



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



In the matter of: )  
 )  
 --- ) ISCR Case No. 15-07861  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Chris Morin, Esquire, Department Counsel  
For Applicant: *Pro se*

07/27/2017

**Decision**

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is denied.

**Statement of the Case**

On September 30, 2014, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.<sup>1</sup> On March 28, 2016, 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) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006.<sup>2</sup> The SOR

<sup>1</sup> GE 1 (e-QIP, dated September 30, 2014).

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

Applicant received the SOR on April 15, 2016. On May 23, 2016, he responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on July 19, 2016. The case was assigned to me on September 19, 2016. A Notice of Hearing was issued on February 22, 2017. I convened the hearing as scheduled on March 15, 2017.

During the hearing, three Government exhibits (GE) 1 through GE 3 and one Administrative exhibit were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on March 23, 2017. 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) A through AE R, without objection. The record closed on May 3, 2017.

### **Findings of Fact**

In his Answer to the SOR, Applicant admitted, with comments, all of the factual allegations pertaining to financial considerations (§§ 1.a. through 1.t.) of the SOR, although he noted that several of those allegations were duplicates. During the hearing, Department Counsel conceded that several of the accounts were duplicates. Accordingly, he moved to withdraw §§ 1.r. and 1.t. as duplicates of §§ 1.h. and 1.f., respectively. The motion was granted. Upon the closing of the record, it was determined that there were other duplicate accounts alleged in the SOR, and those accounts are discussed further below. 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 44-year-old employee of a defense contractor. He has been an engineering technician with his employer since June 2016. He was previously a laborer helper with another company from April 2013 until May 2016. He is a 1991 high school graduate. Applicant enlisted in the U.S. Marine Corps (USMC) in January 1993, and he served on active duty until he retired as a staff sergeant (E-6) in January 2013.<sup>3</sup> Applicant was granted a secret security clearance in 2004. Applicant was married in July 2003. Applicant has one daughter (born in 2002) and one stepdaughter (born in 2000).

---

<sup>2</sup> Effective June 8, 2017, by Directive 4 of the Security Executive Agent (SEAD 4), dated December 10, 2016, *National Security Adjudicative Guidelines* for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position, were established to supersede all previously issued national security adjudicative criteria or guidelines. Accordingly, those guidelines previously implemented on September 1, 2006, under which this security clearance review case was initiated, no longer apply. In comparing the two versions, there is no substantial difference that might have a negative effect on Applicant in this case.

<sup>3</sup> AE F (Certificate of Release or Discharge from Active Duty (DD Form 214), dated January 18, 2013).

## **Military Service, and Awards and Decorations**

During his career, Applicant was deployed to Iraq in support of military operations on two separate occasions: February 2006 until September 2006, and August 2008 until January 2009. He was awarded the Navy and Marine Corps Commendation Medal, the Navy and Marine Corps Achievement Medal (two awards), the Marine Corps Good Conduct Medal (six awards), the National Defense Service Medal (two awards), the Global War on Terrorism Service Medal, the Iraq Campaign Medal, the Navy Unit Commendation, the Navy Meritorious Unit Commendation, the Armed Forces Service Medal, the Sea Service Deployment Ribbon (three awards), the Marine Corps Recruiting Ribbon, the NATO Medal, a Certificate of Commendation Unit Award, a Certificate of Appreciation (two awards), a Letter of Appreciation (five awards), a Meritorious Mast (three awards), the Sharpshooter Rifle Qualification Badge, and the Marksman Pistol Qualification Badge.<sup>4</sup>

## **Financial Considerations<sup>5</sup>**

Applicant's finances were unremarkable and current during his military service, but when he retired, despite having gone through the transition readiness seminar of the DOD Transition Assistance Program (DOD TAPS),<sup>6</sup> he experienced an unanticipated major loss of income. He was unemployed for two months immediately post-retirement, and then underemployed for three years as a laborer helper. The household income consisted of his military retirement and his wife's salary, and it was insufficient to cover his normal monthly bills. The situation forced him to prioritize his bills. With insufficient income to cover all of his bills, accounts became delinquent, and they were placed for collection. Various accounts were charged off, and several went to judgment.

