



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 16-03920

Appearances

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

For Applicant: *Pro se*

02/08/2018

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is granted.

Statement of the Case

On April 13, 2015, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application. On February 10, 2017, 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, 2006.¹ The SOR

¹ 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

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 February 20, 2017. On March 7, 2017, he responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on March 24, 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 22, 2017.

During the hearing, five Government exhibits (GE) 1 through GE 5, and four Applicant exhibits (AE) A through AE D were admitted into evidence without objection. Applicant and one witness testified. The transcript (Tr.) was received on August 30, 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 AE E through AE O, without objection. The record closed on October 13, 2017.

Findings of Fact

In his Answer to the SOR, Applicant admitted, with comments, nearly all of the factual allegations pertaining to financial considerations (§§ 1.a. through 1.j., and 1.l.) 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 32-year-old employee of a defense contractor. He has been a software development analyst with the company since April 2015. He previously held a variety of full-time or part-time positions with other employers as a systems analyst, network technician, concrete fabricator, server, sales representative, computer technician, salesman, and installer. From 2009 until at least 2016, he was self-employed on a part-time basis. He is a 2003 high school graduate, with a 2009 associate's degree in computer networking, and a 2011 bachelor's degree in network security. He is currently working towards a master's degree in systems engineering. Applicant enlisted in the U.S. Air Force in December 2003, and he was honorably discharged as an airman first class (E-3) in December 2007.² Applicant was granted a secret security clearance with special access in 2004, and a top secret security clearance in 2013. Applicant was married in November 2005, and divorced in July 2009. He has two children, born in 2006 and 2008.

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.

² Applicant was reduced in grade from E-4 to E-3 as a result of disciplinary punishment under Article 15, Uniform Code of Military Justice (UCMJ) for violation of Article 92, failure to obey a lawful general order by wrongfully consuming an alcoholic beverage in a dry country (Iraq).

Military Service, Awards, and Decorations

During his military service, Applicant was stationed in Iraq from September 2006 until January 2007, frequently coming under enemy fire. He was awarded the Air Force Outstanding Unit Award, the National Defense Service medal, the Global War on Terrorism Service Medal, and the Air Force Training Ribbon.³

Financial Considerations⁴

It is unclear when Applicant first started experiencing financial problems. A review of his August 2012 credit report reveals a 2011 judgment, a 2011 bankruptcy, and a number of accounts that were delinquent as early as 2009 and 2010, during a period that the national economy was floundering. Applicant attributed his financial difficulties to “significant debt which he could not manage from his wages, the inconsistent pattern of his jobs, taking courses toward his degree, the expense of commuting long distances to work, and to alleviate debt which kept him from paying child support.”⁵ An added financial burden was caused when his father opened several accounts in Applicant’s name without Applicant’s knowledge, and ran up approximately \$30,000 in debt that his father, and later, Applicant, could not pay. Exacerbating his financial problems was the final divorce degree in November 2009 that required him to pay more than \$12,700 in child-support arrearage commencing in December 2009.⁶

The SOR identified a Chapter 13 Bankruptcy and 13 purportedly delinquent accounts that had been placed for collection or charged off, or filed as a judgment, as generally reflected by Applicant’s August 2012 credit report, May 2015 credit report, or December 2016 credit report. Those debts total approximately \$89,770. The current status of those accounts, 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.): Applicant was ordered by one state to pay child support for his two children who later moved to another state, and then to still another state. He acknowledged that he was unable to make the full monthly payments, and an arrearage developed. The December 2016 credit report lists the unpaid balance as \$28,910 and the past-due amount as \$5,896.⁷ In November 2013, an Income Withholding for Support

³ AE H (Certificate of Release or Discharge from Active Duty (DD Form 214), dated December 8, 2007).

⁴ General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1 (e-QIP, dated April 13, 2015); GE 2 (Personal Subject Interview, dated May 24, 2016); GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated August 17, 2012); GE 4 (Combined Experian, TransUnion, and Equifax Credit Report, dated August 17, 2012); GE 5 (Equifax Credit Report, dated December 6, 2016); AE N (TransUnion Credit Report, dated September 22, 2017); AE O (Experian Credit Report, dated September 22, 2017); and Applicant’s Answer to the SOR, dated March 7, 2017.

⁵ GE 2, *supra* note 4, at 10.

