



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 12-11253

Appearances

For Government: Tovah A. Minster, Esq., Department Counsel
For Applicant: Applicant's brother¹

10/18/2016

Decision

HARVEY, Mark, Administrative Judge:

Applicant's statement of reasons (SOR) alleges six delinquent debts totaling \$18,589. He paid three debts; he is making payments to address one debt; one creditor has agreed that the debt is resolved; and he is negotiating a settlement of one debt in good faith. He made sufficient progress resolving his delinquent debts, and financial considerations security concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On June 8, 2012, Applicant signed and submitted an Electronic Questionnaires for Investigations Processing (e-QIP) version of a security clearance application (SF 86) (SCA). (GE 1) On April 26, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued an SOR to Applicant, pursuant to Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended; and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), which became effective on September 1, 2006.

¹Applicant's brother, who is a licensed attorney, represented Applicant. (Transcript (Tr.) 4-5)

The SOR alleged security concerns under Guideline F (financial considerations). (HE 2) The SOR detailed reasons why the DOD CAF was unable to find that it is clearly consistent with national interest to grant or continue Applicant's access to classified information and recommended referral to an administrative judge to determine whether Applicant's clearance should be granted, continued, denied, or revoked. (HE 2)

On July 17, 2015, Applicant responded to the SOR allegations and requested a hearing. (HE 3) On October 16, 2015, Department Counsel was prepared to proceed. On October 21, 2015, the case was assigned to another administrative judge. On June 7, 2016, the case was transferred to me. On July 7, 2016, the Defense Office of Hearings and Appeals (DOHA) issued a hearing notice setting the hearing for July 18, 2016. Applicant waived his right to 15 days of notice of the date, time, and place of the hearing. (Transcript (Tr.) 15-16). Applicant's hearing was held as scheduled using video teleconference. Department Counsel offered five exhibits into evidence, and Applicant offered six exhibits into evidence. (Tr. 10-13, 18-19, 43-44; GE 1-5; AE A-F) All exhibits were admitted into evidence without objection. (Tr. 17-19, 43-44) On July 26, 2016, DOHA received the transcript of the hearing. On September 19, 2016, I received one additional exhibit, which was admitted without objection. (AE G)

Findings of Fact²

In Applicant's SOR response, he admitted all SOR allegations. He also provided extenuating and mitigating information. Applicant's admissions are accepted as findings of fact.

Applicant is a 58-year-old chief engineering officer. (Tr. 21; AE G) He has worked for the same employer since October 2011. (GE 1) He has not attended school in the previous 10 years. (GE 1) He served in the Navy from 1983 to 1989, and he received an honorable discharge. (Tr. 22-23) His Navy specialty was air conditioning and refrigeration. (Tr. 22)

In 1992, Applicant married, and in May 2012, his divorce was final. (Tr. 8, 47; AE B) His six children were born in 1992, 1994, 1997, 1999, 2001, and 2003. (Tr. 23, 44; GE 1) He received custody of his children in the divorce, and four of his children live with Applicant. (Tr. 23, 44) His other two children attend college. (Tr. 44) He provides some financial support for one of his children attending college. (Tr. 49) Applicant received several awards from his employer. (Tr. 25; AE G at 1) There is no evidence of security violations, felony-level arrests or convictions, or abuse of illegal drugs. (GE 1; GE 2)

²Some details have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

Financial Considerations

Applicant's history of delinquent debt is documented in his credit reports, SOR response, Office of Personnel Management (OPM) personal subject interview (OPM PSI), hearing transcript, and hearing exhibits.³ From 1997 to 2002, Applicant worked for a large corporation. In September 2002, Applicant's employer went bankrupt. (Tr. 26) From September 2002 to January 2004, Applicant was unemployed. (Tr. 27) From January 2004 to May 2005, he was employed. From May 2005 to May 2006, he was unemployed. (Tr. 27-28) From May 2006 to September 2008, he was employed. He was unemployed from September 2008 to May 2009. (Tr. 28) From May 2009 to May 2010, he was employed. From May 2010 to October 2011, he was unemployed.

