



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 15-04689

Appearances

For Government: Eric Borgstrom, Esquire, Department Counsel

For Applicant: *Pro se*

04/25/2017

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 November 3, 2014, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.¹ On December 7, 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 detailed

¹ GE 1 (e-QIP, dated November 3, 2014).

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 December 17, 2015. On January 5, 2016, he responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on March 22, 2016. The case was assigned to me on April 4, 2016. A Notice of Hearing was issued on April 8, 2016. I convened the hearing as scheduled on April 28, 2016.

During the hearing, 6 Government exhibits (GE) 1 through GE 6, and 16 Applicant exhibits (AE) A through AE P were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on May 6, 2016. I kept the record open to enable Applicant to supplement it. He took advantage of that opportunity and timely submitted several documents, which were marked and admitted as Applicant exhibits (AE) Q through AE Z, without objection. The record closed on June 2, 2016.

Findings of Fact

In his Answer to the SOR, Applicant admitted a number of the factual allegations pertaining to financial considerations (§§ 1.b. and 1.f. through 1.j.). 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:

Applicant is a 39-year-old employee of a defense contractor. He has been a multifunctional manufacturing supervisor or project engineer with the company since August 2001. He is a 1996 high school graduate. He received a bachelor's degree in 2004 and a master's degree in 2013. He has never served in the U.S. military. He was granted a secret security clearance in 2002, but it was administratively suspended in 2012 following a prolonged absence due to surgery. He currently has an interim secret clearance. Applicant was married in January 2003. He has a son and three daughters with his wife, born in 2004, 2005, 2006, and 2007, as well as a daughter, born in 1998, from another relationship.

Financial Considerations²

Applicant's initial financial difficulties arose at some point during the period 2004 to 2008. During an interview conducted by an investigator from the U.S. Office of Personnel Management (OPM) in February 2015, Applicant described various financial issues arising in 2008 and 2009, but during his hearing, the focus changed to the period

² General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 4 (Combined Experian, TransUnion, and Equifax Credit Report, dated November 11, 2014); GE 3 (Equifax Credit Report, dated March 15, 2016); GE 1, *supra* note 1; GE 4 (Personal Subject Interview, dated February 25, 2015); and Applicant's Answer to the SOR, dated January 5, 2016. More recent information can be found in the exhibits furnished and individually identified.

2004 through 2006, and again in June 2007. In 2006, he had extensive repairs and remodeling done on his residence. Things were purportedly fine financially for about two years, but then a combination of events started taking their toll on his finances. In June 2007, he purchased a new residence with a larger mortgage. While the exact timeline is rather murky given Applicant's inability to be more precise with his facts, it appears that: (1) his wife took unpaid maternity leave on at least one occasion; (2) two of his children were born; and (3) his wife went through two lengthy involuntary periods of layoffs (March 2004 until March 2006, and September 2007 until August 2008); (4) in 2012, Applicant underwent gastric bypass surgery; (5) not all of the medical expenses were covered by his insurance; and (6) he was unable to work for a lengthy period.³ The increased expenses placed too big a burden on his finances, and he was unable to maintain his accounts in a current status. Accounts were placed for collection, and some of them went to judgment. Applicant evaluated his financial situation, and he decided to prioritize his debts by focusing on the larger ones or the ones involved in garnishments. Because he had insufficient funds to make even minimum payments, he made a conscious decision to accept wage garnishments to use as a mechanism to satisfy his debts.⁴

The SOR identified ten purportedly delinquent debts that had been placed for collection or filed as judgments, as reflected by his 2014 credit report or his 2016 credit report. Those debts, totaling approximately \$44,692, 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 refers to a bank credit card account with a \$4,000 credit limit that was past due \$4,667 when it was sold to a debt purchaser in 2012. In 2013, the debt purchaser obtained a \$4,781 judgment against Applicant.⁵ Following the judgment, Applicant's salary was involuntarily garnished, and in August 2015 – nearly four months before the SOR was issued – the judgment was satisfied with the final payment. Applicant had paid \$5,022.52. A Satisfaction of Judgment was filed on September 1, 2015.⁶ The account has been resolved.

(SOR ¶ 1.b.): This refers to a medical account that was placed for collection and a \$915 judgment was obtained against Applicant in 2013.⁷ Applicant acknowledged that he

³ GE 5, *supra* note 2, at 7-8; AE D (Wife's Leave of Absence Record, undated); Tr. at 62-63. Applicant's annual income was on an upward trajectory from 2005 until 2008 (\$43,764, \$45,184, \$50,660, and \$57,744), while his wife's income during the same period was very erratic (\$346, \$30214, \$19,434, and \$21,131). See AE B (Form W-2 Wage and Tax Statements, various dates); AE C (Form W-2 Wage and Tax Statements, various dates); AE A (Combined Wages – 4 Year Average, undated).

