



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 16-01341

**Appearances**

For Government: David F. Hayes, Esquire, Department Counsel

For Applicant: *Pro se*

06/07/2018

**Decision**

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding foreign influence, but 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 May 20, 2014, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application. On August 12, 2016, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him, under Executive Order (Exec. Or.) 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>1</sup> The SOR

alleged security concerns under Guideline F (Financial Considerations) and Guideline B (Foreign Influence), 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.

It is unclear when Applicant received the SOR as there is no receipt in the case file. On September 15, 2016, he responded to the SOR and elected to have his case decided on the written record in lieu of a hearing. On March 2, 2017, pursuant to ¶ E3.1.7 of the Additional Procedural Guidance, Encl. 3, Directive, Department Counsel requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on March 6, 2017. The case was assigned to me on May 26, 2017. A Notice of Hearing was issued on August 3, 2017. I convened the hearing as scheduled on August 21, 2017.

During the hearing, Government exhibits (GE) 1 through GE 5, and Applicant exhibits (AE) A through AE F were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on August 29, 2017. I kept the record open to enable Applicant to supplement it. Rather than submitting certain identified documents in support of his contentions that he had taken specific actions as previously discussed with him, Appellant merely summarized his actions. On May 18, 2018, I offered him the additional opportunity to send Department Counsel and me copies of the supporting documents, but as of this date, he failed to do so. The record effectively closed on October 13, 2017.

### **Findings of Fact**

In his Answer to the SOR, although Applicant offered extensive comments regarding the allegations, he failed to use the words “admit” or “deny.” Accordingly, he was questioned during the hearing, and he responded with admissions to some of the factual allegations pertaining to financial considerations (¶¶ 1.b. and 1.e.) and to the sole factual allegation pertaining to personal conduct (¶ 2.a.) in 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 68-year-old prospective employee of a defense contractor with which he would hold the position of mechanical inspector once his security clearance eligibility is determined. He has held a variety of positions throughout the world as a mechanical engineer, mechanical, electrical, and plumbing (MEP) manager, and technical engineer

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<sup>1</sup> Effective June 8, 2017, by Directive 4 of the Security Executive Agent (SEAD 4), dated December 10, 2016, *National Security Adjudicative Guidelines* (AG) 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 an effect on Applicant in this case.

with a number of defense contractors and other companies. He is a 1967 high school graduate, with a 1984 bachelor's degree. Applicant enlisted in the U.S. Air Force Inactive Reserve in August 1970, and he served until he was discharged in February 1976. Applicant's security clearance history is unclear. He was apparently initially granted a secret security clearance in 1971, and it was periodically renewed. At some point in the mid-1980s, an application for access to sensitive compartmented information (SCI) was denied because he was married to a foreign national, but he was allowed to retain his secret security clearance. Applicant was married in October 1973, and divorced in July 1977. He remarried in August 1979, separated in 1998, and while he said his wife had filed for a divorce sometime during 2013 – 2014, it is unclear if that divorce was ever finalized. He has three children, born in 1976, 1979, and 1981.

### **Rulings on Procedure**

At the commencement of the hearing, Department Counsel requested that I take Administrative Notice of certain enumerated facts pertaining to the People's Republic of China (hereinafter PRC), appearing in a written submission of the request. Facts are proper for Administrative Notice when they are verifiable by an authorized source and relevant and material to the case. In this instance, the source information relied upon by the Government was included in publications of the Department of State;<sup>2</sup> the Department of Defense;<sup>3</sup> the Office of the National Counterintelligence Executive;<sup>4</sup> the U.S. Department of Justice;<sup>5</sup> and the U.S.-China Economic and Security Review Commission.<sup>6</sup>

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<sup>2</sup> U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *China (includes Tibet, Hong Kong, and Macau) Country Reports on Human Rights Practices for 2016*, undated (extract only); U.S. Department of State, Passports & International Travel Country Information – China, dated September 23, 2016.

<sup>3</sup> U.S. Department of Defense, Annual Report to Congress, *Military and Security Developments Involving the People's Republic of China 2016*, dated April 26, 2016 (extract only); U.S. Department of Defense, Annual Report to Congress, *Military and Security Developments Involving the People's Republic of China 2015*, dated April 7, 2015 (extract only); U.S. Department of Defense, Annual Report to Congress, *Military and Security Developments Involving the People's Republic of China 2013*, undated (extract only); U.S. Department of Defense, Annual Report to Congress, *Military and Security Developments Involving the People's Republic of China 2012*, dated May 2012 (extract only).

