



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



In the matter of:)	
)	
)	ISCR Case No. 11-10429
)	
Applicant for Security Clearance)	

Appearances

For Government: Gina Marine, Esquire, Department Counsel
For Applicant: *Pro se*

08/06/2013

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 February 26, 2011. The Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) on February 26, 2013, 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 March 20, 2013, and he answered it on April 4, 2013. Applicant requested a hearing before an administrative judge with the Defense Office of Hearings and Appeals (DOHA). Department Counsel was prepared to proceed on May 22, 2013, and I received the case assignment on June 4, 2013. DOHA issued a Notice of Hearing on June 12, 2013, and I convened the hearing as scheduled on July 2, 2013. The Government offered exhibits (GE) marked as GE 1 through GE 8, which were received and admitted into evidence without objection. The Government offered GE 9 and GE 10, which were marked, but not admitted into evidence pending Applicant's review of the documents post-hearing. The Government's list of exhibits was marked as hearing exhibit (HE) 1. Applicant and his wife testified. He did not submit any exhibits. DOHA received the hearing transcript (Tr.) on July 12, 2013. I held the record open until July 23, 2013, for Applicant to submit additional matters. Applicant timely submitted exhibits (AE) A-X, which were received and admitted without objection. The record closed on July 23, 2013. Applicant did not object to the admission of GE 9 and GE 10, which are admitted into evidence.¹

Procedural and Evidentiary Rulings

Notice

Applicant received the notice of the date, time and place of the hearing 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. Applicant affirmatively waived this right under the directive. (Tr. 12.)

Findings of Fact

In his Answer to the SOR, Applicant admitted the factual allegations in ¶¶ 1.a, 1.b and 1.d of the SOR. His admissions are incorporated herein as findings of fact. He denied the factual allegations in ¶ 1.c of the SOR.² He also provided additional information to support his request for eligibility for a security clearance. After a complete and thorough review of the evidence of record, I make the following findings of fact.

¹Applicant submitted his entire bankruptcy petition, which is marked AE H. GE 10 includes the court docket sheet for Applicant's new bankruptcy and a copy of schedules D, E, and F. Although parts of GE 10 are duplicates of AE H, GE 10 is admitted.

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

Applicant, who is 51 years old, works as a facility supervisor for a DOD contractor. He began his current employment in 2003, as a custodian. Within a year, his employer promoted him to planner, a job he held for six years. Around 2010, his employer promoted him to production supervisor, and two years later to his current position. Applicant's previous employer laid him off after 22 years of service.³

Applicant graduated from college in 2003 with a bachelor's degree in business management. Applicant and his wife married in May 1985. They have two daughters, ages 24 and 20. Both daughters live at home. His oldest daughter works as a teacher after completing her college education. His younger daughter attends college. His wife works as an office manager.⁴

Throughout his marriage, Applicant's wife managed their finances. For many years, she did not encounter unusual difficulties with their finances, which were manageable. His wife testified that about eight years ago, she experienced difficulties with paying their bills. She obtained a \$500 payday loan with a 100% interest rate. She paid the loan, but again needed money. She began a cycle of borrowing money from payday loan companies. At first, she repaid the loans. Later, her decision created significant problems with paying the household bills, although she paid the mortgage. She acknowledged that she hid the financial problems from her husband. She kept a separate checking account to pay these loans, as she did not want her husband to know about the loans.⁵

From June 2010 until October 2010, Applicant and his wife lived separate and apart. They did not proceed with any formal action to end their marriage. When Applicant and his wife resumed living together, he learned about their financial problems and the payday loans. They contacted a lawyer and decided to file for bankruptcy protection.⁶

On December 23, 2010, Applicant and his wife filed a Chapter 13 bankruptcy petition.⁷ The docket sheet reflects that their petition documents included a credit counseling certificate for Applicant and his wife. Schedule D, creditors holding secured claims, listed their mortgage and a motor vehicle loan as secured claims. Schedule E, creditors holding unsecured priority claims, included Internal Revenue Service (IRS) claims for taxes totaling \$5,025 for the years 2006-2009 (SOR ¶ 1.b) and county treasurer claims for unpaid property taxes for the years 2008 and 2009 totaling \$2,520. Schedule F listed numerous unsecured nonpriority loans totaling \$48,540, including

³GE 1; Tr. 27-28.

