



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 15-00519

Appearances

For Government: Nicole A. Smith, Esquire, Department Counsel

For Applicant: Sheldon I. Cohen, Esquire

10/19/2016

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is granted.

Statement of the Case

On February 21, 2011, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.¹ On August 3, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him, under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December 29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. The SOR alleged security concerns under Guideline F (Financial

¹ GE 1 (e-QIP, dated February 21, 2011).

Considerations), and detailed reasons why the DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant received the SOR on August 11, 2015. On August 25, 2015, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on October 2, 2015. The case was initially assigned to another administrative judge on October 28, 2015, but was reassigned to me on January 11, 2016. A Notice of Hearing had previously been issued on November 19, 2015. I convened the hearing as scheduled on January 14, 2016.

During the hearing, 2 Government exhibits (GE 1 and GE 4), and 19 Applicant exhibits (AE A through AE S) were admitted into evidence without objection.² One Administrative exhibit was also admitted. Applicant and five witnesses testified. The transcript (Tr.) was received on January 22, 2016. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity. He timely submitted a number of documents, which were marked as AE T through AE Y, and admitted into evidence without objection. The record closed on February 15, 2016.

Findings of Fact

In his Answer to the SOR, Applicant admitted all of the factual allegations pertaining to financial considerations (§§ 1.a. through 1.e.). Applicant's answers are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 39-year-old employee of a defense contractor. He has been a full-time security engineer with his current employer since September 2007.³ He is a June 1995 high school graduate.⁴ He received a bachelor's of science degree in electrical engineering in December 1999.⁵ Applicant has never served in the U.S. military.⁶ He was granted a top secret security clearance in 2001, possessed a security clearance of an unspecified level in 2003, and in March or April 2005, his application for access to sensitive compartmented information (SCI) was denied for reasons not specified, although Applicant believes it may have had something to do with his finances.⁷

² GE 2 for identification and GE 3 for identification were objected to by Applicant. The objections were sustained, and those two documents were not considered by me. They were, however, retained and attached to the case file.

³ GE 1, *supra* note 1, at 14.

⁴ Tr. at 164.

⁵ GE 1, *supra* note 1, at 13.

⁶ GE 1, *supra* note 1, at 18.

Applicant was married in June 2003, separated in March 2012, and divorced in December 2013.⁸ He has no children.⁹

Financial Considerations¹⁰

In November 2002, Applicant's credit reports revealed that his credit category was considered either "excellent" with a credit score of 740 (Equifax), and a credit score of 743 (Experian), or "good" with a credit score of 708 (Equifax). He had never missed a payment, and no negative public records were listed.¹¹ The seeds of Applicant's financial problems actually commenced with his marriage. In early 2003, he met and fell in love with a woman on-line who presented herself as an attorney from a wealthy family. In reality, she was a con-artist with a record of criminal felony convictions in other states: two separate instances of unlawful issuance of bank checks in 1995; and one instance of forgery in 1996. Her sentences included months of confinement, various amounts of restitution, and community supervision.¹² She had also changed her name on two separate occasions: in November 1990 and in August 1992.¹³

After dating Applicant, she falsely claimed that she was pregnant. Applicant married her. Unknown to Applicant, his wife returned to her previous nefarious activities. She eventually stole checks from Applicant's parents, forged their names to acquire credit cards, and leased automobiles.¹⁴ She made extravagant purchases. When her actions were uncovered, Applicant's father threatened to sue her and recommended to Applicant that he leave her. Applicant persuaded his father not to pursue charges and, out of love and compassion, chose to remain with her in an effort to help her redeem her life and change her mindset. Nothing changed. She continued to run up expenses despite promising to stop; she promised to resolve some accounts, but she did not; she hid his mail; and when she was confronted by Applicant, she lied. In January 2010, Applicant's wife was convicted of additional criminal felony charges: obtaining money under false pretense in June 2004, October 2004, and November 2004; and grand larceny by check in March 2006 and June 2007. Her sentences included months of confinement, various amounts of restitution, and supervised probation.¹⁵ Applicant paid

⁷ GE 1, *supra* note 1, at 31.