<sup>4</sup> National Counterintelligence Center, *Report to Congress on Foreign Economic Collection and Industrial Espionage, 2009-2011*, dated October, 2011 (extract only).

<sup>5</sup> U.S. Department of Justice, Office of Public Affairs, Press Release: *State Department Employee Arrested and Charged With Concealing Extensive Contacts With Foreign Agents*, dated March 29, 2017; U.S. Department of Justice, Press Release: *California Resident Convicted of Conspiring to Illegally Export Fighter Jet Engines and Unmanned Aerial Vehicle to China*, dated June 9, 2016; U.S. Department of Justice, Office of Public Affairs, Press Release: *Chinese National Pleads Guilty to Conspiring to Hack into U.S. Defense Contractors' Systems to Steal Sensitive Military Information*, dated March 23 2016.

<sup>6</sup> U.S.-China Economic and Security Review Commission, *2014 Report to Congress*, dated November 2014 (extract only).

The press releases were presented apparently to substantiate that the PRC actively pursues collection of U.S. economic and propriety information, and, therefore, Applicant's relationship with a female friend in the PRC raises suspicion about him. None of the cases cited involves Applicant personally or involved espionage through any friendship relationship. The anecdotal evidence of criminal wrongdoing of companies, foreign citizens, or other U.S. citizens, is of decreased materiality to an assessment of Applicant's security suitability, especially where there is no evidence that Applicant, or his female friend, was ever involved in any aspect of the cited cases or ever targeted by any Chinese intelligence official.

After weighing the reliability of the source documentation and assessing the relevancy and materiality of the facts proposed by the Government, I take administrative notice of the facts and events described in the various reports and U.S. Department of State publications. However, while I do not reject the facts set forth in the various press releases, the inference that somehow Applicant and/or his female friend, participated in criminal activity was not argued during the hearing and is specifically rejected. Pursuant to Rule 201, *Federal Rules of Evidence*, I take administrative notice of certain facts,<sup>7</sup> as set forth below under the PRC subsection.

### **Financial Considerations<sup>8</sup>**

Applicant first started experiencing financial problems in April 2013 when U.S. military forces in Afghanistan started downsizing, and the contract he was working on in Afghanistan expired. He was laid off and was unable to secure another position until June 2014. During that period, to assist his son in supporting his own family, Applicant took out a \$160,000 second mortgage to give his son \$35,000 as a down payment to purchase a dump truck; \$25,000 was designated for a new roof and other repairs; and the remainder was used to purchase automobiles for his son and daughter. Applicant's period of unemployment lasted longer than he had anticipated, and some accounts became delinquent. His mortgage payments on his primary home, as of July 2014, were already 13 payments in arrears, and the bank had commenced foreclosure proceedings. However, once he was able to secure a new position overseas, he started catching up on

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<sup>7</sup> Administrative or official notice is the appropriate type of notice used for administrative proceedings. See *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986); ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004)). The most common basis for administrative notice at ISCR proceedings, is to notice facts that are either well known or from government reports. See Stein, *Administrative Law*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice). Requests for administrative notice may utilize authoritative information or sources from the internet. See, e.g. *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006) (citing internet sources for numerous documents).

<sup>8</sup> General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1 (e-QIP, dated May 20, 2014); GE 2 (Personal Subject Interview, dated July 28, 2014); GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 10, 2014); GE 4 (Equifax Credit Report, dated March 29, 2016); GE 5 (Equifax Credit Report, dated March 6, 2017); AE F (Equifax 3-Bureau Credit Report, dated August 16, 2017); and Applicant's Answer to the SOR, dated September 15, 2016.

a number of delinquent accounts, including one lump-sum payment of \$22,000, including hefty late penalties and administrative charges to save that home from foreclosure. Another home was already foreclosed in November 2013, after he intentionally stopped making monthly mortgage payments in May 2013. Applicant made no effort to stop that foreclosure process or negotiate for lower monthly payments because he did not wish to keep the home for it was too large and the loan was too expensive.<sup>9</sup>

Applicant utilized the professional services of a tax preparer to file his federal income tax returns. Sometimes he clustered multiple years at a time because the tax preparer was ill-equipped to handle anything electronic, including e-mails, and he would schedule a flight home from overseas periodically (described as about once every other year or every two to three years) to work on his federal income tax returns. His federal income tax returns for the tax years 2010, 2011, and 2012 were not timely filed until an unspecified date in 2013 or in May 2014. Applicant claimed that he generally received refunds, but acknowledged that for his tax year 2010, he owed an additional \$12,000 for income taxes.<sup>10</sup> He contended his 2013 income tax return was timely filed.