Applicant first learned of the SOR debts during his OPM PSI, and he was reminded of the SOR debts when he received the SOR. (Tr. 47; GE 2) His monthly salary after deductions is \$3,600. (Tr. 49) The primary reason for his financial problems is unemployment. (Tr. 50)

Before his divorce, his spouse was primarily responsible for paying their debts. (Tr. 24) When Applicant was divorced, the two debts resulting from repossessed vehicles in 2009 were not allocated in the divorce decree because Applicant was not aware of them. (Tr. 58) He does not receive any financial support from his former spouse even though he has custody of their children. (Tr. 45)

Applicant's SOR alleges six delinquent debts totaling \$18,589, and their status is as follows:

SOR ¶ 1.a is a charged-off bank debt for \$8,726. In 2006, Applicant purchased a used vehicle, and his spouse made payments on the vehicle lien from 2006 to January 2009. (Tr. 33) In April 2009, the vehicle was repossessed by the lien holder. (Tr. 34)

SOR ¶ 1.b is a collection debt for \$8,580. In 2006, Applicant purchased a used vehicle, and his spouse made payments on it from 2006 until February 2009. (Tr. 35) In June 2009, the creditor repossessed the vehicle. (Tr. 35)

Applicant's spouse was making payments on the debts, and he presumed she continued to make payments until they were auctioned. (Tr. 46) He was not notified of the auctioning of the vehicles or of the deficiency owed after the auction. (Tr. 46-47) The creditors for the debts in SOR ¶¶ 1.a and 1.b did not seek a judgment to obtain payment from Applicant. (Tr. 36) The most recent credit report Department Counsel submitted was dated September 8, 2015, and the only delinquent debt listed was the debt in SOR ¶ 1.b for \$8,580. (GE 3)

In August 2016, Applicant's counsel contacted the creditor in SOR ¶ 1.a to determine how much the creditor wanted to settle the debt. (AE G) The creditor

³Applicant's record of employment and periods of unemployment are detailed in his SCA and AE B.

responded that due to the state statute of limitations, the creditor was not interested in being paid anything to settle the debt. (AE G) In this case, the state statute of limitations is five years for vehicle purchase contracts. (HE 3) In August 2016, Applicant's counsel contacted the collection agent in SOR ¶ 1.b to ascertain how much the creditor wanted to settle the debt; the creditor responded 50 percent of \$8,580; and Applicant's counsel counter-offered 10 percent of \$8,580. (AE G) Applicant's counsel sent a follow-up letter in which he asked the creditor to provide a reasonable counter offer, and he is awaiting the creditor's response. (AE G)

SOR ¶¶ 1.c and 1.d are medical collection debts for \$563 and \$488 being collected by the same creditor. One account has a zero balance, and he has a payment plan for the second account. (Tr. 39; AE F) He began making monthly \$100 payments in March 2016, and he provided proof of \$100 payments on May 23, 2016, June 20, 2016, and July 15, 2016. (Tr. 31-32, 45; AE C) The debt will be paid in October 2016. (Tr. 45)

SOR ¶¶ 1.e and 1.f are collection debts for \$57 and \$175 being collected by the same creditor. On June 25, 2015, he paid the two debts in SOR ¶¶ 1.e and 1.f. (Tr. 30-31; AE A) On June 25, 2015, he also paid an additional debt to the same creditor for \$155. (AE A)

In August 2012, Applicant received financial counseling from a Dave Ramsey course. (Tr. 36-37; AE B; AE G) His three April 5, 2016 credit bureaus report provided scores of "beacon" 750, "classic" 736, and "fair" 673. (Tr. 38; AE F at 1; AE G at 3) His April 5, 2016 credit reports show a zero past due on all accounts, and all accounts are current. He purchased a home, and he has a \$300,000 mortgage with a \$1,900 payment, which is current. (Tr. 40) Applicant did not make a down payment on his home, and the loan was guaranteed by the Department of Veteran's Affairs. (Tr. 49) The Applicant believes he has sufficient income to maintain his accounts in current status. (Tr. 42)

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." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An

administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. 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.” See Exec. Or. 10865 § 7. 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 about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “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). 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. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern relating to financial problems:

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 provides two disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts”; and “(c) a history of not meeting financial obligations.” In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government’s obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). Applicant’s history of delinquent debt is documented in his credit reports, SOR response, OPM PSI, hearing transcript, and hearing exhibits. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

(a) 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;

(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;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;⁴ and

⁴The 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 acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.” Accordingly, an applicant must

(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.

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

AG ¶¶ 20(a), 20(c), and 20(d) apply. Applicant's SOR alleges six delinquent debts totaling \$18,589. He paid three SOR debts; he is making payments to address one SOR debt, and it will be paid in October 2016; one SOR debt is resolved because the creditor has elected not to accept payments; and he is negotiating a settlement of one debt in good faith.

