



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



In the matter of:

---

Applicant for Public Trust Position

)  
)  
)  
)  
)

ADP Case No. 15-07345

**Appearances**

For Government: Chris Morin, Esquire, Department Counsel

For Applicant: *Pro se*

02/24/2017

---

**Decision**

---

GALES, Robert Robinson, Administrative Judge:

Applicant has mitigated the trustworthiness concerns regarding financial considerations. Eligibility to occupy a public trust position is granted.

**Statement of the Case**

On March 25, 2015, Applicant applied for a public trust position and submitted an Electronic Questionnaire for Investigations Processing (e-QIP).<sup>1</sup> On April 20, 2016, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him, pursuant to DOD Regulation 5200.2-R, *Personnel Security Program*, dated January 1987, as amended and modified (Regulation); DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and *Adjudicative Guidelines For Determining Eligibility For Access to Classified Information* (effective within the DOD on September 1, 2006) (AG) for all adjudications and other determinations made under the Directive. The SOR alleged trustworthiness concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD adjudicators were unable to make

---

<sup>1</sup> GE 1 (e-QIP, dated March 25, 2015).

an affirmative finding under the Directive that it is clearly consistent with the interests of national security to grant or continue Applicant's eligibility for occupying a public trust position to support a contract with the DOD. The SOR recommended referral to an administrative judge to determine whether such eligibility should be granted, continued, denied, or revoked.

Applicant acknowledged receipt of the SOR on May 6, 2016. In a sworn statement, dated May 18, 2016, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. On June 21, 2016, Department Counsel indicated the Government was prepared to proceed. The case was assigned to me on October 26, 2016. A Notice of Hearing was issued on November 4, 2016. I convened the hearing, as scheduled, on December 5, 2016.

During the hearing, two Government exhibits (GE) 1 and GE 2, one Applicant exhibit (AE) A, and one administrative exhibit were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on December 13, 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 B through AE I, without objection. The record closed on January 23, 2017.

### **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.) 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:

Applicant is a 56-year-old employee of a defense contractor. He has been a full-time senior infrastructure solutions analyst or senior information systems designer (IT) for his employer since March 2015.<sup>2</sup> He previously held a number of IT positions with other employers. He is seeking to obtain continuing eligibility for occupying a public trust position to support a contract with the DOD. He is a 1978 high school graduate, and he earned a bachelor of arts degree in 1985, and a master of science degree in 2009.<sup>3</sup> He never served in the U.S. military.<sup>4</sup> Applicant was married in July 1988.<sup>5</sup> He has three children (two daughters born in 1989 and 1991, and a son born in 1996).<sup>6</sup>

---

<sup>2</sup> GE 1, *supra* note 1, at 10; Tr. at 52-53.

<sup>3</sup> GE 1, *supra* note 1, at 9-10; Tr. at 21-22.

<sup>4</sup> GE 1, *supra* note 1, at 23; Tr. at 22.

<sup>5</sup> GE 1, *supra* note 1, at 25.

<sup>6</sup> GE 1, *supra* note 1, at 28; Tr. at 23.

## Financial Considerations<sup>7</sup>

Applicant was unemployed on several different occasions, either after being laid off or fired: from June 2010 until July 2010; from March 2012 until July 2012; from October 2012 until December 2012; and from October 2013 until February 2014.<sup>8</sup> The status of Applicant's finances is unclear before his initial period of unemployment in 2010, for at one point, he said he considered filing for bankruptcy as early as 2005 or 2006, but chose not to do so.<sup>9</sup> In his Answer to the SOR, he stated that he had incurred thousands of dollars in credit card debt, living off credit cards, after he was laid off in July 2010.<sup>10</sup> He noted in his 2015 e-QIP that "I have been unemployed many times in the past 7 years and have been unable to pay off the outstanding debt. We would like to settle all of our debts but working as a contractor, our savings gets eaten up quickly during unemployment episodes."<sup>11</sup> He indicated that over a several year period he was only able to find work as a contractor with relatively short terms. Any money he was able to save while he was working was consumed during the time between contracts.<sup>12</sup>