The SOR identified four purportedly delinquent accounts that had been placed for collection, charged off, or foreclosed, as reflected by Applicant's June 2014 credit report, his March 2016 credit report, or his March 2017 credit report, as well as four federal income tax returns that were not timely filed. The four debts total approximately \$185,941.55. The current status of those accounts, as well as the income tax returns, according to the credit reports, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, is as follows.

(SOR ¶ 1.a.): This is a home equity line of credit in the amount of \$82,907.14 that was past due and charged off in 2013.<sup>11</sup> Applicant used the funds to distribute to various family members and to make repairs as described above. In October 2013, the mortgage lender stated that because of the condition of the property, it would not pursue foreclosure of the property at that time.<sup>12</sup> His March 2017 credit report reflects that the balance owed had increased to \$95,490.<sup>13</sup> Applicant contended that the home was sold at public auction and purchased back by the first lender in January 2014. He said that no deficiency judgment had been filed against him as of May 2014, and that he intended to try to negotiate a payoff over an extended period, or in the alternative, file for bankruptcy under Chapter 13 of the U.S. Bankruptcy Code to satisfy the debt.<sup>14</sup> Applicant said that in the

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<sup>9</sup> GE 2, *supra* note 8, at 5.

<sup>10</sup> Tr. at 54-55.

<sup>11</sup> GE 3, *supra* note 8, at 7, 11; GE 4, *supra* note 8, at 1; GE 5, *supra* note 8, at 2.

<sup>12</sup> AE E (Letter, dated October 1, 2013).

<sup>13</sup> GE 5, *supra* note 8, at 2.

<sup>14</sup> GE 1, *supra* note 8, at 53-54.

year since he received the SOR, he made no further contact with the creditor or its successors in an effort to resolve the account.<sup>15</sup> The account remains unresolved.

(SOR ¶ 1.b.): This is a home mortgage account with a high credit of \$229,400 and an unpaid balance of \$109,952 that was charged off, and the property was involuntarily repossessed.<sup>16</sup> Applicant contended that the property was sold for \$110,000, over the amount supposedly due, and that since there was no deficiency no-one came after him for additional money, although he was willing to negotiate a reasonable loan. Applicant failed to submit any documents to support his contentions. The account remains unresolved.

(SOR ¶ 1.c.): This is a medical account with an unpaid balance of \$69 that was placed for collection in early 2015.<sup>17</sup> Applicant contended that he had paid the doctor \$1,700 in cash, and was very surprised that there was an unpaid balance. On August 16, 2017 – less than one week before the hearing – Applicant paid the collection agent \$69.<sup>18</sup> The account has been resolved.

(SOR ¶ 1.d.): This is a cellular telephone account with an unpaid balance of \$43.26 that was placed for collection in early 2015.<sup>19</sup> On March 10, 2017, Applicant paid the collection agent \$48.21 covering the original charge and a surcharge.<sup>20</sup> The account has been resolved.

(SOR ¶ 1.e.): This refers to Applicant's failure to timely file his federal income tax returns for the tax years 201, 2011, 2012, and/or 2013 until May 2014. In his Answer to the SOR, Applicant stated:<sup>21</sup>

Largely me paying my taxes late was due to economic reasoning. That is to prevent me from paying for plane tickets and lost time just to go back to the states for a special trip to have my tax professional disposition my returns; I chose to go back infrequently to minimize the expense. . . .

All that said, I now am fully aware that perception is everything when a person holds a security clearance with the government, and this is not

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<sup>15</sup> Tr. at 50.

<sup>16</sup> GE 3, *supra* note 8, at 8; GE 4, *supra* note 8, at 2; GE 5, *supra* note 8, at 3.

<sup>17</sup> GE 4, *supra* note 8, at 2; GE 5, *supra* note 8, at 1.

<sup>18</sup> AE E (Payment Receipt, dated August 16, 2017).

<sup>19</sup> GE 4, *supra* note 8, at 2.

<sup>20</sup> AE E (Payment Receipt, dated March 10, 2017).