⁸ GE 1, *supra* note 1, at 21; AE A (Final Decree of Divorce, dated December 30, 2013), at 1-2.

⁹ AE A, *supra* note 8, at 2.

¹⁰ General source information pertaining to the financial issues discussed below can be found in the following exhibits: GE 1, *supra* note 1; AE H (Combined Experian, TransUnion, and Equifax Credit Report, dated November 6, 2002; GE 4 (Combined Experian, TransUnion, and Equifax Credit Report, dated September 20, 2012); AE I (Experian Credit Report, dated November 7, 2015). More recent information can be found in the exhibits furnished and individually identified.

¹¹ AE H, *supra* note 10.

¹² AE D (Court Records, various dates).

¹³ AE D (Orders Changing Name, dated November 1m 1990 and August 11, 1992).

¹⁴ AE G (Letters from Credit Card Companies, various dates).

\$57,000 in restitution in January 2010, with the remaining amount to be repaid through the court on a monthly basis.¹⁶ It was when the 2010 charges were filed that Applicant first learned of his wife's past criminal history.

While she was in prison, Applicant realized that he was weary of what he referred to as "non-stop" trauma. Nevertheless, he decided to give her one more chance. She continued to run up bills, and when he caught her lying about continuing contact with prison inmates, both past and present, he finally decided to divorce her. The day following their divorce, she married someone else.¹⁷ Two years later, she died of a drug-related suicide.¹⁸

Throughout the years of their marriage, Applicant consistently stepped in to resolve accounts that were either about to become delinquent or which had already become delinquent because of his wife's spending habits, as well as her concealment of the true status of the family finances. In some instances, he merely gave the bill to his wife to handle. In time, he concluded that she was lying to him about her inaction in failing to resolve the accounts. At one point, he had insufficient funds to stem the tide of delinquencies. He borrowed money from his 401(k) retirement account and from his father to resolve a variety of delinquent accounts. In October 2015, Applicant engaged the professional services of an organization to assist him in resolving his debt issues and consolidating his debts. The organization was authorized to negotiate on his behalf on a variety of financial issues, including those related to real estate transactions, banking transactions, claims and litigation, and credit matters.¹⁹ Because the organization did not provide consumer credit counseling, in January 2016, Applicant enrolled in a financial counseling course.²⁰

The SOR identified five purportedly continuing delinquent debts, totaling approximately \$56,612, that had been placed for collection and gone to judgment, as reflected by a September 2012 credit report.²¹ Those debts and their respective current status, according to the credit report, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below.

¹⁵ AE E (Court Records, dated January 29, 2010). In her statements to the courts on her pleas, she stated that she was a "college graduate."

¹⁶ AE F (Letter, dated January 28, 2010); AE F (Check, dated January 26, 2010).

¹⁷ AE B (Certificate of Marriage, dated December 31, 2012).

¹⁸ AE C (Certification of Vital Record, dated November 28, 2014). She was listed as a self-employed entrepreneur with a twelfth-grade education.

¹⁹ AE S (General Power of Attorney, dated October 19, 2015).

²⁰ AE V (Class Registration Email, dated January 18, 2016).

²¹ GE 4, *supra* note 10.

SOR ¶ 1.a.: This is a medical account with a balance of \$2,000 that was placed for collection and went to judgment in 2009.²² Applicant paid off the judgment and a Notice of Satisfaction was issued on December 17, 2015.²³ The account has been resolved.

SOR ¶ 1.b.: This is a medical account with a balance of \$15,000 that was placed for collection and went to judgment in 2009.²⁴ Applicant paid off the judgment and a Notice of Satisfaction was issued on December 17, 2015.²⁵ The account has been resolved.