Several circumstances beyond his control adversely affected his finances. Applicant was unemployed as follows: from September 2002 to January 2004; from May 2005 to May 2006; from September 2008 to May 2009; and from May 2010 to October 2011. He relied on his spouse to pay their debts, and she allowed several accounts to become delinquent. In 2012, he was divorced, and he has four children living at home. His net monthly income is \$3,900. He acted responsibly to address his delinquent SOR debts considering his limited income and his family responsibilities.

Applicant's 2015 and 2016 credit reports show all of his debts are current except for one debt under collection; however, the fact "that some debts have dropped off [Applicant's] credit report is not meaningful evidence of debt resolution." ISCR Case No. 14-05803 at 3 (App. Bd. July 7, 2016) (citing ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015)). The Fair Credit Reporting Act requires removal of most negative financial items from a credit report seven years from the first date of delinquency or the

do more than merely show that he or she relied on a legally available option (such as bankruptcy) 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)).

debt becoming collection barred because of a state statute of limitations, whichever is longer.⁵ In this case, Applicant's excellent 2016 credit report shows his two vehicle repossession debts are so stale they have been dropped from his credit report, and he has a strong track record of debt payment after he divorced and took over responsibility for paying the family debts.

All states have statutes of limitations upon collectability of debts, which range from three to six years for contract-based vehicle loans. In this case, the state statute of limitations is five years. State statutes of limitations clearly and unequivocally end a creditor's legal responsibility to pay the creditor after the passage of a certain amount of time, as specified in state law. In this case, the creditors could have preserved these two debts by obtaining judgments against Applicant; however, there is no evidence that either of the two creditors took judicial action to pursue collection of these two debts.⁶

In a series of decisions the Appeal Board has rejected statutes of limitations for debts generated through contracts, which is the law in all 50 states, as significantly mitigating financial considerations concerns under AG ¶ 20(d). See ISCR Case No. 08-01122 at 4 (App. Bd. Feb. 9, 2009); ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008); ADP Case No. 07-13041 at 5 (App. Bd. Sep. 19, 2008); ISCR Case No. 07-11814 at 2 (App. Bd. Dec. 29, 2008) ADP Case No. 06-14616 at 3 (App. Bd. Oct. 18, 2007) (stating, "reliance upon legal defenses such as the statute of limitations does not necessarily demonstrate prudence, honesty, and reliability; therefore, such reliance is of diminished probative value in resolving trustworthiness concerns arising out of financial problems. See, e.g., ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006).").

Recently, the DOHA Appeal Board reinforced its position on statutes of limitations not mitigating financial considerations concerns stating:

⁵ Title 15 U.S.C. § 1681c. See Federal Trade Commission website, Summary of Fair Credit Reporting Act Updates at Section 605, <https://www.consumer.ftc.gov/articles/pdf-0111-fair-credit-reporting-act.pdf>.

⁶The South Carolina Court of Appeals succinctly explained the societal and judicial value of application of the statute of limitations:

Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence and promote repose by giving security and stability to human affairs. The cornerstone policy consideration underlying statutes of limitations is the laudable goal of law to promote and achieve finality in litigation. Significantly, statutes of limitations provide potential defendants with certainty that after a set period of time, they will not be [hailed] into court to defend time-barred claims. Moreover, limitations periods discourage plaintiffs from sitting on their rights. Statutes of limitations are, indeed, fundamental to our judicial system.

Carolina Marine Handling, Inc. v. Lasch, 363 S.C. 169, 175-76, 609 S.E.2d 548, 552 (S.C. Ct. App. 2005) (internal quotation marks and citations omitted). South Carolina case law is not binding on state courts outside of South Carolina. However, the South Carolina Court of Appeals' description of the basis for this long-standing legal doctrine is instructive. See also *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478, 486 (1988) (stating "The State's interest in a self-executing statute of limitations is in providing repose for potential defendants and in avoiding stale claims.").

In this case, the Judge noted that Applicant explained that he did not owe any of the alleged debts because they had either been deleted from his credit report or soon would be deleted, and he also relied on a state statute of limitations to absolve himself of debts. The Appeal Board has long recognized that debts remain relevant for security clearance purposes even if they are no longer enforceable due to the running of the statute of limitations or cannot be legally listed on a credit report due to the passage of time. See *e.g.*, ISCR Case No. 03-04779 at 4 (App. Bd. Jul. 20, 2005) and ISCR Case No. 03-20327 at 6 (App. Bd. Oct 26, 2006).⁷ We also have held that reliance on a state's statute of limitations does not constitute a good-faith effort to resolve financial difficulties and is of limited mitigative value. ADP Case No. 06-18900 at 5 (App. Bd. Jun. 6, 2008) (citing ISCR Case No. 03-04779 at 4 (App. Bd. Jul. 20, 2005) and ISCR Case No. 01-09691 at 2-3 (App. Bd. Mar. 27, 2003)).

ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016).

Applicant's counsel's statement that the creditor in SOR ¶ 1.a will not accept payment is credible, and that debt is resolved.⁸ Applicant has reasonably attempted to negotiate a settlement of the debt in SOR ¶ 1.b, and he is negotiating in good faith.

Based on Applicant's credible and sincere promise to pay his debts and his track record of paying his debts, future new delinquent debt "is unlikely to recur and does not cast doubt on [Applicant's] current reliability, trustworthiness, or good judgment," and "there are clear indications that the problem is being resolved or is under control." His payments of his debts showed good faith. He has sufficient income to keep his debts in current status and to continue making progress paying his remaining debts. I am confident that Applicant will conscientiously endeavor to maintain his financial responsibility. His efforts are sufficient to mitigate financial considerations security concerns. Even if financial considerations security concerns are not mitigated under Guideline F, they are mitigated under the whole-person concept, *infra*.

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):

⁷Compare ISCR Case No. 12-04806 (App. Bd. Jul. 3, 2014). In that case, Applicant corroborated efforts to settle debts that were in "charged-off" status. Also, that Applicant had received financial counseling. Ultimately, the Board affirmed the Judge's favorable decision.

⁸See Nolo Law for All website, Chart: Statutes of Limitations in All 50 States, <http://www.nolo.com/legal-encyclopedia/statute-of-limitations-state-laws-chart-29941.html>. According to the Federal Trade Commission, Consumer Information webpage, it is illegal under the Fair Debt Collection Practices Act for a creditor to threaten to sue to collect a time-barred debt. <http://www.consumer.ftc.gov/articles/0117-time-barred-debts>.

(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. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under Guideline F, but some warrant additional comment.

Applicant is a 58-year-old chief engineering officer, who has worked for the same employer since October 2011. He served in the Navy from 1983 to 1989, and he received an honorable discharge. His Navy specialty was air conditioning and refrigeration. In 1992, Applicant married, and in May 2012, his divorce was final. Four of his children currently live with Applicant. He provides some financial support for one of his children attending college. Applicant received several awards from his employer. There is no evidence of security violations, felony-level arrests or convictions, or abuse of illegal drugs. He is sufficiently mature to conscientiously comply with his security responsibilities.

Applicant's delinquent debts were caused by reliance on his spouse to pay their debts, her failure to pay their debts, his repeated periods of unemployment, and divorce. After he became fully employed, and his divorce was final, he resumed debt payments. Applicant's SOR alleges six delinquent debts totaling \$18,589. He paid three SOR debts; he is making payments to address one SOR debt, and it will be paid in October 2016; one SOR debt is resolved because the creditor has elected not to accept payments; and he is negotiating a settlement of one debt in good faith. His 2016 credit report shows all debts are in current status. He is communicating with his creditors and assures he intends to pay his debts. He understands the conduct required to retain his security clearance. The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

. . . 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 has paid off each and every debt listed in the SOR. 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. 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. 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.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). Applicant has established a “meaningful track record” of debt re-payment, and I am confident he will maintain his financial responsibility.⁹

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Financial considerations concerns are mitigated.

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 through 1.f: 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 or reinstate Applicant’s eligibility for a security clearance. Eligibility for access to classified information is granted.

MARK HARVEY
Administrative Judge

⁹The Government has the option of following-up with more questions about Applicant’s finances. The Government can re-validate Applicant’s financial status at any time through credit reports, investigation, and interrogatories. Approval of a clearance now does not bar the Government from subsequently revoking it, if warranted. “The Government has the right to reconsider the security significance of past conduct or circumstances in light of more recent conduct having negative security significance.” ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012). An administrative judge does not have “authority to grant an interim, conditional, or probationary clearance.” ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012) (citing ISCR Case No. 10-03646 at 2 (App. Bd. Dec. 28, 2011)). See also ISCR Case No. 04-03907 at 2 (App. Bd. Sep. 18, 2006) (stating, “The Board has no authority to grant [a]pplicant a conditional or probationary security clearance to allow her the opportunity to have a security clearance while she works on her financial problems.”). This footnote does not imply that this decision to grant Applicant’s security clearance is conditional.