



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 15-03636

Appearances

For Government: Douglas R. Velvel, Esquire, Department Counsel

For Applicant: *Pro se*

03/08/2017

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 May 10, 2013, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.¹ On November 10, 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 Considerations), and

¹ GE 1 (e-QIP, dated May 10, 2013).

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.

It is unclear when Applicant received the SOR as there is no receipt in the case file. On December 11, 2015, he responded to the SOR and elected to have his case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by the Defense Office of Hearings and Appeals (DOHA) on an unspecified date in March 2016, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Guidelines applicable to his case. Upon receiving the FORM, Applicant changed his mind, and on March 30, 2016, he requested that the matter be converted to a hearing. Department Counsel indicated the Government was prepared to proceed on May 5, 2016. The case was assigned to me on June 6, 2016. Unbeknownst to me, on June 13, 2016, pursuant to Directive ¶ E.3.1.13, Encl. 3, Department Counsel issued an Amendment to the SOR.² It was never received by Applicant.³ A Notice of Hearing was issued on June 28, 2016. I convened the hearing as scheduled on July 12, 2016.

During the hearing, four Government exhibits (GE) 1 through GE 4, and eight Applicant exhibits (AE) A through AE H, were admitted into evidence without objection. A copy of the proposed Amendment to the SOR, redated July 12, 2016, was handed to Applicant, and it was marked as an Administrative Exhibit.⁴ The proposed Amendment to the SOR was subsequently withdrawn during the hearing.⁵ Applicant testified. The transcript (Tr.) was received on July 20, 2016. I kept the record open to enable Applicant to supplement it. He took advantage of that opportunity and timely submitted additional documents, which were marked and admitted as AE I through AE Q, without objection. The record closed on July 26, 2016.

Findings of Fact

In his Answer to the SOR, Applicant admitted six of the factual allegations pertaining to financial considerations (¶¶ 1.a. through 1.c., 1.e., 1.f., and 1.h.) of the SOR. Applicant's admissions and comments 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:

² Because the "proposed" Amendment to the SOR was issued after the case was assigned to me, I believe the authority for the document was erroneously cited as ¶ E.3.1.13., whereas it should have been ¶ E.3.1.17.

³ Tr. at 11-12.

⁴ Tr. at 16.

⁵ Tr. at 60.

Applicant is a 37-year-old employee of a defense contractor. He has been a logs and records clerk with the company since May 2013.⁶ He was previously a general clerk with another company from June 2010 until April 2013, and briefly served as a part-time security guard before that.⁷ He is a 1997 high school graduate.⁸ He received an associate's degree in 2013 and a bachelor's degree in 2015.⁹ Applicant enlisted in the U.S. Navy and served on active duty from September 2001 until September 2005, when he was honorably discharged.¹⁰ It is unclear when he was granted an interim secret security clearance.¹¹ Applicant was married in 2003.¹² He has two sons (born in 2005 and 2008), one daughter (born in 2012), and one stepson (born in 2001).¹³

Military Awards and Decorations

During his military career, Applicant was awarded the Army Good Conduct Medal, the National Defense Service Medal, the Navy and Marine Corps Achievement Medal, the Global War on Terrorism Service Medal, the Global War on Terrorism Expeditionary Medal, the Sea Service Deployment Ribbon, and a Letter of Commendation. He was also the Squadron Sailor of the Month.¹⁴

Financial Considerations¹⁵

In January 2008, Applicant obtained a bank loan in the amount of \$290,000 to finance the construction of a new residence. The payments were \$2,300 per month. He made his routine loan payments until early 2009. Unfortunately for Applicant, at about that time, the housing market collapsed. His original primary residence had still not yet been sold, but was rented. Applicant could no longer afford both mortgages. He refinanced the loan to a \$1,900 monthly payment, but even that reduced amount was too

⁶ GE 1, *supra* note 1, at 10-11; Tr. at 31.

⁷ GE 1, *supra* note 1, at 11-13.

⁸ GE 4 (Personal Subject Interview, dated August 23, 2013), at 1.

⁹ GE 1, *supra* note 1, at 9-10; GE 4, *supra* note 7, at 1; Tr. at 6, 50-51.

¹⁰ AE J (Certificate of Release or Discharge from Active Duty (DD Form 214), dated September 23, 2005); GE 1, *supra* note 1, at 17.