SOR ¶ 1.c.: This is a medical account with a balance of \$2,100 that was placed for collection and went to judgment in 2008.²⁶ Applicant paid off the judgment and a Notice of Satisfaction was issued on December 17, 2015.²⁷ The account has been resolved.

SOR ¶ 1.d.: This is a furniture company bank account with a balance of \$19,704 that was placed for collection and went to judgment in 2007.²⁸ Applicant's attorney made efforts to locate the creditor and was faced with the facts that the original creditor had no record of the account and the successor creditor and the law firm that represented them no longer exist.²⁹ Furthermore, the debt-collecting law firm involved in the judgment – one of the largest one of its kind in the country – was forced to shut down when it was determined that it was a principal in a nation-wide consumer fraud scandal.³⁰ On January 29, 2016, a payment in the amount of \$29,826.26 (including \$9,501.64 in interest) was issued to the court-ordered receiver for the closed debt-collecting law firm.³¹ On February 5, 2016, the judgment lien was released.³² The account has been resolved.

SOR ¶ 1.e.: This is his wife's bank credit card account with a balance of \$17,908.22 that was placed for collection and went to judgment in 2007.³³ Applicant

²² GE 4, *supra* note 10, at 5.

²³ AE N (Notice of Satisfaction, dated December 17, 2015).

²⁴ GE 4, *supra* note 10, at 6.

²⁵ AE O (Notice of Satisfaction, dated December 17, 2015).

²⁶ GE 4, *supra* note 10, at 6.

²⁷ AE P (Notice of Satisfaction, dated December 17, 2015).

²⁸ GE 4, *supra* note 10, at 6; AE K (Order, dated September 21, 2007).

²⁹ AE M (Affidavit, dated December 10, 2015).

³⁰ AE X (Order Appointing Receiver, dated February 25, 2010); AE Y (Law Blog, dated September 9, 2015).

³¹ AE W (Check, dated January 29, 2016); AE W (Letter, dated February 1, 2016).

³² AE T (Authorization for Release of Judgment Lien, dated February 5, 2016).

³³ GE 4, *supra* note 10, at 6; AE L (Order, dated August 31, 2007).

paid off the judgment and on December 18, 2015, the judgment lien was released.³⁴ The account has been resolved.

On February 2, 2016, Applicant reported that his monthly net earnings were \$4,929.64; his expenses were \$3,502.66; and he had a remainder of \$1,426.98 available for discretionary savings or spending. He noted that he had \$76,613.06 in various assets, including retirement accounts and a checking account, and \$69,826.26 in loans for the repayment of his judgments.³⁵ Applicant contends that he is now more vigilant regarding his finances, and that he now uses a credit monitoring service. He has no other delinquent accounts.

Work Performance and Character References

The Executive Vice-President - Security Officer of the federal contractor for which Applicant works has known Applicant since 2007. While he is the second-level manager over Applicant, he is very familiar with Applicant's performance. He considers Applicant to be a great employee who is honest, trustworthy, and dependable. He noted that Applicant has received three spot bonuses based on client feedback. He would welcome Applicant's interest in considering an upward movement into a management position, but stated that Applicant claimed to be unready to accept such a responsibility.³⁶ Applicant's annual performance reviews routinely reflect someone who either exceeds expectations or consistently exceeds expectations.³⁷ Various friends, some of whom have known Applicant for several decades, as well as two pastors, are effusive in their praise of him. They noted his community service and activities as a member of the church where he serves as a volunteer in the children's ministry, Bible study, Sunday school teacher, video team, and serving the needy.³⁸ Applicant is considered polite, accommodating, very kind, compassionate, religious, truthful, generous, trustworthy, innocent, ethical, honest, considerate, and totally committed to his wife because of her alleged pregnancy.³⁹

Applicant's first-cousin is a captain in the U.S. Navy serving on active duty in a high-level position. He considers Applicant to be an upright man of integrity who is very dependable, trustworthy, and frugal, and who is very compassionate and honorable. He also knew Applicant's wife, and he considered her initially to be very articulate, intelligent, credible, and believable. Instead, over a brief period, he altered his impression of her and concluded she was a pathological liar and thief, and not a partner

³⁴ AE Q (Authorization for Release of Judgment Lien, dated December 18, 2015).