⁴ Tr. at 32, 63.

⁵ GE 4, *supra* note 2, at 5, 9.

⁶ AE G (Satisfaction of Judgment, dated August 20, 2015); AE P (Record of Payroll Garnishments, undated); Tr. at 31.

⁷ GE 3, *supra* note 2, at 2.

has made no efforts to resolve the account, preferring to focus on other accounts.⁸ The account has not been resolved.

(SOR ¶¶ 1.c. and 1.f.): These two allegations refer to snapshots of the same bank-issued home improvement store charge account with a \$3,500 credit limit and an unpaid balance of \$5,062, of which \$1,945 was past due and placed for collection. The account was sold to a debt purchaser.⁹ The debt purchaser obtained a judgment of \$5,822.17 in September 2012, and instituted an income execution to garnish Applicant's wages. Applicant's wages were garnished, commencing in November 2013, and as of December 2015 – the same month that the SOR was issued – \$4,067.37 of Applicant's wages had been garnished, leaving an unpaid balance of \$2,990.25.¹⁰ The 2014 credit report erroneously reported that there had been no payments towards the judgment, but, in truth, \$4,067.37 had already been paid. The account is in the process of being resolved.

(SOR ¶ 1.d.): This refers to an unspecified type of account that was placed for collection in 2012. The collection agent obtained a judgment of \$6,793.25 in May 2012, and instituted an income execution to garnish Applicant's wages. Applicant's wages were garnished, commencing in December 2012, and as of April 2016, \$7,312.59, including interest and fees, of Applicant's wages had been garnished.¹¹ Before the SOR was issued, the most recent payment on the judgment occurred on October 24, 2013.¹² A final payment of \$617.53 was made on May 11, 2016.¹³ The attorney representing the judgment-plaintiff indicated the judgment had been satisfied, and that a Satisfaction of Judgment would be submitted to the credit reporting agencies.¹⁴ The 2014 credit report erroneously reported that there had been no payments towards the judgment, but, in truth, \$7,312.59 had already been paid. The account has been resolved.

(SOR ¶ 1.e.): This refers to a bank second mortgage account with a high credit of \$32,773 and unpaid and a past-due balance of \$15,739.12 that was placed for collection in 2014.¹⁵ Applicant worked with the collection agent. In May 2014, Applicant paid the collection agent \$400; in July 2014, after withdrawing funds from his 401(k) retirement account, he made another payment of \$11,339.12; and in August 2014 – about 16 months

⁸ Tr. at 32; AE F (Graph of Debt Still Due, undated).

⁹ GE 4, *supra* note 2, at 6, 8.

¹⁰ GE 4, *supra* note 2, at 6; AE N (Letter, dated September 18, 2012); AE J (Payment Ledger, dated December 28, 2015); AE J (Income Execution, dated September 5, 2012); AE P, *supra* note 6; Tr. at 34-35.

¹¹ GE 4, *supra* note 2, at 6; AE H (Income Execution, dated July 16, 2012); AE H (Court Order Deduction Summary, dated April 26, 2016); Tr. at 36-37.

¹² AE H (Court Order Deduction Summary), *supra* note 11, at 2; AE P, *supra* note 6.

¹³ AE R (Payment Receipt, dated May 11, 2016).

¹⁴ AE R (Letter, dated May 3, 2016).

¹⁵ GE 4, *supra* note 2, at 8.

before the SOR was issued – he made a payment of \$4,000, for a total of \$15,739.12, resolving the delinquency.¹⁶ The account has been resolved.

(SOR ¶ 1.g.): This refers to an unspecified type of bank account with an unpaid balance of \$3,472 that was placed for collection and sold to a debt purchaser identified as a factoring company.¹⁷ In May 2016, the account was settled for \$1,909.79, and Applicant made that payment to the debt purchaser which, according to the debt purchaser, resolved the account.¹⁸ The account has been resolved.

(SOR ¶ 1.h.): This refers to an unspecified type of bank account with an unpaid balance of \$2,147 that was placed for collection and sold to the same debt purchaser identified as a factoring company, identified above.¹⁹ Applicant acknowledged that he has made no efforts to resolve the account, preferring to focus on other accounts.²⁰ The account has not been resolved.