⁴GE 1; Tr. 27-28, 46-47.

⁵Tr. 29-33, 49-51, 79.

⁶Tr. 33-34.

⁷All documents related to Applicant's bankruptcy are marked as GE 2a- GE 2m, GE 9; GE10; AE H; Tr. 35-36.

student loans without a value (SOR ¶ 1.d). The schedule of debts did not list the \$800 judgment alleged in SOR ¶ 1.c.⁸ I take administrative notice of the fact that generally student loan debts cannot be discharged in bankruptcy.

Applicant, his wife, and the bankruptcy trustee developed a payment plan for his debts. The plan required Applicant to pay \$585 for 60 months beginning January 22, 2011. Applicant and his wife submitted an amended plan on January 18, 2011, which included their monthly mortgage payment. Under this plan, Applicant and his wife would pay \$1,583 a month for 60 months, broken down to \$881 on their mortgage and \$702 on the plan. The IRS filed an objection to the payment plan on January 24, 2011 on the grounds the plan failed to provide for payment of interest on the IRS tax debt. The IRS asked that the plan be denied. The county also filed an objection on February 1, 2011, indicating that the plan overstated the property taxes due. The taxes for the years 2008 and 2009 had been paid, but Applicant owed \$1,139 for the tax year 2010. The county requested the plan be denied until it was amended.⁹

In response to these objections, Applicant and his wife filed a third amended payment plan on April 1, 2011. Under the terms of this plan, they paid \$881, for the mortgage, for five months. Beginning in the sixth month, they paid \$1,650 for 55 months, with \$881 towards the mortgage and \$769 towards the payment plan. The new plan revised the debt owed to the county on property taxes as requested, but did not include a payment to the IRS. The IRS filed an objection to this plan on April 6, 2011. The county also filed an objection to the plan on May 3, 2011. Applicant paid \$585 on January 21, 2011, and he made monthly payments through August 2011, totaling \$7,186. He missed his September 2011 payment, but paid \$1,450 in October 2011 and \$600 on November 4, 2011.¹⁰

On November 1, 2011, the bankruptcy trustee filed a motion with the court asking that Applicant's bankruptcy case be dismissed on the grounds that he and his wife were delinquent in one or more payments in the total amount of \$3,434. The bankruptcy trustee showed that through October 2011, Applicant had paid \$9,821 on his plan. Through counsel, Applicant and his wife filed an objection to the bankruptcy trustee's motion to dismiss. On February 3, 2012, after several hearings and additional filings, the court dismissed Applicant's case, noting that a motion to reinstate may be filed.¹¹

On February 9, 2012, Applicant's counsel filed a motion to reinstate his bankruptcy case along with a proposed payment plan. On February 14, 2012, the court reinstated Applicant's case. The IRS filed an objection on February 16, 2012. On April 27, 2012, the bankruptcy trustee filed a second motion to dismiss Applicant's

⁸GE 2a- GE 2c.

⁹GE 2d; GE 2f; GE 2g.

¹⁰GE 2d; GE 2f; GE 2k.