<sup>21</sup> Applicant's Answer to the SOR, *supra* note 8, at 5-6.

acceptable behavior and will never happen again. I will do my Taxes on time regardless where I am working.

. . . Due to working and living overseas during this time, I have a history of waiting to file my taxes personally when I find reason to come back to my home . . . with my long time Tax representative who maintains my records electronically. Usually, it is no more than three years. This period was longer due to me constantly looking for another overseas job for over one and half years. I did come back after I was offered one (sic) for a U.S. Embassy construction job . . . Upon my arrival, I immediately caught up with my tax returns with my tax representative as usual. When I look back on this practice, this was too long especially when I filled it in conjunction with my current at the time of 2014. I plan never to wait on filing my returns late and stay current.

Despite requests for his federal income tax returns or transcripts for the tax years 2010 through 2013, Applicant failed to submit them for review. In the absence of such documentation, Applicant's federal income tax return issues have not been resolved.

In July 2014, Applicant indicated that his annual income was \$95,000.<sup>22</sup> During the hearing, he stated that he would submit a Personal Financial Statement to reflect his 2017 net monthly income; monthly expenses; and debt payments; as well as any monthly remainder available for discretionary saving or spending. In October 2017, although he claimed to have a spreadsheet covering those figures, he failed to submit either the written form or the data associated with it. In the absence of such information, it is impossible to determine the current status of his finances, or if he finally has control over them. Furthermore, there is no evidence of financial counseling. Based on Applicant's credit history, Equifax and TransUnion consider him to be a "moderate risk," while Experian considers him to be a "high risk" in making credit decisions.<sup>23</sup>

## **Foreign Influence**

(SOR ¶ 1.d.): Applicant is a native-born U.S. citizen. In 2002, during the time Applicant worked for a defense contractor and resided in the Middle East, he met a woman - a citizen of the PRC - who was also working (in the PRC she had a clothing store, and in the Middle East she set up a phone business and a gym and massage business)<sup>24</sup> and residing in the Middle East. In 2003, their relationship evolved from a simple friendship into an intimate boyfriend/girlfriend relationship in which they shared living quarters. That relationship remained intimate until May 2012. During Applicant's period of unemployment (March 2013 until May 2014), although his relationship with the woman had already diminished when they simply "drifted apart," he stayed with her

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<sup>22</sup> GE 2, *supra* note 8, at 5.

<sup>23</sup> AE F, *supra* note 8, at 4.

<sup>24</sup> Tr. at 85-86.

brother due to the low cost of living in that area.<sup>25</sup> Applicant moved on to other overseas areas, and, after developing other relationships, the woman returned to the PRC. She returned to the Middle East periodically to renew her visa and visit friends. Although they retain a distant friendly relationship, since about 2013, and they have not seen each other since 2013, their communications were generally limited to periodic holiday and birthday e-mails. Their most recent communication occurred in January 2017 when he received an e-mail from her, but he never responded to it.<sup>26</sup> She has none of his property, and he does not give her any financial support.

## **People's Republic of China**

The PRC has an authoritarian Communist government, with powerful military forces, including strategic nuclear weapons and missiles. It is geographically vast and has a population of over a billion people. It has significant resources and an economy that in recent years has expanded substantially. In the PRC, reported human rights problems include suppression of political dissent, arbitrary arrest and detention, forced confessions, disappearance, torture and mistreatment of prisoners, and "arbitrary or unlawful deprivation of life." The PRC also monitors telephone conversations, facsimile transmissions, e-mail, text messaging, and internet communications, and sometimes nonconsensual monitoring with listening devices and surreptitious searching of hotel guestrooms.

The PRC has been characterized as "the most aggressive country conducting espionage against the United States, focusing on obtaining U.S. information and technologies beneficial to [PRC's] military modernization and economic development." Those activities include economic espionage, theft of trade secrets, export control violations, and technology transfer. It actively collects military, economic and proprietary, industrial information about the United States of the following types, including: information and communications technology; military technologies, particularly marine systems and aerospace and aeronautics; civilian and dual-use technologies, especially clean technologies, advanced materials and manufacturing techniques, healthcare, pharmaceuticals, and related technologies, and agricultural technology; and business information, especially energy and other natural resources and macroeconomic information. Americans of Chinese ancestry are considered prime intelligence targets by the PRC. "The crux of the PRC approach is not to try to exploit a perceived vulnerability but to appeal to an individual's desire to help [PRC] out in some way . . . ethnic targeting to arouse feelings of obligation is the single most distinctive feature of PRC intelligence operations." U.S. Immigration and Customs Enforcement officials have characterized the PRC's espionage and industrial theft activities as the leading threat to the security of U.S. technology.