(SOR ¶¶ 1.i. and 1.j.): These refer to two medical accounts with unpaid balances of \$893 and \$239 that were placed for collection.²¹ Applicant acknowledged that he has made no efforts to resolve the accounts, preferring to focus on other accounts.²² The accounts have not been resolved.

Applicant's annual income since 2012 has continued on an upward trajectory: \$76,541, \$76,600, \$79,240, and \$81,137.²³ His 2016 annual income was \$87,288.²⁴ While his wife's income during the same period continued to be erratic, it substantially improved over the previous period: \$63,760, \$48,171, \$85,922, and \$74,069.²⁵ Because she is an hourly employee, her annual income for 2016 was more difficult to determine. Nevertheless, on May 2, 2016, Applicant submitted a Personal Financial Statement that reported the combined family net monthly income as \$9,972; with \$6,445 (including a garnishment of \$772 to the debt purchaser identified in SOR ¶¶ 1.c. and 1.f.) in monthly expenses; leaving a monthly remainder of \$3,527 available for discretionary saving or

¹⁶ Tr. at 43-44; AE T (Summary of Payments, dated May 2, 2016); AE U (Checking Account Register, dated May 24, 2016); AE I (Letter, dated January 6, 2016).

¹⁷ GE 4, *supra* note 2, at 24; It should be noted that a "factoring company" is a company that buys "accounts receivable" from a current creditor and then collects on those receivable from the debtor. A factored account is not supposed to be an account that is in collection or charged off.

¹⁸ AE Q (Summary of Actions Taken Since Hearing, dated May 26, 2016); AE U, *supra* note 16, at 1; AE S (Letter, dated May 24, 2016).

¹⁹ GE 4, *supra* note 2, at 24.

²⁰ Tr. at 50; AE F, *supra* note 8.

²¹ GE 4, *supra* note 2, at 24-25.

²² Tr. at 50; AE F, *supra* note 8.

²³ AE B, *supra* note 3; AE A, *supra* note 3.

²⁴ AE V (Earnings Statement, dated May 2, 2016).

²⁵ AE C, *supra* note 3; AE A, *supra* note 3.

spending.²⁶ He also reported separate 401(k) retirement accounts for his wife (\$23,928) and himself (\$26,975), as well as two pieces of real estate (their residence and a rental property).²⁷ He has no other delinquent accounts. With the exception of meeting with a bankruptcy attorney about six years before the hearing, Applicant has never had financial counseling.²⁸ After discussing the possible bankruptcy options, Applicant elected not to follow up with a bankruptcy because the estimated payment amount seemed intimidating. Instead, because he was unsure what to expect from any legal process, he simply allowed the garnishments to occur. In hindsight, now that he has experienced the garnishment process, he wishes he had taken a different approach.

Applicant intends to reach out to his remaining creditors to pay them off. While he relied primarily on garnishments rather than his own affirmative actions, Applicant has made substantial progress in resolving his delinquent accounts. Given the relative modest amount remaining delinquent, and Applicant's monthly remainder, it appears that Applicant's financial status has improved significantly, and that his financial problems are finally under control.

Work Performance and Character References

Applicant's operations manager has known Applicant for approximately ten years in several different positions. He characterized Applicant as a person who completes tasks and is reliable, and he does his job with integrity.²⁹ Applicant's work performance ratings for 2015 and 2016 reflect an individual who has achieved or exceeded the variety of stated goals, and who has been proficient in stated behaviors, in the performance of his job.³⁰ The president of the local little league noted that Applicant has been a volunteer coach for two years, requiring many hours of volunteer service per week. There is no reason to question Applicant's integrity or honesty. Applicant has exceeded all expectations of Little League International.³¹

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."³² As Commander in Chief, the President has the authority to control access to information bearing on national security and to

²⁶ AE W (Personal Financial Statement, dated May 2, 2016); Tr. at 50.

²⁷ AE W, *supra* note 23.

²⁸ Tr. at 54, 64-65.

²⁹ AE L (Character Reference, dated April 15, 2016).

³⁰ AE X (2014 Performance Plan, dated February 11, 2015); AE Y (2015 Performance Plan, dated February 4, 2016).

³¹ AE M (Character Reference, dated April 11, 2016).

³² *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

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.”³³

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.”³⁴ 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.³⁵

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

³³ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

³⁴ “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).