Because of a shortage of funds, especially during periods of unemployment, Applicant prioritized his bills, focusing primarily on one credit card, rent, utilities, car payment, health insurance, and unexpected medical bills.<sup>13</sup> Applicant informed his creditors of his employment situation, hoping to set up modest repayment plans, but the result was largely unsuccessful. The creditors merely reduced credit limits to zero, increased interest rates from around 4.5% to 25.5%, and either demanded full repayment or at the very minimum, payments of \$3,000 to \$5,000. He managed to enter into one repayment arrangement, and made some payments, but eventually had to stop when he, once again, became unemployed.<sup>14</sup> With insufficient funds to make large payments or enter into any repayment agreements, various accounts became delinquent.<sup>15</sup>

Applicant received financial counseling on debt consolidation and managing finances in 2005 or 2006, and the counselor advised him to declare bankruptcy.<sup>16</sup> Instead, he decided not to live on credit cards, and he generally limits himself to using his debit

---

<sup>7</sup> General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1, *supra* note 1; GE 2 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 25, 2015). More recent information can be found in the exhibits furnished and individually identified.

<sup>8</sup> GE 1, *supra* note 1, at 12-18.

<sup>9</sup> Tr. at 39.

<sup>10</sup> Applicant's Answer to the SOR, dated May 18, 2016, at 3; Tr. at 28-29.

<sup>11</sup> GE 1, *supra* note 1, at 40-44.

<sup>12</sup> Applicant's Answer to the SOR, *supra* note 9, at 3.

<sup>13</sup> Applicant's Answer to the SOR, *supra* note 9, at 3.

<sup>14</sup> Applicant's Answer to the SOR, *supra* note 9, at 3; Tr. at 29, 31-32.

<sup>15</sup> Tr. at 29-35.

<sup>16</sup> Tr. at 38-39., 53

card and, in emergencies, one particular credit card.<sup>17</sup> He maintains a “fairly loose” budget because of his inability to plan for certain contingencies. He keeps track of expenses by using online bill pay through his bank.<sup>18</sup> Applicant’s rehabilitation plan is to continue making payments to his creditors, and if there are no unforeseen events, such as his foot surgery and his wife’s heart procedure, apply funds to one delinquent account until it is resolved, and then start addressing the next account.<sup>19</sup> A number of accounts, not listed in the SOR, including medical accounts, an automobile loan, student loans, have been maintained in a current status.<sup>20</sup>

The SOR identified five purportedly continuing delinquent accounts, totaling approximately \$53,450, as reflected by Applicant’s June 2015 credit report.<sup>21</sup> Of the four remaining alleged debts, Applicant claimed that two of them were separate versions of the same account (one referred to the original creditor and the other referred to the debt purchaser), and he has either paid off, settled, or is in the process of resolving the remaining debts. He noted that at Christmas 2016, he received \$14,000 from his father’s estate, and that his mother promised him another \$14,000.<sup>22</sup> There is documentation to support some of his contentions.<sup>23</sup> Those four 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:

SOR ¶ 1.a.: This is a bank credit card account with a credit limit of \$29,000 and unpaid balance of \$20,278, of which \$3,855 was past due, that was placed for collection, and \$20,278 was charged off in August 2009.<sup>24</sup> In discussing the account recently with a representative of the creditor, Applicant sought to set up a repayment arrangement, but the creditor was unable to do so because it had previously issued Applicant an Internal Revenue Service (IRS) Form 1099-C, *Cancellation of Debt*.<sup>25</sup> Applicant did not submit any documentation pertaining to the Form 1099-C such as the form itself, correspondence related to it, or a copy of his federal income tax return indicating that the forgiven debt had been included as income. If he, in fact, did receive a Form 1099-C, Applicant would

---

<sup>17</sup> Tr. at 47.