The SOR identified 20 purportedly delinquent debts that had been placed for collection, charged off, or filed as judgments, as generally reflected by his October 2014 credit report or his September 2015 credit report. Those debts total approximately \$66,039. Their current status, according to the credit reports, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below. These accounts can be divided into two separate groups. The first group consists of those accounts that have either been resolved, or are in the process of being resolved, or Applicant attempted to resolve, and the status is confirmed with some documentary evidence; and the second group consists of those accounts that Applicant

---

<sup>4</sup> AE F, *supra* note 3.

<sup>5</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 October 8, 2014; GE 3 (Equifax Credit Report, dated September 9, 2015); Applicant's Answer to the SOR, dated May 23, 2016; and AE E (Experian Credit Report, dated April 30, 2017).

<sup>6</sup> Tr. at 24; The Transition Readiness Seminar (TRS) is a 5-day seminar, which provides transitioning Marines and their families with the resources and tools needed to reach their personal goals. The standardized core curriculum includes: Resilient Transitions, Military Occupation Specialty Crosswalk, Department of Labor Employment Workshop, Department of Veterans Affairs Benefits I and II Briefs, and Financial Planning. See <https://dodtap.mil>; and <http://www.usmc-mccs.org/index.cfm/services/career/transition-readiness>.

acknowledged that he had made no effort to resolve because he has insufficient funds to do so.

The first group of accounts consists of the following:

SOR ¶ 1.a.: This is a home mortgage for \$185,913 that became \$5,434 past due in 2015, leaving an unpaid balance of \$169,442. Applicant contends he made the \$5,434 payment in December 2016, but he failed to submit documentation to support his contention.<sup>7</sup> He fell behind again in March 2017, and he stated he was about \$2,000 behind in his payments. He contacted the mortgage lender to discuss mortgage assistance, but decided not to exercise that option at the time.<sup>8</sup> As of February 1, 2017, he was again three months past due, but on May 2, 2017, he made a payment of \$3,446.81 to cover those past-due months.<sup>9</sup> As of that date, he again fell behind on one payment when he had to use the intended payment to repair his truck. Applicant indicated he intended to make his monthly payment later in the month.<sup>10</sup> Applicant failed to submit any documentation to reflect continuing on-time monthly payments. While he is apparently struggling to maintain his timely monthly payments, considering the efforts and the degree of success he has accomplished, I conclude that the account is in the process of being resolved.

SOR ¶ 1.d.: This is an automobile loan for \$35,629 that became \$600 past-due, leaving an unpaid balance of \$7,893 that was placed for collection. Applicant stated that the account was in good standing as of April 2016, but the documentation he submitted indicated that he had made a \$600 payment on May 3, 2017.<sup>11</sup> Applicant now contends the account is again in good standing, and the remaining balance is \$2,700.<sup>12</sup> The account has been resolved.

SOR ¶ 1.m.: This is a bank-issued credit card for a home improvement store with a past-due and unpaid balance of \$1,240.97, that was placed for collection and sold to a debt purchaser.<sup>13</sup> The debt purchaser, in turn, obtained a \$1,240 judgment against Applicant in 2014. Applicant contended that he had made payments to the county sheriff at the courthouse totaling \$140 on unspecified dates,<sup>14</sup> but he was unable to provide any documentation to support his contention. He paid the debt purchaser \$95 in May 2016, and according to the debt purchaser, after the payment was credited to Applicant's

---

<sup>7</sup> Applicant's Answer to the SOR, dated May 23, 2016, at 1.

<sup>8</sup> Tr. at 26-28.

<sup>9</sup> AE G (Payment Confirmation, dated May 2, 2017).

<sup>10</sup> AE A (Statement, undated), at 1.

<sup>11</sup> Applicant's Answer to the SOR, *supra* note 7, at 1; AE H (Receipt, dated May 3, 2017).

<sup>12</sup> AE A, *supra* note 10, at 1.

<sup>13</sup> AE Q (Account Statement, dated January 15, 2014).

<sup>14</sup> Applicant's Answer to the SOR, *supra* note 7, at 1; AE A, *supra* note 10, at 1-2.

account, the remaining balance of the account was at that point \$1,410.97.<sup>15</sup> However, according to Applicant's April 2017 credit report, the remaining balance is now \$1,106.<sup>16</sup> While the repayment process is far from being a constant monthly endeavor, irregular periodic payments made while dealing with limited funds and a number of accounts indicates that the account is in the process of slowly being resolved.