While there have been a number of criminal incidents involving individuals, companies, and PRC intelligence officers improperly acquiring U.S. economic intelligence

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<sup>25</sup> GE 1, *supra* note 8, at 37-38; GE 2, *supra* note 8, at 3.

<sup>26</sup> Tr. at 64, 85.



and proprietary information, there is no direct or indirect connection to, or involvement with, Applicant or his former girlfriend.

### **Character References**

One former co-worker has known Applicant since they first worked together in 1998. He also knows Applicant's former girlfriend. He considers Applicant to be "up straight and honest."<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

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<sup>27</sup> Tr. at 106.

<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

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>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 AG ¶ 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

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but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994).

<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.

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

The guideline notes several conditions that could raise security concerns under AG 19:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (c) a history of not meeting financial obligations;
- (e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators; and
- (f) Failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Four purportedly delinquent debts, totaling approximately \$185,941.55, were placed for collection, charged off, or resulted in foreclosure, as generally reflected by Applicant's credit reports. While there is no evidence that he was unwilling to satisfy his debts or that he may have had the ability to do so, there is evidence of frivolous or irresponsible spending, when, during a period of unemployment, he took out a \$160,000 second mortgage to give his son \$35,000 as a down payment to purchase a dump truck; \$25,000 was designated for a new roof and other repairs; and the remainder was used to purchase automobiles for his son and daughter. One home was already foreclosed in November 2013, after he intentionally stopped making monthly mortgage payments in May 2013, because he did not wish to keep the home for it was too large and the loan was too expensive. Applicant also failed to timely file his federal income tax returns for the tax years 2010, 2011, 2012, and/or 2013 until May 2014. AG ¶¶ 19(a), 19(c), 19(e), and 19(f) have been established. AG ¶ 19(b) has not been established.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties under AG ¶ 20:

(a) 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;

(b) 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;

(c) 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;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;<sup>34</sup>

(e) 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; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

I have concluded that AG ¶ 20(b) partially applies and AG ¶ 20(d) minimally applies, but none of the other conditions apply. The nature, frequency, and recency of Applicant's continuing financial difficulties since 2013 make it difficult to conclude that it occurred "so long ago" or "was so infrequent," or that it is "unlikely to recur." Applicant contended that he first started experiencing financial difficulties at some point after he was laid off in April 2013. He was unemployed until June 2014. During that period, Applicant took out a \$160,000 second mortgage to give his son \$35,000 as a down

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<sup>34</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)).

payment to purchase a dump truck; \$25,000 was designated for a new roof and other repairs; and the remainder was used to purchase automobiles for his son and daughter. There is substantial evidence that during Applicant's period of unemployment, when fiscal restraint should have been exercised by him, he chose to take out that \$160,000 second mortgage. Applicant's period of unemployment lasted longer than he had anticipated, and some accounts became delinquent. Mortgage and home equity payments stopped, either because of insufficient funds available to make payments, or intentionally, because Applicant decided that one of his homes was simply too big and too expensive to keep. The divorce litigation may have added to his financial burdens.

Two homes were foreclosed, and although Applicant indicated a willingness to engage his creditors in negotiations, he admittedly failed to do so. He paid two relatively minor accounts for \$43 and \$69 in 2017, and he submitted documentation to indicate those payments were made. But the two major accounts, totaling nearly \$186,000, have remained untouched and unresolved. Considering the amount of his delinquencies, the payment of approximately \$100 does not constitute a good-faith effort, and under the circumstances, it hardly qualifies as a reasonable effort to resolve his debts.<sup>35</sup> Applicant claimed that there were no deficiencies associated with the mortgages, but he failed to submit any documents to support his claims. He also claimed that his delinquent federal income tax returns were eventually filed, but, once again, he failed to submit copies of those federal income tax returns or transcripts for the tax years 2010 through 2013. There were no disputes regarding any of the delinquent debts filed by Applicant. There is no evidence of any financial counseling. The present status of Applicant's finances is unknown. Applicant's actions under the circumstances cast doubt on his current reliability, trustworthiness, and good judgment.<sup>36</sup>

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 every debt or issue 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 issues or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts or issues alleged in an SOR be resolved first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts, or resolution of such issues, one at a time. Mere promises to pay debts in the future, without further confirmed action, are insufficient.