³⁵ AE U (Personal Financial Statement, dated February 2, 2016).

³⁶ Tr. at 26-36.

³⁷ AE J (Performance Reviews, various dates).

³⁸ AE R (Character References, various dates).

³⁹ Tr. at 93-103, 105-112.

in a big law firm as she had claimed. She once went to Applicant's parents' residence while they were out of the country, and she went through their papers to steal their identities and other personal information to open up a variety of accounts. She was arrested for shoplifting at a local mall. Applicant stayed with his wife during much of the time because he was very honorable and committed to his marriage vows.⁴⁰ Applicant's father confirmed all the facts regarding Applicant's wife that were previously established.⁴¹

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."⁴² As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so."⁴³

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

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

In the decision-making process, facts must be established by "substantial evidence."⁴⁴ The Government initially has the burden of producing evidence to establish

⁴⁰ Tr. at 45-65.

⁴¹ Tr. at 67-91.

⁴² *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁴³ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

⁴⁴ "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government's case. The burden of disproving a mitigating condition never shifts to the Government.⁴⁵

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Furthermore, "security clearance determinations should err, if they must, on the side of denials."⁴⁶

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."⁴⁷ Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Analysis

Guideline F, Financial Considerations

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

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

⁴⁵ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴⁶ *Egan*, 484 U.S. at 531.

⁴⁷ See Exec. Or. 10865 § 7.

overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly, under AG ¶ 19(c), “a history of not meeting financial obligations” may raise security concerns. Five accounts placed for collection went to judgment. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where “the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment.” Also, under AG ¶ 20(b), financial security concerns may be mitigated where “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances.” Evidence that “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control” is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.”⁴⁸

AG ¶¶ 20(a), 20(b), 20(c), and 20(d) apply. Applicant’s financial problems were not caused by his frivolous or irresponsible spending, and he did not spend beyond his means. The accounts that were generated were done so by his wife – a convicted felon and con-artist – who stole identities and checks, wrongfully opened accounts, illegally leased automobiles, and ran up balances. She hid delinquency notifications from Applicant, and when he finally learned of the delinquency status of some accounts, he asked her to take care of them. To his knowledge, she was a partner in a big law firm. He stood by her when he learned of her actions pertaining to his parents’ accounts. It was not until she was arrested in 2010 that he learned of her criminal history. Being in love, compassionate, honorable, and naive, he wanted to give her another chance to redeem herself. She continued to be deceptive, and it was not until he again caught her

⁴⁸ The Appeal Board has previously explained what constitutes a good-faith effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the “good-faith” mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant’s debts. The Directive does not define the term “good-faith.” However, the Board has indicated that the concept of good-faith “requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.” Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) 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)).

lying that his “non-stop” trauma ceased and he divorced her. The nature, frequency, and recency of Applicant’s financial difficulties make it difficult to conclude that it occurred “so long ago” or “was so infrequent.” Instead, as noted above, Applicant’s financial problems occurred under such circumstances that they are unlikely to recur. He divorced his wife.

Over the years of his marriage, Applicant consistently stepped in to resolve accounts that were either about to become delinquent or which had already become delinquent because of her spending habits and her concealing the status of the accounts. At one point, he had insufficient funds to resolve the accounts. In October 2015, Applicant engaged the professional services of an organization to assist him in resolving his debt issues and consolidating his debts. Because the organization did not provide consumer credit counseling, in January 2016, Applicant enrolled in a financial counseling course. He initiated a good-faith effort to repay his overdue creditors, and in doing so, he borrowed money from his 401(k) retirement account and from his father to resolve a variety of delinquent accounts. Of the five judgments against him, Applicant resolved four of them in December 2015. The one other account was resolved in January 2016. Applicant currently maintains a budget so he can exercise control over his expenses. He also now uses a credit monitoring service. Applicant is more vigilant regarding his finances. There are no other delinquent accounts, and there have been no new ones after Applicant was divorced. Applicant’s actions, under the circumstances, no longer cast doubt on his current reliability, trustworthiness, or good judgment.⁴⁹