The second group of accounts consists of the following:

There is a credit union credit card with a past-due balance of \$17,870 that was placed for collection and charged off (SOR ¶ 1.b.); there is a recreational merchandise (camper or motor home) account with an unpaid balance of \$8,644 that was placed for collection (SOR ¶ 1.c.); there is a bank-issued store credit card account with an unpaid balance of \$5,637 that was charged off in the amount of \$5,427.33, that subsequently went to judgment (SOR ¶¶ 1.e. and 1.n.);<sup>17</sup> there is a bank-issued electronics store credit card account with an unpaid balance of \$5,339.69 that was placed for collection and charged off. When the store declared bankruptcy, the account was taken over by another electronics store. Applicant was offered a settlement for \$1,922.29 to \$2,082.48 over specified payments in 2014, but he did not accept the offer (SOR ¶¶ 1.f. and 1.t.);<sup>18</sup> there is a bank-issued credit card with an unpaid balance of \$4,998.64 that was placed for collection and sold to a debt purchaser (SOR ¶ 1.g.);<sup>19</sup> and there is a bank-issued credit card for an electronics store with an unpaid balance of \$2,579 that was placed for collection and sold to a debt purchaser (SOR ¶¶ 1.h., 1.o., and 1.r.).<sup>20</sup>

There is also a bank-issued department store credit card with an unpaid balance of \$1,941.01 that was placed for collection, transferred to another creditor, and sold to a debt purchaser (SOR ¶ 1.i.);<sup>21</sup> there is a bank-issued credit card with an unpaid balance of \$1,517 that was placed for collection (SOR ¶ 1.j.); there is a bank-issued department store credit card with an unpaid balance of \$1,145.71 that was placed for collection and sold to a debt purchaser. Applicant was offered a settlement of \$802, but he did not accept

---

<sup>15</sup> AE I (Payment Receipt, dated May 2, 2016).

<sup>16</sup> AE E, *supra* note 5, at 8.

<sup>17</sup> AE A, *supra* note 10, at 1; AE J (Account Statement, dated October 1, 2013); AE K (Writ of Execution, dated March 16, 2015). Adding to the confusion over duplicate accounts in the SOR, the credit reports reflect two accounts issued by the same bank, with one account supposedly with a superstore as having gone to judgment for \$5,427, while another account supposedly with a toy store, in the same amount, was charged off. I have concluded that both reports refer to the same account.

<sup>18</sup> AE A, *supra* note 10, at 1, 3; AE L (Letter, dated June 9, 2014). As noted above, SOR ¶ 1.t. was withdrawn as a duplicate of SOR ¶ 1.f.

<sup>19</sup> AE M (Letter, dated August 2, 2014).

<sup>20</sup> AE N (Letter, dated March 4, 2015). As noted above, SOR ¶ 1.r. was withdrawn as a duplicate of SOR ¶ 1.h. However, it appears that SOR ¶ 1.o. is also a duplicate of the other two for both account numbers are reflected in AE N.

<sup>21</sup> AE R (Letter, dated May 7, 2014).

the offer (SOR ¶ 1.k.);<sup>22</sup> there is a bank-issued veterinarian credit card with an unpaid balance of \$906.79 that was placed for collection. Applicant was offered a settlement of \$816.11, but he did not accept the offer (SOR ¶ 1.l.);<sup>23</sup> there is a bank-issued credit card for a home furnishing and electronics store with a high credit of \$5,207 that was placed for collection, charged off, and sold to an unidentified debt purchaser (SOR ¶ 1.p.); there is a bank-issued motorcycle store credit card with an unpaid balance of \$1,105 that was placed for collection, charged off, and sold (SOR ¶ 1.q.); and there is a cable television account with an unpaid balance of \$364 that was placed for collection (SOR ¶ 1.s.).

Applicant offered conflicting explanations regarding the identity of various creditors, and while he correctly identified some duplicate accounts, he misidentified other accounts as being duplicates as well. He placed some emphasis on the fact that several of the unresolved accounts no longer appear in his April 2017 credit report. There is no evidence that he filed disputes with creditors or credit reporting agencies. He also acknowledged that he owes several hundred dollars in back income taxes for the tax years 2010 through 2015 – a fact that was not alleged in the SOR,<sup>24</sup> but may be considered by me in his security eligibility assessment.