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<sup>35</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>36</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

## **Guideline B, Foreign Influence**

The security concern relating to the guideline for Foreign Influence is set out in AG ¶ 6:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The guideline notes several conditions that could raise security concerns under AG ¶ 7:

- (a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology;
- (c) failure to report or fully disclose, when required, association with a foreign person, group, government, or country;
- (d) counterintelligence information, whether classified or unclassified, that indicates the individual's access to classified information or eligibility for a sensitive position may involve unacceptable risk to national security;
- (e) shared living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion;
- (f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest;

(g) unauthorized association with a suspected or known agent, associate, or employee of a foreign intelligence entity; and

(h) indications that representatives or nationals from a foreign country are acting to increase the vulnerability of the individual to possible future exploitation, inducement, manipulation, pressure, or coercion; and (i) conduct, especially while traveling or residing outside the U.S., that may make the individual vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country.

Commencing in 2002, during the time Applicant worked and resided in the Middle East, he met a woman - a citizen of the PRC - who was also working and residing in the Middle East. In 2003, their relationship evolved from a simple friendship into an intimate boyfriend/girlfriend relationship in which they shared living quarters. That relationship remained intimate until May 2012. With the exception of periodic exchanges of e-mails, their relationship essentially ended in 2013. AG ¶¶ 7(a), 7(b), and 7(e) have tentatively been established. However, the security significance of these identified conditions requires further examination of Applicant's relationship with her because she is a citizen of the PRC, periodically residing in or visiting the Middle East, to determine the degree of "heightened risk" or potential conflict of interest.

At the outset of this analysis, it is important to note that there is no evidence that Applicant's former intimate "friend" was ever affiliated with the PRC government, military, defense industry, foreign movement, or intelligence service. Applicant's relationship to her during 2003-May 2013 was neither casual nor infrequent. While there may have been some degree of risk associated with her citizenship before May 2012, that risk was substantially eliminated when their relationship essentially ended. Their relationship, to the degree that there is still one, is much more distant and casual than it was before 2013.

In assessing whether there is a heightened risk because of an applicant's relatives or associates in a foreign country, it is necessary to consider all relevant factors, including the totality of an applicant's conduct and circumstances, including the realistic potential for exploitation. One such factor is the potential for pressure, coercion, exploitation, or duress. In that regard, it is important to consider the character of the foreign power in question, including the government and entities controlled by the government, within the relevant foreign country. Nothing in Guideline B suggests it is limited to countries that are hostile to the United States.<sup>37</sup> In fact, the Appeal Board has cautioned against "reliance on overly simplistic distinctions between 'friendly' nations and 'hostile' nations when adjudicating cases under Guideline B."<sup>38</sup> Nevertheless, the relationship between a foreign government and the U.S. may be relevant in determining whether a foreign government or an entity it controls is likely to attempt to exploit a resident or citizen to take action against the U.S. through the Applicant. It is reasonable to presume that a contentious relationship, or the absence of a democratic government, is not determinative, but it may

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<sup>37</sup> See ISCR Case No. 00-0317 at 6 (App. Bd. Mar. 29, 2002); ISCR Case No. 00-0489 at 12 (App. Bd. Jan. 10, 2002).

<sup>38</sup> ISCR Case No. 00-0317 at 6 (App. Bd. Mar. 29, 2002).

make it more likely that a foreign government would attempt to exploit a U.S. citizen through relatives or associates in that foreign country.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an Applicant's intimate "friend" is vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, an intimate "friend" is associated with or dependent upon the government, or the country is known to conduct intelligence operations against the United States. The complicated, competitive relationship of the PRC with the U.S. places a significant, but not insurmountable burden of persuasion on Applicant to demonstrate that his relationship with his former intimate "friend" does not pose a security risk and he is not in a position to be forced to choose between loyalty to the United States and that former intimate "friend."<sup>39</sup>

With its mixed human rights record, and other political, economic and military rivalry with the U.S., it is not inconceivable that PRC would target any citizen in an attempt to gather valuable information from the United States. On the other hand, there are some indications that the position of the U.S. is not as inflexible towards PRC as might be initially surmised. In 2000, despite the purported concerns over the PRC's continuing intelligence gathering, the U.S. permanently extended the most-favored-nation status provision to PRC-U.S. commercial treaties binding the signatories to extend trading benefits equal to those accorded any third state. Furthermore, while there is the