<sup>18</sup> Tr. at 47-48, 54.

<sup>19</sup> Tr. at 46, 60.

<sup>20</sup> AE A (Account Statements and Receipts, various dates).

<sup>21</sup> GE 2, *supra* note 7. During the hearing, Department Counsel moved to amend the SOR by withdrawing SOR ¶ 1.b., conceding that Applicant was not the owner of the account and not legally responsible for it, but was merely an authorized user. There being no objection, the motion was granted, and the allegation (a credit card with an unpaid balance of \$13,873) was withdrawn. See Tr. at 12.

<sup>22</sup> AE B (Statement, dated January 23, 2017), at 1.

<sup>23</sup> The task of aligning various accounts has been made very burdensome because the SOR does not identify the accounts by number, and the account numbers reflected in the credit report, letters from the creditors or collection agents, and receipts, are not always consistent, accurate, or shown in their entirety.

<sup>24</sup> GE 2, *supra* note 7, at 6.

<sup>25</sup> AE B, *supra* note 22, at 1.

have no further legal responsibility for making any payments towards the debt. Nevertheless, despite the uncertainty of his legal responsibility, Applicant did make what he considered the initial \$200 payment of the repayment process to the creditor.<sup>26</sup> The account is not listed in Applicant's December 2016 credit report.<sup>27</sup> If a Form 1099-C had been issued, the account has been resolved; if one had not been issued, the account is in the process of being resolved.

SOR ¶ 1.c.: This is a bank credit card account with a credit limit of \$13,600 and unpaid and past-due balance of \$8,676 that was placed for collection.<sup>28</sup> Applicant believed that this account was sold to a debt purchaser,<sup>29</sup> but he was mistaken, as another account with the same creditor was actually the one sold. In January 2017, Applicant made a \$4,339 payment to the same creditor for an account with a partial account number that does not match any account number in his June 2015 credit report. He considered that payment a settlement in full,<sup>30</sup> but offered no documentation confirming that fact other than a comment by the creditor that there was no need to mail in a payment.<sup>31</sup> It is unclear if the account has been settled, paid off, or is in the process of being resolved. The account is not listed in Applicant's December 2016 credit report.<sup>32</sup> The account appears to be, at the very least, in the process of being resolved.

SOR ¶¶ 1.d. and 1.e.: These are two snapshots of the same credit card account with the same creditor. The account had a credit limit of \$4,200 and a past-due balance of \$4,797 when it was placed for collection and sold to a debt purchaser, calling itself a "factoring company."<sup>33</sup> The debt purchaser increased the unpaid balance to \$5,826.<sup>34</sup> Applicant contacted the debt purchaser in an effort to set up a settlement or repayment arrangements. A settlement was reached, and on January 12, 2017, Applicant made a payment of \$2,300 satisfying the account.<sup>35</sup> The account has been resolved.

---

<sup>26</sup> AE C (Customer Receipt, dated January 20, 2017).

<sup>27</sup> AE G (Experian Credit Report, dated December 6, 2016).

<sup>28</sup> GE 2, *supra* note 7, at 6.

<sup>29</sup> Tr. at 32-34.

<sup>30</sup> AE F (List of Accounts, undated).

<sup>31</sup> AE D (Letter, dated January 18, 2017).

<sup>32</sup> AE G, *supra* note 27.

<sup>33</sup> GE 2, *supra* note 7, at 7, 13. A "factoring company" is a company that buys "accounts receivable" from a current creditor and then collects on those receivables from the debtor. A factored account is not supposed to be an account that is in collection or charged off.

<sup>34</sup> GE 2, *supra* note 7, at 13.

<sup>35</sup> AE E (Receipt, dated January 16, 2017). While the June 2015 credit report reflected two different account numbers for the accounts, the debt purchaser's receipt clearly reflected both the original and the new account number, indicating the two accounts were actually only one account.