¹¹GE 2a ; GE 2e; AE G.

bankruptcy case for delinquent payments in the amount of \$3,021. The attached documents showed five payments in February and March 2012 totaling \$3,300. The bankruptcy trustee's documents reflected total plan payments between January 2011 and March 2012 of \$13,121. On May 30, 2012, Applicant and his wife, through counsel, submitted a proposed stipulated order on confirmation to the bankruptcy trustee for review. The proposed order set out a payment schedule from January 2011 through December 2016. The payment schedule coincided with payments made previously by Applicant. The plan included administrative expenses, attorney fees, mortgage payments and arrearage, county taxes of \$1,139 plus interest, the IRS debt, and a car debt. The second mortgage on Applicant's house was treated as an unsecured claim. Applicant's counsel filed an objection to the motion to dismiss.¹²

On June 28, 2012, the bankruptcy trustee filed a third motion to dismiss for delinquent payments, totaling \$3,178. The payment history reflected that Applicant and his wife paid \$3,000 between April 27, 2012 and June 25, 2012, making their total plan payments \$16,171.¹³ Applicant's counsel objected to the dismissal motion. On October 30, 2012, the bankruptcy judge signed the stipulated order confirming the fourth amended Chapter 13 plan. In response to this order, the bankruptcy trustee filed a report of allowed claims, which included Applicant's tax debts and education loans, but did not include the \$800 judgment.¹⁴

On October 31, 2012, the bankruptcy trustee filed a fourth motion to dismiss for delinquent payments totaling \$6,528. The payment history reflected six payments under the plan between July 2012 and September 2012 totaling \$3,650. Total plan payments between January 2011 and September 2012 equaled \$19,821. In November 2012, Applicant submitted an additional \$3,000 in payments for a total payment prior to dismissal of \$22,821. On January 2, 2013, the court dismissed Applicant's bankruptcy case, again noting the Applicant could file for reinstatement. In late January 2013, Applicant submitted two payments totaling \$6,988. On March 1, 2013, the bankruptcy trustee refunded Applicant \$9,495. In late March 2013, Applicant resubmitted \$9,495 plus \$1,730 in additional payments. The funds submitted in March 2013 were returned to Applicant. How Applicant and his wife used these funds is unknown.¹⁵

The bankruptcy trustee prepared a final accounting of Applicant's bankruptcy estate. The accounting reflected that the trustee paid \$19,382 on Applicant's mortgage

¹²GE 2a; GE 2d; GE 2f; GE 2i; GE 2j; AE G.

¹³The bankruptcy trustee's report indicates that the receipts totaled \$40,985, administration costs and attorney fees paid under the plan totaled \$1,763, attorney fees (prior) paid by Applicant totaled \$2,200, and disbursements to creditors totaled \$18,501 (the mortgage). The bankruptcy trustee also indicated that Applicant was refunded \$20,721. This amount is not explained and it is not clear as the payment records do not show that Applicant paid \$40,985 into the plan. GE 9.

¹⁴GE 2a; GE 2k; GE 2l; GE 2n.

¹⁵GE 2a; GE 2m; AE G.

between March 2011 and December 2012 (monthly payment of \$881 for 22 months) The accounting reflected payment of trustee fees totaling \$863 and attorney fees of \$948. No other creditors were paid by the bankruptcy trustee.¹⁶

As Applicant indicated at the hearing, he and his wife again filed a Chapter 13 bankruptcy petition. Applicant paid his attorney a \$4,500 retainer and paid the \$281 filing fee. His new chapter 13 petition includes all the required schedules. Schedule D identifies the creditors holding secured claims as the IRS (\$5,230), the county for property taxes (\$5,110), the primary mortgagor (\$117,165), and the creditor for his truck loan (\$11,198). Schedule E identifies, for notice only, the IRS (\$1,735) and the state revenue department (0). Schedule F lists creditors holding unsecured nonpriority claims, including Applicant's second mortgage holder (\$31,808). The remaining unsecured debt totals \$16,220. Applicant submitted a proposed payment plan which indicates that he will pay \$1,550 a month for 20 months and \$1,680 a month for 40 months, beginning July 23, 2013. Applicant mailed his first payment on July 15, 2013.¹⁷