During the hearing, Applicant denied ever receiving credit counseling. However, since the hearing, it appears that he did meet with someone who assisted him with the preparation of his financial report, although there is no evidence if any financial guidance was furnished. Applicant submitted a Financial Planning Worksheet to reflect his net monthly income; monthly expenses; and any monthly remainder that might be available for discretionary spending or savings. It reflects a monthly net income of \$5,439.30; and monthly expenses of \$5,262. That would leave a monthly remainder of \$177.30. Applicant claims to have \$2,800 in checking accounts and \$5,000 in savings.<sup>25</sup> His worksheet does not reflect any payments for his delinquent debts. Applicant has taken some limited positive steps to resolve some of his accounts, but the vast majority of those accounts were simply ignored, and they continue to be ignored. It appears that Applicant's finances are far from being under control, especially since June 2016 when he obtained a new position.

## **Character References**

Applicant's direct supervisor, who had previously been a coworker, described Applicant as having a great work ethic who never sacrifices quality even in times of increased workload. He is a good, hardworking and honest person.<sup>26</sup> The site lead noted

---

<sup>22</sup> AE O (Letter, undated).

<sup>23</sup> AE P (Letter, dated March 6, 2015).

<sup>24</sup> Tr. at 42-45.

<sup>25</sup> AE B (Financial Planning Worksheet, dated May 2, 2017).

<sup>26</sup> AE D (Character Reference, dated May 2, 2017).

that Applicant maintains a very high standard of professionalism when conducting himself in the work place. He shows respect, initiative, and motivation.<sup>27</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 security clearance.”<sup>28</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. 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.”<sup>29</sup>

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines 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.”<sup>30</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

---

<sup>27</sup> AE C (Character Reference, dated May 1, 2017).

<sup>28</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>29</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>30</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).

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>31</sup>

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Furthermore, "security clearance determinations should err, if they must, on the side of denials."<sup>32</sup>

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."<sup>33</sup> 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 ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a

---

<sup>31</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>32</sup> *Egan*, 484 U.S. at 531.

<sup>33</sup> See Exec. Or. 10865 § 7.

security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns. Under ¶ 19(a), an “inability to satisfy debts” is potentially disqualifying. In addition, ¶ 19(b) may apply if there is an “unwillingness to satisfy debts regardless of the ability to do so.” Similarly, under ¶ 19(c), “a history of not meeting financial obligations” may raise concerns. Applicant’s credit reports reflect a number of delinquent accounts that were placed for collection or charged off. There were two judgments. The Government is entitled to rely on credit reports in these proceedings as ordinary business record exceptions to the hearsay rule. There was no evidence submitted “to establish that those documents were improperly or irregularly produced, or produced in circumstances that would render their reliability suspect.”<sup>34</sup> Applicant was mistaken in his belief that he was not responsible for accounts that were no longer in his credit reports. He failed to make more than a cursory effort to address a limited number of debts, and he ignored the vast majority of the other debts. Applicant’s actions were not because of an unwillingness to satisfy his debts, but more like an inability to do so. ¶¶ 19(a) and 19(c) apply, but ¶ 19(b) does not.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under ¶ 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 ¶ 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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances.” Evidence that “the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control” is potentially mitigating under ¶ 20(c). Similarly, ¶ 20(d) applies where the evidence shows “the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.”<sup>35</sup> In addition, ¶ 20(e)

---

<sup>34</sup> ISCR Case No. 07-08925 at 3 (App. Bd. September 15, 2008).

<sup>35</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)).

may apply if “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.”

I have concluded that ¶ 20(b) partially applies, but ¶¶ 20(a), 20(c), 20(d), and 20(e) do not apply. The nature, frequency, and recency of Applicant’s continuing financial difficulties since Applicant’s retirement from the USMC in 2013 make it difficult to conclude that it occurred “so long ago” or “was so infrequent,” or that it is “unlikely to recur.” As noted above, when he retired, despite having gone through the transition readiness seminar of the DOD TAPS, he experienced an unanticipated major loss of income. He was unemployed for two months immediately post-retirement, and then underemployed for three years as a laborer helper. Those situations were largely beyond his control, but they are clearly somewhat stale issues which, over time, or at least since June 2016, should have been overcome.