³⁵ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

than actual, risk of compromise of classified information. Furthermore, “security clearance determinations should err, if they must, on the side of denials.”³⁶

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.”³⁷ 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 initial financial problems arose in 2004, and increased periodically during the ensuing years. Accounts became delinquent and some were placed for collection. Four judgments were filed. 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

³⁶ *Egan*, 484 U.S. at 531.

³⁷ See Exec. Or. 10865 § 7.

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.”³⁸ 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(b), 20(c), and 20(e) apply, and AG ¶¶ 20(a) and 20(d) partially apply. Applicant’s financial problems are attributed to a variety of factors: (1) his wife took unpaid maternity leave on at least one occasion; (2) two of his children were born; (3) his wife went through two lengthy involuntary periods of layoffs; (4) in 2012, Applicant underwent gastric bypass surgery; (5) not all of the medical expenses of his surgery were covered by his insurance; and (6) he was unable to work for a lengthy period. Nearly all of those factors were largely beyond Applicant’s control.

As a seemingly financially naïve individual, Applicant embraced a rather unconventional course of conduct in resolving his debts. Unable to make what he considered to be minimum payments, and faced with streaming judgments on accounts he could not maintain in a current status, Applicant conceded to reality and avoided confrontation or legal fees by rejecting bankruptcy and accepting wage garnishments as the primary mechanism to satisfy his debts. One after the other, garnishments were filed, and eventually, judgments were resolved. As noted above, Applicant decided to prioritize his debts by focusing on the larger ones or the ones involved in garnishments. Of the ten SOR-related debts alleged (including one that was alleged twice), Applicant’s rather unconventional method of debt resolution has seen five accounts resolved, or in the process of being resolved, with only four rather modest debts remaining to be addressed. He has acknowledged an intention to do so.

Applicant never received financial counseling other than potential bankruptcy counseling. There are no other delinquent debts. He and his wife have adjusted their lifestyle and, with her back in the workforce on a permanent basis, their combined family net monthly income is \$9,972. After expenses, they have \$3,527 available each month available for saving or spending. Those figures reflect that Applicant’s financial status has

³⁸ 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)).

improved significantly. With no other delinquent debts, except for the four unresolved ones listed in the SOR, Applicant's financial problems are finally under control. He appears to have acted prudently and responsibly. Applicant's actions, under the circumstances confronting him, no longer cast doubt on his current reliability, trustworthiness, and good judgment.³⁹

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.⁴⁰

There is some evidence against mitigating Applicant's conduct. Applicant failed to maintain his normal monthly payments to a number of his accounts, and, over multi-year period, a number of accounts became delinquent, and they were placed for collection. Four judgments were filed against him. Applicant chose to see his debts resolved through garnishment rather than taking positive action to do so by himself. Given his monthly remainder, Applicant might have taken swifter action in commencing the resolution of his remaining debts.

The mitigating evidence under the whole-person concept is more substantial. There is no evidence of misuse of information technology systems or mishandling protected information. Applicant's financial problems were attributed to a variety of combined factors that were largely beyond Applicant's control. Without the financial resources to maintain his accounts in a current status, they became delinquent. As early as 2012, years before the SOR was issued, largely due to Applicant's unconventional

³⁹ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁴⁰ 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).

method of debt resolution, accounts started to be resolved. He has nearly completed his task as all but a few of the accounts have been resolved. Applicant followed through on his promises to address his debts.⁴¹

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.⁴²

Applicant has demonstrated a meaningful, though unconventional, track record of debt reduction and elimination efforts, and he started to do so years before the SOR was issued. He keeps track of his expenses, maintains a budget, and has a substantial monthly remainder available for saving or spending. This decision should serve as a warning that Applicant’s failure to continue his resolution efforts with respect to his unresolved debts, or the actual accrual of new delinquent debts, will adversely affect his future eligibility for a security clearance.⁴³

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

⁴¹ 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)).

⁴² ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

⁴³ While this decision should serve as a warning to Applicant as security officials may continue to monitor his finances, this decision, including the warning, should not be interpreted as a conditional eligibility to hold a security clearance. DOHA has no authority to attach limiting conditions to an applicant’s security clearance. See, e.g., 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. 06-26686 at 2 (App. Bd. Mar. 21, 2008); ISCR Case No. 04-03907 at 2 (App. Bd. Sep. 18, 2006); ISCR Case No. 04-04302 at 5 (App. Bd. June 30, 2005); ISCR Case No. 03-17410 at 4 (App. Bd. Apr. 12, 2005); ISCR Case No. 99-0109 at 2 (App. Bd. Mar. 1, 2000).

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
Subparagraphs 1.a through 1.j:	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