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<sup>39</sup> The Appeal Board has articulated a "heightened risk" or "very heavy burden" because of the PRC's hostility to the United States. ISCR Case No. 06-24575 at 4 (App. Bd. Nov. 7, 2007) (articulating "very heavy burden" standard and reversing grant of clearance in case involving family members living in the PRC). For example in ISCR Case No. 07-02485 at 4-5 (App. Bd. May 9, 2008), the Appeal Board stated, "Given the PRC's interest in U.S. intelligence, Applicant's foreign relatives pose a real, rather than merely theoretical, risk that Applicant could be targeted for manipulation or induced into compromising classified information." In ISCR Case No. 07-02485 at 4-5 (App. Bd. May 9, 2008) the Appeal Board described what facts supported reversal of the Administrative Judge's decision to grant that Applicant with connections to PRC a clearance:

The fact that Applicant lives with a PRC citizen, her husband; that her husband maintains contact with his own father who is a citizen and resident of the PRC; that Applicant's brother is a citizen and resident of the PRC; that Applicant speaks with her brother over the telephone "several times a year;" that the PRC targets U.S. citizens of PRC ancestry for intelligence gathering purposes; and that the PRC monitors telephone and other communications of its citizens constitute significant record evidence of security significant foreign contacts and interest. As such, Applicant's evidence as to her good job performance and her ties to the U.S. are not sufficient to mitigate those concerns. It is not to question Applicant's patriotism to acknowledge that the record in her case raises the reasonable concern that she could be placed in a position of having to choose between her ties to the U.S. and her obligations to her foreign family members. The evidence which Applicant has provided is not sufficient to mitigate the Government's security concerns. The Board holds that the Judge's favorable decision is not sustainable on this record.

See also ADP Case No. 05-17812 (App. Bd. June 11, 2007); ISCR Case No. 05-10467 (App. Bd. May 8, 2007) (both reversing favorable clearance decisions for PRC-related Applicants); ISCR Case No. 06-23453 (App. Bd. Nov. 14, 2007); ISCR Case No. 06-21622 (App. Bd. Oct. 15, 2007) (both remanding favorable clearance decisions for PRC-related Applicants).



“heightened risk” standard, the U.S. Government has not established a “*per se*” rule against granting a security clearance to an individual with family members or former intimate “friends” who are PRC citizen/residents, and there is no general prohibition regarding casual or personal travel to the PRC by U.S. citizens who possess a security clearance.

As noted above, there is no evidence that Applicant’s former intimate “friend” has been a political activist, challenging the policies of the PRC Government. There is no evidence that terrorists or the PRC Government have approached or threatened Applicant’s former intimate “friend” or her relatives for any reason. And, there is no evidence that Applicant’s former intimate “friend” in the PRC currently engages in activities which would bring attention to her or that other PRC elements are even aware of Applicant’s work. Furthermore, given the essential non-existence of their relationship, there is a demonstrably reduced possibility that Applicant’s former intimate “friend” would be a target for coercion or exploitation.<sup>40</sup> Applicant’s values are U.S. values. However, because the relationship was not completely ended before 2017, when Applicant chose not to reply to his former intimate “friend’s” e-mail, I find AG ¶ 7(a) has been minimally established.

The guideline also notes several conditions that could mitigate security concerns under AG ¶ 8:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group,

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<sup>40</sup> The Appeal Board has ruled that in the analysis of countervailing evidence, it is legal error to give significant weight to any of the following facts or factors: applicant’s ties to the United States (ISCR Case No. 02-13595 at 5 (App. Bd. May 10, 2005)); lack of prominence of relatives living in a foreign country (*Id.*); “family members’ low-key and noncontroversial lifestyle, and the fact that the foreign government has not contacted them about Applicant” (ISCR Case No. 04-12500 at 4 (App. Bd. Oct. 26, 2006)); one relative living in a foreign country may be sufficient to negate FIMC 1 (ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006)); a foreign relative’s fragile health (ISCR Case No. 02-29403 at 4 (App. Bd. Dec. 14, 2004)), advanced age (ISCR Case No. 02-00305 at 7 (App. Bd. Feb. 12, 2003)), financial independence (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)), or lack of financial dependency upon applicant (ISCR Case No. 03-15205 at 4 (App. Bd. Jan. 21, 2005)); foreign relatives spend part of each year in the U.S. (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the lack of any connection between the foreign relative and the foreign government in question (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the absence of any attempt at exploitation in the past (ISCR Case No. 03-15205 at 4 (App. Bd. Jan. 21, 2005)); and a foreign country’s friendly relationship with the U.S., its stable, democratic government, or its extensive foreign military agreements with the United States (ISCR Case No. 02-22461 at 5-6 (App. Bd. Oct. 27, 2005)). Notwithstanding the Appeal Board’s position, I conclude that many of these factors are pertinent to the analysis in this case under the whole person concept; however, I will give limited weight to such factors in compliance with the Appeal Board’s jurisprudence.

