicant and his wife paid all their bills in a timely manner. By 2010, the credit reporting agencies report many unpaid debts. On his e-QIP, Applicant indicated that he and his wife had noticed credit accounts that were not theirs. Applicant also stated that they were working with a law firm and their bank's consumer protection services to resolve the problem. When he met with the Office of Personnel Management (OPM) investigator, Applicant stated that he was aware of the debts listed in his credit report, but denied that the debts were his. He advised the OPM investigator that he was working with his attorney and bank to resolve the problem. In his answer to the SOR and in a statement prepared for the hearing, he again denied the debts were his. He testified to problems with receiving his mail for a number of years. He denied receiving notice of the court cases and receiving bills from the creditors listed in the SOR. He attributes these debts to identity theft and fraud. He has been disputing the debts for several years and is not relying on the debts falling off his credit report as a way to resolve the debts.²⁴

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 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.

²²Response to SOR; GE 4 - GE 7; AE D; Tr. 112, 151.

²³AE B.

²⁴Response to SOR; GE 3; AE A; Tr. 84-89, 160-168, 180-183.

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.

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.

AG ¶ 19 describes the disqualifying conditions that could raise security concerns. I have considered all the conditions, and the following are potentially applicable:

- (a) inability or unwillingness to satisfy debts; and

(c) a history of not meeting financial obligations.

The credit reports submitted by the Government indicate that by 2010, Applicant had developed significant financial problems. The 2012 credit reports submitted by the Government indicated that most of the debts had not been resolved. Based on the Government's submissions, these two disqualifying conditions apply.

The Financial Considerations guideline also includes examples of conditions that can mitigate security concerns. I have considered mitigating factors AG ¶¶ 20(a) through ¶¶ 20(f), and the following are potentially applicable:

(b) 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;

(c) 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; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant is not receiving financial counseling. In 2005, his credit reports showed that he paid his bills. Over the next few years, significant unpaid debts appeared on his credit report. Applicant did not recognize the debts and began to dispute them with the assistance of his bank and financial attorney. He continues to dispute several unresolved debts because the debts are not his, and the accounts are unknown to him. The April 18, 2012 dispute information report reflects that some debts had been paid several years earlier and were resolved. Because he did not recognize the debts, Applicant had a reasonable basis to dispute these debts.

Most of the debts listed in the SOR are resolved because of his disputes. He paid one garnishment and is paying a second garnishment, which resolves SOR allegations 1.c and 1.f. He also established that the debt related to his car lease had been resolved (allegation 1.j). The credit report shows a lost or stolen credit card for the debt in SOR allegation 1.p. After challenging the validity of this debt, it has been removed from his credit report.

Applicant attributes the SOR debts to fraud. Because he does not recognize most of the debts and closed other accounts a long time ago, Applicant had a reasonable basis to believe that his debts were the result of conditions beyond his control. When he learned about the debts, he acted responsibly when he started disputing the validity of the debts, spoke with legal counsel about his options, and

enrolled in a credit protection program. Applicant has mitigated the security concerns about his finances under AG ¶¶ 20(b), 20(c), and (20(e).

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.

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. For many years, Applicant and his wife maintained good credit. They paid their bills. About seven or eight years ago, Applicant and his wife decided to close their credit card accounts and pay cash for their purchases. They started closing accounts, as reflected by the credit reports. When they later reviewed their credit reports, they discovered numerous unpaid debts, which they did not recognize as belonging to either one of them. They sought guidance from a law firm and from their bank. They began to challenge the validity of the account information in their credit reports by writing credit reporting companies, and Applicant continues to dispute the few remaining unresolved accounts. His disputes have led to the removal of many incorrect entries alleging unpaid debts from his credit reports. They sought professional guidance and help on how to address these financial problems. They currently monitor their credit reports to protect against any future incorrect listings of debts that do not belong to them.

Applicant lives within this monthly income and pays his expenses. His employer recognizes his dedication, integrity, honesty, reliability, dependability, and trustworthiness. His work skills are excellent, and he is well respected by his co-workers and managers. He and his wife have been married 20 years, and they have two sons. He has a stable domestic environment and stable finances. Most significantly, he has taken affirmative action to pay or resolve most of the delinquent debts raising security concerns. (See AG ¶ 2(a)(6).) He has not been able to resolve all the SOR debts, but continues to work on a resolution of the debts. Thus, his remaining unresolved debts cannot be a source of improper pressure or duress. Of course, the issue is not simply whether all his debts are paid: it is whether his financial circumstances raise concerns about his fitness to hold a security clearance. He has shown sufficient progress to establish a “track record” of debt resolution.²⁵ While some debts remain unpaid, they are insufficient to raise security concerns. (See AG ¶ 2(a)(1).)

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
Subparagraphs 1.a-1.s:	For Applicant

²⁵In 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, 2007). 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.

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

MARY E. HENRY
Administrative Judge