¹¹ GE 1, *supra* note 1, at 31; Tr. at 7.

¹² GE 1, *supra* note 1, at 19-20.

¹³ GE 4, *supra* note 8, at 2.

¹⁴ AE J, *supra* note 10; AE K (Awards and Citations, various dates).

¹⁵ Applicant's memory regarding the dates that specific incidents took place is rather poor in that he contended certain incidents took place at different times as reflected in his e-QIP, Personal Subject Interview, and during the hearing. General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1, *supra* note 1; GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 21, 2013); GE 2 (Equifax Credit Report, dated March 27, 2015); GE 4, *supra* note 8; Applicant's Answer to the SOR, dated December 11, 2015. More recent information can be found in the exhibits furnished and individually identified.

much for him. He also tried a short sale, but that effort proved to be unsuccessful. As a result, the mortgage payments on the new residence ceased and, in September 2009, Applicant moved back into his original residence. The new residence went into foreclosure, leaving an unpaid balance of \$161,299. The creditor reclaimed the collateral (the residence) to settle the defaulted mortgage.¹⁶

In July 2008, Applicant purchased a Harley Davidson motorcycle for \$10,579, with monthly payments of approximately \$250. In June or July 2009, Applicant lost his job due to a company reorganization. He enrolled in a police academy in September 2009, graduated in March 2010, and obtained part-time weekend employment in April 2010. When Applicant lost his job, he fell behind in his monthly motorcycle payments. It was voluntarily repossessed.¹⁷ Other accounts became delinquent. Although he had never received financial counseling,¹⁸ Applicant reached out to his known creditors, including those not alleged in the SOR, in an effort to resolve his delinquent debts.¹⁹ Although he nearly wiped out his entire savings account, he managed to settle nearly all of his accounts, in part by using his annual federal income tax refunds.²⁰

The SOR identified eight purportedly delinquent debts that had been placed for collection or charged off, as reflected by his June 2013 credit report²¹ or his March 2015 credit report.²² Those debts, totaling approximately \$15,071, and their respective current status, according to the credit reports, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below:

(SOR ¶ 1.a.): This is a motorcycle loan with an unpaid balance of \$5,400 that was placed for collection and charged off.²³ The unpaid balance was the amount remaining after the motorcycle was voluntarily repossessed and sold. On December 7, 2015, the collection agent agreed to a settlement of \$3,239.82,²⁴ and on December 9, 2015, Applicant made a payment in that amount.²⁵ The account has been resolved.

¹⁶ GE 3, *supra* note 15, at 7; GE 2, *supra* note 15, at 1; GE 1, *supra* note 1, at 33; Tr. at 40-43.

¹⁷ GE 4, *supra* note 8, at 3-4; GE 1, *supra* note 1, at 9, 11-12, 33-34; Tr. at 39-43, 51-52, 62-65; AE M (Certificate of Completion, dated March 17, 2010); AE L (Test Results, dated March 31, 2010).

¹⁸ Tr. at 48.

¹⁹ Tr. at 29.

²⁰ Tr. at 29, 35-36.

²¹ GE 3, *supra* note 15.

²² GE 2, *supra* note 15.

²³ GE 3, *supra* note 15, at 8-9; GE 2, *supra* note 15, at 2.

²⁴ AE F (Letter, dated December 7, 2015).

²⁵ AE H (Transactions, various dates), at 2.

(SOR ¶ 1.b.): This is a bank credit card with an unpaid and past-due balance of \$2,300 that was placed for collection and sold to a debt purchaser.²⁶ In early December 2015, the debt purchaser agreed to a settlement of \$1,502.60 as payment in full.²⁷ On December 9, 2015, Applicant made a payment in that amount.²⁸ The account has been resolved.

(SOR ¶¶ 1.c. and 1.e.): These are two medical accounts with unpaid and past-due balances of \$978 and \$525 that were placed for collection with the same collection agent.²⁹ In early December 2015, the collection agent agreed to settlements of \$377 and \$525,³⁰ and on December 8, 2015, Applicant made a payment in the amount of \$906, which is \$4 more than necessary, as payment in full.³¹ The accounts have been resolved.