government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the agency head or designee;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

I have concluded that AG ¶¶ 8(a), 8(b), and 8(c) apply. The relationship between Applicant and his former intimate “friend” remained intimate until May 2012. With the exception of periodic exchanges of e-mails, their relationship essentially ended in 2013, although they continued a periodic distant relationship by e-mail until early 2017 when he chose not to reply to her most recent e-mail. While there was a historical relationship between them, it essentially ended over five years ago. There is no continuing relationship now, and any issues associated with a “heightened risk” no longer remain.

### **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>41</sup>

There is some evidence in favor of mitigating Applicant's conduct. Applicant is a 68-year-old prospective employee of a defense contractor with which he would hold the position of mechanical inspector once his security clearance eligibility is determined. He has held a variety of positions throughout the world as an MEP manager, and technical engineer with a number of defense contractors and other companies. Applicant enlisted in the U.S. Air Force Inactive Reserve in August 1970, and he served until he was discharged in February 1976. He was apparently initially granted a secret security clearance in 1971, and it was periodically renewed. At some point in the mid-1980s, an application for access to SCI was denied because he was married to a foreign national, but he was allowed to retain his secret security clearance. He has essentially ended his relationship with a citizen of the PRC.

The disqualifying evidence under the whole-person concept is more substantial. Four purportedly delinquent debts, totaling approximately \$185,941.55, were placed for collection, charged off, or resulted in foreclosure, as generally reflected by Applicant's credit reports. While there is no evidence that he was unwilling to satisfy his debts or that he may have had the ability to do so, there is evidence of frivolous or irresponsible spending, when, during a period of unemployment, he took out a \$160,000 second mortgage to give his son \$35,000 as a down payment to purchase a dump truck; \$25,000 was designated for a new roof and other repairs; and the remainder was used to purchase automobiles for his son and daughter. Two homes were foreclosed, and although Applicant indicated a willingness to engage his creditors in negotiations, he admittedly failed to do so. He paid two relatively minor accounts for \$43 and \$69 in 2017, and he submitted documentation to indicate those payments were made. But the two major accounts, totaling nearly \$186,000, have remained untouched and unresolved. Considering the amount of his delinquencies, the payment of approximately \$100 does not constitute a good-faith effort, and under the circumstances, it hardly qualifies as a reasonable effort to resolve his debts. One home was foreclosed in November 2013, after he intentionally stopped making monthly mortgage payments in May 2013, because he did not wish to keep the home for it was too large and the loan was too expensive. Applicant also failed to timely file his federal income tax returns for the tax years 2010, 2011, 2012, and/or 2013 until May 2014.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>42</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

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<sup>41</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).

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

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 a very poor track record of debt reduction and elimination efforts. He paid two relatively minor accounts for \$43 and \$69 in 2017, and he submitted documentation to indicate those payments were made. But the two major accounts, totaling nearly \$186,000, have remained untouched and unresolved. Considering the amount of his delinquencies, the payment of approximately \$100 does not constitute a good-faith effort, and under the circumstances, it hardly qualifies as a reasonable effort to resolve his debts. Because of his failure to submit documentation or information regarding his current finances, or his planned efforts to resolve his outstanding debts, his financial situation is unknown.

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 his financial considerations, but he has mitigated the security concerns arising from foreign influence. 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.:	Against Applicant
Subparagraph 1.b.:	Against Applicant
Subparagraph 1.c.:	For Applicant
Subparagraph 1.d.:	For Applicant
Subparagraph 1.e.:	Against Applicant

Paragraph 2, Guideline B:

FOR APPLICANT

Subparagraph 2.a.:

For Applicant

**Conclusion**

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

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ROBERT ROBINSON GALES  
Administrative Judge