⁶ Applicant’s Answer to the SOR, *supra* note 4, at 1.

⁷ GE 5, *supra* note 4, at 2.

Order was issued requiring that Applicant's employer withhold \$800 per month.⁸ The Chapter 13 Bankruptcy Trustee acknowledged in June 2014 that \$8,344.58 was paid towards the arrearage.⁹ In addition, commencing in June 2016 and continuing through May 2017, \$1,000 per month was generally withheld from Applicant's salary.¹⁰ The original order was \$800 for child support and \$200 for arrearage, but it was subsequently modified and reduced to a total of \$500 per month.¹¹ The Income Withholding for Support Order was terminated on May 25, 2017.¹² During the first six months of 2017, \$5,500 was withheld from Applicant's salary, and because the termination order was not timely received by his employer, at least one additional withholding took place.¹³ Applicant is awaiting correspondence and an accounting regarding his continuing obligations from the most recent state of his ex-wife's residence. The account is in the process of being resolved.

(SOR ¶¶ 1.b. through 1.h.): seven student loans in varying amounts (\$16,333 charged off, and the remaining accounts in collection: \$7,482; \$6,635; \$4,759; \$3,511; \$3,310; and \$2,115), totaling \$44,145.¹⁴ Applicant contended that several accounts were alleged as separate accounts, when in reality, they were different time-line versions of the same account. The SOR alleged that \$16,333 was charged off, but the credit reports reflect that only \$14,226 was charged off in February 2015, and there is an unpaid balance of \$16,333, of which \$4,880 was past due.¹⁵ After a period of forbearance, several accounts were defaulted, and a number of them were transferred or sold, or assigned to the Government. Three accounts with the U.S. Department of Education with the same account number have different unpaid balances of \$7,482, \$6,635, and \$3,310. Three other accounts with the U.S. Department of Education with the same account number, but different from the first three accounts, have different unpaid balances of \$4,759, \$3,511, and \$2,115. Applicant made payments of approximately \$124 per month for four months, and then stopped because of insufficient funds to continue making those

⁸ AE A (Income Withholding for Support Order, dated November 22, 2013).

⁹ AE F (Chapter 13 Standing Trustee's Final Report and Account, dated June 10, 2014).

¹⁰ AE A (Division of Child Support Services Complete Payment Record, dated August 18, 2017). It should be noted that on one occasion, only \$859 was withheld.

¹¹ Tr. at 23, 33.

¹² AE A (Termination of Income Withholding for Support Order, dated May 25, 2017).

¹³ AE I (Earnings Statements, various dates).

¹⁴ GE 3, *supra* note 4; GE 5, *supra* note 4; GE 5, *supra* note 4. The evidence submitted by the Government is internally inconsistent. For example, GE 3 reflects 13 student loan accounts, 12 of which have different account numbers, and 2 accounts with different creditors sharing the same account number, spread among 4 different sources (U.S. Department of Education, Sallie Mae, Navient, and ACS Loan Servicing); GE 4 reflects 15 student loan accounts, some with entirely different account numbers, spread among 4 different sources (U.S. Department of Education, Sallie Mae, Navient, and SLM Financial); and GE 5 reflects 23 student loan accounts, with a variety of different account numbers, or partial numbers, spread among 3 different sources (with U.S. Department of Education, Sallie Mae, and Navient). Several account numbers are repeated with different account balances and different statuses.

¹⁵ GE 4, *supra* note 4, at 6; GE 5, *supra* note 4, at 2.

payments.¹⁶ Despite the various differences in the available information regarding the student loans, in August 2017, a Wage Garnishment Order was issued by a collection agent acting on behalf of the U.S. Department of Education directing that effective October 6, 2017, 15 percent of Applicant's disposable earnings was to be withheld from his salary. The total amount owed was \$55,710.25, plus interest.¹⁷ The first garnished amount of \$266.16 was paid on October 6, 2017.¹⁸ As an aside, Applicant indicated that the school he attended was shut down in September 2016 because it had lost its accreditation. He claimed that recently enrolled students are now eligible to apply for debt forgiveness. Applicant submitted a Proof of Claim in the school's bankruptcy case on August 22, 2017,¹⁹ and he is awaiting the result of the bankruptcy court's decision. Nevertheless, with the garnishment in place, the account is in the process of being resolved.