Many of the debts listed in the bankruptcy petition are related to his wife's payday loans and are her debts alone.¹⁸ Applicant and his wife filed their federal and state tax returns each year. Beginning with the tax year 2006, Applicant and his wife owed additional taxes because they claimed a high number of exemptions which resulted in less money being withheld to pay their taxes. They lowered the number of exemptions claimed to prevent owing taxes in the future. His wife negotiated the first payment agreement with the IRS in 2008 for \$50 a month. Their delinquent taxes are not fully paid and are listed on their latest bankruptcy filing. Applicant provided some documentation showing some payments to the IRS on his delinquent taxes. The IRS provided Applicant with incorrect documentation. He indicated that he would obtain the correct documentation, but the correct documentation has not been provided. In his personal interview, Applicant stated that his tax debt is paid and that he received a tax refund in 2010. His bankruptcy petition reflects that he owes tax money to the IRS.¹⁹

Applicant denied owing the \$800 judgment (¶ 1.c.). Applicant provided a copy of the court record which reflects that the defendants in the case are not Applicant and his wife, the address is for a rental property, and the debt is for unpaid rent. He disputed the debt with one credit reporting agency because the address listed for the debtor is not where he lives and because he always uses his full name on any documents he signs. The credit reporting agency deleted the debt. Applicant's attorney advised him that his college loans are in abeyance until he completes his bankruptcy.²⁰

¹⁶AE G.

¹⁷Ge 10; AE H; AE X; Tr. 36.

¹⁸The payday loan debts are not alleged in the SOR.

¹⁹AE A; AE H; Tr. 37-38, 60-62, 86-87.

²⁰GE 4; AE E; Tr. 38-40.

Applicant and his wife purchased their home for \$42,000 in 1985. They refinanced the house twice. They used the money from the first refinance to make home improvements. They refinanced a second time to restructure their loan. They also took out a second mortgage on the property for repairs and upkeep around the house. The current value of their property is \$88,000. The balance on their first mortgage is \$117,000 and the balance on their second mortgage is \$31,000.²¹

Applicant currently earns \$54,000 a year as a salaried employee. He has not received a bonus in three years, nor has he worked overtime this year. His gross monthly pay totals \$4,655 and his net monthly pay totals \$3,051. His wife earns approximately \$31,512 a year. Her net monthly pay totals \$1,370. Their older daughter gives them approximately \$200 a month towards food, for a total net household income of \$4,621. Besides the \$1,550 payment to the bankruptcy trustee and a \$50 payment to the IRS, their monthly household expenses total \$2,320, including \$100 for savings. Their younger daughter pays one-half of the \$150 monthly cell phone bill. They will pay their younger daughter's college tuition. They have sufficient income to pay their bankruptcy plan. Applicant has a savings account with approximately \$200 and his wife has a savings account with sufficient funds to cover any overdrafts on their joint checking account. After payment of the above expenses, they have approximately \$700 a month for unexpected expenses.²²

Applicant's wife testified extensively at the hearing about their household finances. She always managed the household income. She freely admitted that Applicant's financial problems arose because she started obtaining payday loans, which she stopped using. She became more involved in their daughters' activities and ignored their bills. She makes no excuses for her failure to properly manage the household finances and for her failure to keep abreast of the bankruptcy payments. She repeatedly stated that she did not tell her husband about the payday loans and that she hid the financial problems from him until the fall 2010. She accepts responsibility for their financial problems. Together, they are working towards a resolution of their financial issues. They took two financial credit counseling courses (2010 and 2013) required by the bankruptcy court, and she recently took a one-hour online financial counseling course. Applicant and his wife agreed that the monthly payment to the bankruptcy trustee will be paid from his paycheck. She uses a calendar to keep track of which bills must be paid and which paycheck she will use to pay the bills. He has decided to be more involved with the household finances and has accepted full responsibility for the debts incurred by his wife.²³

Applicant submitted three letters of recommendation from a co-worker and managers, who do not indicate an awareness of his financial problems. They describe

²¹Tr. 71-76.

²²Tr. 44, 66-71.