(SOR ¶ 1.d.): This is a medical account with an unpaid balance of \$798 that was placed for collection.³² Applicant had attempted to locate the unidentified creditor, but he was unable to do so. He has not filed a dispute with the credit reporting agency. The account has not been resolved.

(SOR ¶ 1.f.): This is a medical account with unpaid and past-due balance of \$249 that was placed for collection.³³ On December 8, 2015, Applicant made a payment in the amount of \$249.17 as payment in full.³⁴ The account has been resolved.

(SOR ¶ 1.g.): This is a medical account with unpaid and past-due balance of \$1,610 that was placed for collection.³⁵ Applicant had attempted to locate the unidentified creditor, but he was unable to do so, even though the name, address, and telephone number of the collection agent appears in his June 2013 credit report. He has not filed a dispute with the credit reporting agency. The account has not been resolved.

(SOR ¶ 1.h.): This is a bank credit card account with a high credit of \$2,316 and an unpaid balance of \$3,200 that was placed for collection and sold to a debt purchaser.³⁶

²⁶ GE 3, *supra* note 15, at 12; GE 2, *supra* note 15, at 2. Applicant erroneously referred to the account as a medical bill. See Tr. at 44.

²⁷ AE C (Letter, dated December 14, 2015).

²⁸ AE H, *supra* note 25, at 2.

²⁹ GE 3, *supra* note 15, at 6; GE 2, *supra* note 15, at 2.

³⁰ AE E (Letter, dated December 7, 2015); AE D (Letter, dated December 7, 2015).

³¹ AE H, *supra* note 25, at 2.

³² GE 2, *supra* note 15, at 2.

³³ GE 3, *supra* note 15, at 7; GE 2, *supra* note 15, at 2.

³⁴ AE H, *supra* note 25, at 2.

³⁵ GE 3, *supra* note 15, at 7.

³⁶ GE 3, *supra* note 15, at 5, 12; Tr. at 47.

In August 2012, the debt purchaser reported that the remaining balance was \$3,045.28, and it offered Applicant settlement terms under which a lump sum payment of \$2,000 would be acceptable as settlement in full.³⁷ It is unclear when Applicant actually made that lump sum payment because he did not receive an acknowledgment of the payment or a letter stressing that the payment was in full, as previously agreed, until February 2016.³⁸ In fact, Applicant's June 2013 credit report clearly stated that there was a zero balance as the account had been "legally paid in full for less than the full balance" – a fact that was known when the SOR was drafted and issued two and one-half years later. That fact also appeared in Applicant's March 2015 credit report.³⁹

In July 2016, Applicant submitted a Personal Financial Statement reflecting a family net monthly income of \$4,770; monthly expenses of \$4,051; and a monthly remainder of \$719 available for saving or spending. He also listed \$87,390 in savings (after refinancing his residence in March 2016), \$446 in a checking account, and \$6,500 in retirement accounts.⁴⁰ Applicant has made substantial progress in resolving his delinquent accounts, including several that were not alleged in the SOR. Other than the two unresolved medical accounts identified above, there are no remaining delinquent debts. It appears that Applicant's financial status has improved significantly, and that his financial problems are finally under control.

Work Performance and Character References

The commanding officer and the quality assurance officer of Applicant's previous employer both enthusiastically support Applicant. They noted that Applicant demonstrated a tireless work ethic, created stability, and routinely went above and beyond.⁴¹ A retired chief petty officer, who served as the aviation administrative manager on active duty when Applicant was assigned to him, described Applicant's great attention to detail, punctuality, maturity, focus on his duties, and willingness to help others when needed. Their subsequent relationship, as government contractors, simply reinforced earlier positive impressions, and Applicant was characterized as "an anchor, an important team member that we depend on daily to keep our many programs safe and on track."⁴² Applicant's somewhat dated performance review for the period ending in June 2011 rated him as excellent in all of the 18 performance factors, including judgment/decision making, flexibility and adaptability, and problem solving and creativity.⁴³

³⁷ AE G (Letter, dated August 10, 2012).

³⁸ AE A (Letter, dated February 16, 2016); AE B (E-mail, dated February 11, 2016).

³⁹ GE 3, *supra* note 15, at 5; GE 2, *supra* note 15, at 2.

⁴⁰ AE I (Personal Financial Statement, dated July 13, 2016); Tr. at 30-33.

⁴¹ AE P (Character Reference, dated February 14, 2011); AE O (Character Reference, dated September 3, 2013).