(SOR ¶ 1.i.): a credit-union credit card with a \$500 credit limit and unpaid and past-due balance of \$642 that was charged off.²⁰ The account was included in Applicant's bankruptcy, and no claim was asserted.²¹ In other words, it was disallowed. Nevertheless, on September 28, 2017, Applicant paid the creditor \$642.75.²² The account has been resolved.

(SOR ¶ 1.j.): a medical account with an unidentified provider with an unpaid balance of \$70.²³ At the time of the service, Applicant presented the provider with his insurance card and paid a \$60 co-pay. The insurance company paid its portion of the bill, and the unpaid balance was in dispute because the physician was unable to properly treat Applicant. Applicant paid the creditor \$70 on September 26, 2017.²⁴ The account has been resolved.

(SOR ¶¶ 1.k., 1.m., and 1.n.): three credit cards with unpaid balances of \$4,973 (that went to judgment); \$7,879; and \$3,151.²⁵ Applicant disputed the accounts, and he denied applying for the cards and did not authorize anyone to do so, or use them, in his

¹⁶ Tr. at 42.

¹⁷ AE M (Wage Garnishment Order, dated August 29, 2017).

¹⁸ AE I, *supra* note 13.

¹⁹ AE B (Proof of Claim, dated August 22, 2017).

²⁰ GE 3, *supra* note 4, at 11; GE 4, *supra* note 4, at 7.

²¹ AE F, *supra* note 9, at 2.

²² AE L (Receipt, dated September 28, 2017).

²³ GE 5, *supra* note 4, at 3.

²⁴ AE K (Receipt, dated September 26, 2017).

²⁵ GE 3, *supra* note 4, at 5, 7; GE 4, *supra* note 4, at 5, 7; GE 5, *supra* note 4, at 6.

name.²⁶ In his e-QIP, Applicant contended that “a relative” had applied for the cards,²⁷ and during the hearing he identified the relative as his father. He chose not to officially dispute the accounts because he did not want his father to get charged with fraud.²⁸ Applicant’s father testified and stated that when Applicant first joined the U.S. Air Force, he was struggling financially because he had no credit history. Without Applicant’s knowledge, he decided to assist his son by responding to some of the mail solicitations that offered credit. The purpose was to build up credit by making purchases in Applicant’s name and eventually pay them off. He paid off two or three accounts, but when the economic collapse of 2009 occurred, he lost both of his jobs, and his monthly income dropped from \$10,000 down to \$1,800, and no further payments could be made.²⁹ He recommended that Applicant file for bankruptcy under Chapter 7, but Applicant chose to file under Chapter 13. To “rectify” his guilt, he paid off Applicant’s vehicle for about \$12,000.³⁰ Although the three accounts were identified in the Chapter 13 bankruptcy, no payments were made to them by the Trustee. Applicant has not made any payments once the bankruptcy was dismissed. The accounts have not been resolved.

(SOR ¶ 1.I.): a Chapter 13 Bankruptcy was filed by Applicant on November 11, 2011; the plan was confirmed on January 24, 2012; and it was dismissed on April 21, 2014. During the pendency of the bankruptcy, Applicant made \$10,180 in payments to the Trustee, and \$8,344.58 of that amount was paid towards Applicant’s child-support obligations.³¹

During the hearing, Applicant was requested to submit a Personal Financial Statement. He failed to do so. Instead, in October 2017, he submitted both his by-weekly Earning Statements and a budget to reflect his monthly income and monthly expenses. His by-weekly net income is generally between \$1,470 and \$1,736, depending on his student-loan garnishment, or a monthly average over a period of six months of \$3,324; and his monthly expenses are generally \$2,498. He estimated that he has a monthly remainder of \$826 that might be available for discretionary spending or savings.³² In addition to the SOR-related debts, Applicant has paid off other debts.³³ Other than the delinquent debts listed above, Applicant has no other delinquent accounts. There is no evidence of financial counseling. Nevertheless, Applicant has made significant progress in stabilizing his finances and avoiding other financial delinquencies. He resolved several of the SOR accounts either through direct payments, through his Chapter 13 bankruptcy,

²⁶ Applicant’s Answer to the SOR, *supra* note 4, at 4.

²⁷ GE 1, *supra* note 4, at 60.