Department Counsel argued that because Applicant failed to exercise greater personal attention to his finances and did not obtain a credit report at some unspecified point during his marriage, his inaction constituted inattention of such a magnitude to prompt skepticism in a reasonable mind to question Applicant’s judgment and ability to protect classified information.⁵⁰ This case can be distinguished from the other cases cited by Department Counsel in that this is an Applicant who was a victim of a convicted felon, con-artist, thief, and liar. As a loving husband of a purported law firm partner from a wealthy background, he may have been naive, but he had no reason to question his wife’s handling of the family finances. She concealed the existence of accounts and delinquency notices. The judgments occurred during 2007 through 2009, and he did not know about them until much later. The earlier issues involving the identity theft of his parents’ financial information should probably have made him more vigilant, but at the time, he was trying to be compassionate, loving, and protective of his wife. Once the “non-stop” trauma ceased, he took decisive action: he divorced his wife; he obtained the professional services of a debt resolution company; he obtained financial counseling; and he resolved all his delinquent accounts.

⁴⁹ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁵⁰ See ISCR Case No. 13-00786 at 3-4 (App. Bd. Mar. 28, 2014); ISCR Case No. 11-13626 at 3 (App. Bd. Nov. 7, 2013).

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.⁵¹

There is some evidence against mitigating Applicant's conduct. Five judgments, totaling \$56,612, were obtained against Applicant during the period 2007 through 2009 related to delinquent accounts. He took little action to resolve those accounts until December 2015 and January 2016. His love and compassion for his wife overcame his judgment, and, in some ways, enabled her to continue on her course of nefarious conduct.

The mitigating evidence under the whole-person concept is more substantial. There is no evidence of misuse of information technology systems, mishandling protected information, or substance abuse. An honorable, trustworthy, compassionate, trusting, and loving individual, who was also somewhat naive in both financial and personal matters, Applicant fell in love with a convicted felon with a fabricated background. Before they met, Applicant's financial situation was good to excellent, and he had never missed a payment. There were no negative public records listed in his credit reports. His wife changed everything. She stole identities, forged signatures, issued bad checks, wrongfully obtained credit cards, and embarked on a journey of profligate spending. Applicant was not a conspirator or knowing participant, but rather, an uninformed victim. When he did learn of her actions and activities, out of love and compassion, he tried to protect her and assist her in altering her mindset. It did not work. Finally, after learning the full truth about her, he severed their relationship and embarked on his own journey of resolving his outstanding financial matters. The five judgments against him were resolved. He has no other delinquent accounts. There are

⁵¹ See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); See also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

clear indications that Applicant's financial problems are under control. His actions under the circumstances no longer cast doubt on his current reliability, trustworthiness, or good judgment.

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

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has ". . . established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan." The Judge can reasonably consider the entirety of an applicant's financial situation and his [or her] actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ("Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.") There is no requirement that a plan provide for payments on all outstanding debts 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.⁵²

Applicant has demonstrated a "meaningful track record" of debt reduction and elimination efforts, initially limited by his ex-wife's repeated criminal actions and activities. Now that he is divorced, the debts have all been resolved. Applicant sought the professional services of two organizations to furnish him financial guidance. He is now more vigilant regarding his finances, and he uses a credit monitoring service. He has no other delinquent accounts.

Overall, the evidence leaves me without questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has mitigated the security concerns arising from his financial considerations. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

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:

⁵² ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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

Subparagraph 1.e:

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.

ROBERT ROBINSON GALES

Administrative Judge