²³AE F; AE I; Tr. 31, 33-35, 43, 51, 53-54, 80-84.

him as a solid and dependable team player, who is a professional. He is an honest man and a man of integrity. They praise his work skills and his ethics. Applicant submitted his performance appraisals from 2004 through 2012, which reflect good performance. His key strengths included dependability, ability to adjust to change easily, a positive attitude, works well under pressure, and his ability to work with others. He has received several individual and team awards from his current employer.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.

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

²⁴AE J - AE W.

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.

Applicant developed significant financial problems when his wife began relying upon payday loans to pay their bills. After years of managing their finances without the payday loans, his wife changed her habits about eight years ago, which resulted in their current situation. Most of their debts have not been resolved. 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:

- (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;

- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; 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.

When Applicant learned about the financial problems created by his wife's decision to rely on payday loans, he contacted a bankruptcy lawyer. After this meeting, he and his wife agreed to file a Chapter 13 bankruptcy petition as the way to resolve their indebtedness. Their student loans (SOR ¶ 1.d) are not included in the bankruptcy, but can be deferred until they complete their bankruptcy payment plan. Interest will continue to accrue on the loan indebtedness. Between December 2010 and January 2013, his wife made payments to the bankruptcy trustee. She failed to pay the full amount of the plan payment at times, and she also missed several payments, which ultimately led to the dismissal of their Chapter 13 bankruptcy in January 2013. The trustee applied the payments to their primary mortgage, but did not pay any other debts. During this time, they paid their food, utility and phone bills, which they continue to pay in a timely manner. His wife developed a payment plan with the IRS for their unpaid taxes. They have paid some of their taxes, but their documentation is insufficient to establish that this debt is resolved. AG ¶¶ 20(c) and 20(d) are partially applicable.

Applicant disputed the judgment in SOR allegation 1.c as not his. He provided a copy of the court record. The court record reflects that the case was for an eviction from a rental apartment for nonpayment of rent. Applicant has lived in his house since 1985. The female co-defendant has a different name from Applicant's wife. Applicant had a legitimate reason to dispute this debt and has resolved any security concerns about this debt as he has shown that it is not his debt. AG ¶ 20(e) applies to SOR allegation 1.c.

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.²⁵

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. About eight years ago, Applicant's wife started a cycle of using payday loans when she did not have enough money to pay the monthly bills. She also became more involved with her daughters' activities and ignored the bills. Her actions created Applicant's current financial situation. Applicant did not learn about the problem until it was out-of-control. When he learned about their financial problems, he immediately contacted an attorney about how to manage the debt. He and his wife decided to file a Chapter 13 bankruptcy petition. While they made many payments during the management of their Chapter 13 case, they did not always make the full monthly payment and missed several monthly payments, which resulted in the dismissal of their case. From January 2011 through December 2012, they submitted more than \$22,000 to the bankruptcy trustee. In early 2013, they also submitted \$8,700 to the bankruptcy trustee, but this money, along with other funds, was returned to them. They have again filed a Chapter 13 bankruptcy petition. For the first time, Applicant has become more involved in the resolution of his debts and with compliance on the bankruptcy payments. The monthly payment will be taken from his paycheck. They timely made their first payment. Applicant's wife has

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.

continually worked towards a resolution of their tax debt with the IRS through monthly payments. Although their documentation is inadequate, it was the IRS staff who gave them the incorrect information about the history of their tax debt payment. Their student loans are deferred until they complete their Chapter 13 bankruptcy plan.

Applicant has taken affirmative action to pay, resolve, or manage the delinquent debts raising security concerns, as he views the debts as his responsibility. (See AG ¶ 2(a)(6).) In weighing his past efforts to resolve the financial problems created by his wife's decision to obtain payday loans, the payments to the bankruptcy court in the first plan, the failure of his wife to fully comply with the payment plans, his more involved efforts in their current bankruptcy, his favorable work performance, his work ethic, and the trust of his employer, I find that his 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. While his debts are not fully resolved, they are insufficient to raise security concerns. Applicant presents as an honest and hardworking individual, who can be relied upon to protect classified information. (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
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant

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