Although Applicant was requested to submit a Personal Financial Statement to reflect a combined monthly net income for himself and his wife, the information submitted did not include that information. Instead, he listed \$5,421.42 in a checking account, \$1,414.29 in savings account, and \$3,598.82 in retirement accounts. He also listed \$5,029.16 in monthly expenses.<sup>36</sup> It is unclear if Applicant has any monthly remainder which might be available for discretionary spending or savings. Nevertheless, in light of his claim of receiving funds from his father's estate, and the funds available in his accounts, in the absence of any additional unidentified delinquencies, it appears that Applicant's financial problems are under control.

## **Work Performance and Character References**

One of Applicant's former colleagues has known him for eight years in both working and social relationships. He considers Applicant to be trustworthy, ethical, and discrete.<sup>37</sup> Applicant's pastor commented about Applicant's service to his community and church. Applicant serves as the chair of the property and space committee which oversees the facilities, grounds, maintenance, and security of the property; he is a Deacon; he participates in the leadership council; he co-teaches a Bible Study class, and he is the volunteer technology director. Applicant is considered reliable, competent, and trustworthy, and he displays personal integrity.<sup>38</sup>

## **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 [position of public trust]."<sup>39</sup> 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. Positions designated as ADP-I and ADP-II are classified as "sensitive positions."<sup>40</sup> "The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person's loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security."<sup>41</sup> DOD contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made.<sup>42</sup>

---

<sup>36</sup> AE H (Personal Financial Statement, dated January 19, 2017); AE F (Expenses, dated February 1, 2017).

<sup>37</sup> AE J (Character Reference, dated January 16, 2017).

<sup>38</sup> AE I (Character Reference, dated January 19, 2017).

<sup>39</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>40</sup> Regulation ¶¶ C3.1.2.1.1.7, C3.1.2.1.2.3, and C3.1.2.2. See also Regulation app. 10, ¶ 10.2.

<sup>41</sup> Regulation ¶ C6.1.1.1.

<sup>42</sup> Regulation ¶ C8.2.1. It should be noted that a memorandum from the Deputy Under Secretary of Defense for Counterintelligence and Security, *Adjudication of Trustworthiness Cases*, dated November 19, 2004, covers the

When evaluating an applicant's suitability for a public trust position, 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 a public trust position.

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 common sense 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."<sup>43</sup> 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.<sup>44</sup>

A person who seeks access to sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information. Furthermore, security clearance determinations, and by inference, public trust determinations, should err, if they must, on the side of denials.<sup>45</sup> 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.

---

handling of trustworthiness cases under the Directive. The memorandum directed the Defense Office of Hearings and Appeals (DOHA) to continue to utilize the Directive in ADP contractor cases for trustworthiness determinations.

<sup>43</sup> "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 (4<sup>th</sup> Cir. 1994).

<sup>44</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>45</sup> *Egan*, 484 U.S. at 531.

## Analysis

### Guideline F, Financial Considerations

The trustworthiness 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 [sensitive] 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 trustworthiness 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 trustworthiness concerns. Applicant's initial financial problems apparently commenced in 2005 or 2006, but his significant financial problems arose in 2010. Eventually, a number of accounts became delinquent and were placed for collection. AG ¶¶ 19(a) and 19(c) have been established.

The guideline also includes examples of conditions that could mitigate trustworthiness 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 trustworthiness 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."<sup>46</sup> In addition, AG ¶ 20(e) may apply if "the individual has a

---

<sup>46</sup> 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)).



reasonable basis to dispute the legitimacy of the past-due debt which is the basis of the dispute or provides evidence of actions to resolve the issue.”

AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) apply. Applicant apparently had more bills than he could handle in 2005 or 2006, when he contemplated bankruptcy. However, the combined toll of his repeated periods of subsequent unemployment, interspersed by short periods of contract work, was what led to his significant financial problems. The layoffs and unforeseen medical needs, as well as his reduced income, were largely beyond his control. Although his wife still held her job to assist with the monthly household expenses, without his steady income, Applicant was unable to maintain some accounts in a current status. Accounts became delinquent. Applicant used a budget, and he prioritized his bills, focusing primarily on one credit card, rent, utilities, car payment, health insurance, and unexpected medical bills. Applicant informed his creditors of his employment situation, hoping to set up modest repayment plans, but the result was largely unsuccessful. After securing his current position, and stabilizing his financial situation, Applicant developed a strategy to resolve his older delinquent accounts. He contacted his creditors or collection agents in an effort to settle or establish repayment agreements. A number of non-SOR accounts, as well as SOR accounts, were resolved. There is documentation to support most of Applicant’s contentions. One allegation was withdrawn. The remaining debts, including two allegations pertaining to different versions of the same account, were either resolved, or are in the process of being resolved. There are no other delinquent accounts.

Trustworthiness adjudications are aimed at evaluating an applicant’s judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The adjudicative guidelines do not require an applicant to establish resolution of each and every debt alleged in the SOR. An applicant need only establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in an SOR be paid first. Rather a reasonable plan and concomitant conduct may provide for the payment of such debts one at a time.

It is unclear what Applicant’s monthly remainder at the end of each month might be, for he failed to furnish that information. Nevertheless, he has funds in his checking, savings, and retirement accounts. All of his other accounts, including his student loan, car, rent, and utilities, are current. He has no other outstanding debts. Despite the absence of recent financial counseling, it appears that Applicant’s financial problems are finally under control. Applicant’s actions no longer cast doubt on his current reliability, trustworthiness, or good judgment.<sup>47</sup>

---

<sup>47</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

## Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a public trust position 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 public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.<sup>48</sup>

There is some evidence against mitigating Applicant's conduct. Applicant apparently had more bills than he could handle in 2005 or 2006, when he contemplated bankruptcy. In 2010, significant financial problems arose. As a result, several accounts became delinquent and were placed for collection.

The mitigating evidence is more substantial. There is no evidence of misuse of information technology systems, mishandling protected information, or substance abuse. Instead, there is an individual who is a loving, caring parent, friend, and employee who is highly praised by those who know him. Applicant was unemployed on several different occasions, with the lengthiest and most recent period from October 2013 until February 2014. His periods of unemployment and under-employment combined to render his efforts to accumulate funds to resolve his debts ineffective. Nevertheless, Applicant developed a strategy to maintain newer accounts current and to resolve his delinquent accounts. As noted above, of the four accounts identified and remaining in the SOR, one of the accounts was withdrawn from the SOR, and two of the accounts were actually two versions of the same account. In other words, of the three valid alleged debts, Applicant has either settled, resolved, or is in the process of resolving all three. There are no other financial delinquencies, as all non-SOR accounts are current. Applicant's overall efforts are significant, and those efforts resulted in successes.

Applicant did not conceal his financial difficulties when completing his e-QIP. Instead, he was honest and forthright, and he reported them. The undisputed developed

---

<sup>48</sup> 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).

evidence enables me to conclude that there are clear indications that Applicant's financial problems are now under control.

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.<sup>49</sup>

Applicant has demonstrated a good record of accomplishment of debt reduction and elimination efforts, limited only by his modest earnings. Overall, the evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a position of public trust. For all of these reasons, I conclude Applicant has mitigated the trustworthiness 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
Subparagraph 1.a.:	For Applicant
Subparagraph 1.b.:	Withdrawn
Subparagraph 1.c.:	For Applicant
Subparagraphs 1.d. and 1.e.:	For Applicant

---

<sup>49</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility to occupy a public trust position to support a contract with DOD. Eligibility is granted.

---

ROBERT ROBINSON GALES  
Administrative Judge