It is unclear if Applicant obtained financial counseling or merely assistance in completing his Financial Planning Worksheet. There is no evidence that he received any guidance to address budgeting, bill management, or eliminating credit card debt. He is credited with some very limited efforts to pay some of his creditors. There is little evidence that he made good-faith efforts to address his debts over the years since his retirement, and especially after June 2016. Applicant has not articulated a plan to address his delinquent debts, and the absence of such a plan indicates the absence of any priority to timely address those aging debts. There is also an inference that he is simply waiting for the debts to drop off his credit reports. There is no indication that Applicant disputed any of the debts with the creditors or the credit reporting agencies.

Clearance decisions are aimed at evaluating an applicant’s judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of each and every debt alleged in the SOR. An applicant needs only to 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 payment initiatives may provide for the payment of such debts one at a time. In this instance, there are no references to a plan; some aborted efforts to make some debt payments; and lengthy periods of inactivity. Even with those debts that Applicant was given credit for his efforts to resolve, those efforts are spotty at best. He makes three months’ worth of payments, and immediately falls one month behind.

Given the inconsistent information pertaining to Applicant’s current finances, it remains unclear if he currently has funds remaining at the end of each month for discretionary use or savings. He supposedly has a modest remainder, but none of his delinquent debts are highlighted for even the most modest of payments. There is little evidence to reflect that Applicant’s financial problems are yet under control. Under the circumstances, Applicant has not acted responsibly by failing to address nearly all of his delinquent accounts and by failing to initiate meaningful efforts to work with his older

creditors.<sup>36</sup> Applicant's actions, or relative inaction, under the circumstances cast substantial doubt on his current reliability, trustworthiness, and good judgment.<sup>37</sup>

### **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 SEAD 4, App. A, ¶ 2(d):

(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 SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant 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.<sup>38</sup>

There is some evidence in favor of mitigating Applicant's conduct. There is no evidence of misuse of information technology systems, or mishandling protected information. He candidly acknowledged having some financial difficulties with numerous creditors when he completed his e-QIP. He honorably served on active duty with the USMC, was deployed to Iraq on two occasions, and was retired honorably. The sole factor which Applicant attributes to being the cause of his financial issues was his retirement from the USMC and his unanticipated major loss of income. He made some limited good-faith efforts to resolve a number of SOR accounts.

The disqualifying evidence under the whole-person concept is simply more substantial. A number of accounts in Applicant's name became delinquent, and were placed for collection or charged off. Two judgments were filed. Although he was employed

---

<sup>36</sup> "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

<sup>37</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

<sup>38</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).

since June 2016, Applicant made only limited good-faith efforts to resolve some of his debts. He simply ignored the vast majority of his delinquent debts. He has not articulated a plan to timely address those aging debts.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>39</sup>

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.

Applicant has demonstrated an extremely poor track record of debt reduction and elimination efforts, seemingly avoiding most of the long-standing debts in his name. His efforts were hindered, in part, by his employment situation, but once that situation was corrected, there was little change in his efforts. Overall, the evidence leaves me with questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has failed to mitigate the security concerns arising from her financial considerations. See SEAD 4, App. A, ¶ 2(d)(1) through AG ¶ 2(d)(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:	AGAINST APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraphs 1.b. and 1.c.:	Against Applicant
Subparagraph 1.d.:	For Applicant

---

<sup>39</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Subparagraph 1.e.:	Against Applicant
Subparagraph 1.f.:	Against Applicant
Subparagraph 1.g.:	Against Applicant
Subparagraph 1.h.:	Against Applicant
Subparagraphs 1.i. through 1.l.:	Against Applicant
Subparagraph 1.m.:	For Applicant
Subparagraph 1.n.:	Duplicate of 1.e.
Subparagraph 1.o.:	Duplicate of 1.h.
Subparagraphs 1.p. and 1.q.:	Against Applicant
Subparagraph 1.r.:	Withdrawn
Subparagraph 1.s.:	Against Applicant
Subparagraph 1.t.:	Withdrawn

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

ROBERT ROBINSON GALES  
Administrative Judge