⁴² AE Q (Character Reference, dated July 25, 2016).

⁴³ AE N (Performance Review, dated June 22, 2011).

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.”⁴⁴ 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.”⁴⁵

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.”⁴⁶ The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government.⁴⁷

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship

⁴⁴ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁴⁵ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

⁴⁶ “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).

⁴⁷ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

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.”⁴⁸

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.”⁴⁹ 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 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. Applicant’s major financial problems initially arose in early 2009, and increased during early portion of the following year. Accounts became delinquent. Some were placed for collection. A house was foreclosed, and a motorcycle was repossessed. 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

⁴⁸ *Egan*, 484 U.S. at 531.

⁴⁹ See Exec. Or. 10865 § 7.

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.”⁵⁰ In addition, AG ¶ 20(e) may apply where “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.”

AG ¶¶ 20(a), 20(b), 20(c), and 20(d) all apply. AG ¶ 20(e) does not apply. Applicant’s financial problems were not caused by his personal frivolous or irresponsible spending. Also, it does not appear that he spent beyond his means. Instead, his financial problems arose at about the time the national housing market collapsed, he was unable to sell his initial primary residence, and he was unable to continue making monthly mortgage payments on both that residence and his newly constructed residence. The loss of his job in mid-2009 merely exacerbated his financial situation. Applicant commenced his task of resolving his debts, limited largely by an inability to generate the funds to do so more expeditiously. He reached out to his creditors and, where possible, he negotiated settlements or paid accounts in full. He exhausted his savings and applied his annual income tax refunds to settle or otherwise pay off a number of accounts.

Of the eight SOR-related accounts, he resolved all but two medical accounts because he could not identify the actual creditors or collection agents. While he never received financial counseling, Applicant’s financial status has improved significantly. He recently refinanced his residence mortgage and now has \$87,390 in his savings account. Applicant’s financial problems are finally under control. While he may have been initially unable or possibly unmotivated to move more timely in addressing his SOR-related accounts, Applicant’s successful efforts actually reflect that he acted prudently and

⁵⁰ 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 [or statute of limitations]) in order to claim the benefit of [the “good-faith” mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

responsibly. Applicant's actions, under the circumstances confronting him, no longer cast doubt on his current reliability, trustworthiness, and good judgment.⁵¹

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.⁵²

There is some evidence against mitigating Applicant's conduct. Applicant failed to maintain his normal monthly payments regarding a number of his accounts, and during 2009 and the ensuing years, a number of them became delinquent and were placed for collection. A house was foreclosed and a motorcycle was repossessed.

The mitigating evidence under the whole-person concept is more substantial. There is no evidence of misuse of information technology systems, mishandling protected information, substance abuse, or criminal conduct. Applicant is a decorated, honorably discharged veteran. He is a well-respected employee of at least one government contractor. Applicant's financial problems commenced with his ill-timed decision to construct a new residence at about the same time that the national housing market collapsed. Unable to sell his initial primary residence, he was caught up in a situation where he was unable to make simultaneous monthly payments on the mortgages for two residences. When he lost his job in mid-2009, he was also unable to make the payments for his motorcycle. Without the financial resources to maintain his accounts in a current status, they became delinquent. He chose not to ignore his delinquent debts. Instead, he exhausted his savings and applied his annual income tax refunds to settle or otherwise

⁵¹ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁵² 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).

pay off a number of accounts. The last eight delinquent debts were those included in the SOR. Of those eight SOR-related accounts, to date, he has resolved all but two medical accounts simply because he could not identify the actual creditors or collection agents. While he never received financial counseling, Applicant's financial status has improved significantly. He recently refinanced his residence mortgage and now has \$87,390 in his savings account. Applicant did not simply promise to address his debts, he actually did so.⁵³

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.⁵⁴

Applicant has demonstrated a "meaningful track record" of debt reduction and elimination efforts. He keeps track of his expenses and maintains a budget. Overall, the evidence leaves me without questions or doubts as to Applicant's security worthiness. 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:

Paragraph 1, Guideline F:

FOR APPLICANT

⁵³ The Appeal Board has indicated that promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. ISCR Case No. 07-13041 at 4 (App. Bd. Sept. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)).

⁵⁴ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Subparagraphs 1.a through 1.h: 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