²⁸ Tr. at 67, 75-76.

²⁹ Tr. at 73.

³⁰ Tr. at 74.

³¹ AE F, *supra* note 9.

³² AE E (Budget, undated); AE I, *supra* note 13.

³³ See AE C (Receipt, dated October 14, 2017); AE J (Letter, dated October 13, 2017); AE G (Account History, dated September 12, 2017).

or by garnishments, and is currently focusing on his student loans (through garnishment) and the three remaining delinquent SOR accounts that were generated by his father. Once he is granted his security clearance, he expects to receive an increase in pay, and his finances will be even better controlled.

Work Performance and Character References

Applicant was characterized in one performance review as “a solid performer who has performed all his duties in a highly satisfactory manner and presents a professional manner to his peers and customers. He consistently meets . . . goals . . . resulting in remarkably high customer satisfaction ratings.”³⁴ Another rater noted that “[w]e found that this work wasn’t keeping him challenged and could take on more complex work.”³⁵ Applicant’s father, a retired Air Force major, commented on Applicant’s reputation for honesty, integrity, and trustworthiness. He noted that Applicant routinely returned change that was more than that to which he was entitled, whether it was \$10 or \$0.35.³⁶

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.”³⁷ 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.”³⁸

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

³⁴ AE D (2016 Year-end Review, dated December 31, 2016).

³⁵ AE D (2017 Midpoint Review, dated June 30, 2017).

³⁶ Tr. at 76-77.

³⁷ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

³⁸ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

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.”³⁹ The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government.⁴⁰

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.”⁴¹

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.”⁴² 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.

³⁹ “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

⁴⁰ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴¹ *Egan*, 484 U.S. at 531.

⁴² See Exec. Or. 10865 § 7.

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 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; and
- (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.

Applicant's student loans went into default, his child support developed a significant arrearage, and several accounts became delinquent. A judgment was filed against him. He filed for bankruptcy in 2011. There is no evidence that he was unwilling to satisfy his debts or that he had the ability to do so, and there is no evidence of frivolous or irresponsible spending, or consistent spending beyond his means. AG ¶¶ 19(a) and 19(c) have been established, and AG ¶ 19(e) has been partially 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;⁴³ and

(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.

I have concluded that ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) all partially or fully apply. A number of accounts became delinquent as early as 2009. Applicant attributed his financial difficulties to a variety of factors including the inconsistent pattern of his jobs, taking college courses, the expense of commuting long distances to work, and child support. Also, there was Applicant's 2009 divorce. In addition, his father opened several accounts in Applicant's name without Applicant's knowledge, and ran up approximately \$30,000 in debt. It was also during a period when the national economy was floundering, and Applicant survived financially by being self-employed. While some of those factors were clearly beyond Applicant's control, others, such as the expense of commuting, school expenses, and child support do not necessarily come within that description. Although he was faced with insufficient funds to enable him to maintain his accounts in a current status, Applicant took the honorable course and sought protection and assistance

⁴³ 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)).

under the protection plan offered by Chapter 13 of the U.S. Bankruptcy Code. Under the direction of the Bankruptcy Trustee, Applicant made \$10,180 in payments to the Trustee, and \$8,344.58 of that amount was paid towards Applicant's child-support obligations. Wage withholdings were made to further reduce Applicant's child-support obligations. Additional wage withholdings are currently being made to apply to his delinquent student loans. Applicant resolved other non-SOR accounts as well as some SOR-related accounts. With steady employment, Applicant anticipates being able to increase his payments to more rapidly resolve his delinquent accounts.

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.

While there is no evidence that Applicant received financial counseling, his 2017 credit reports reflect no other delinquent accounts. Applicant has made significant progress in stabilizing his finances and avoiding other financial delinquencies. With a current monthly remainder of \$826 that might be available for discretionary spending or savings, Applicant's finances appear to be under better control. When confronted with the issues that caused his financial problems, and faced with insufficient funds to immediately remedy the situation, Applicant acted responsibly by dealing with his creditors or collection agents.⁴⁴ Applicant's actions under the circumstances no longer cast doubt on his current reliability, trustworthiness, and good judgment.⁴⁵

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

⁴⁴ "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.

⁴⁵ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

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.⁴⁶

There is some evidence against mitigating Applicant's conduct. Applicant's student loans went into default, his child support developed a significant arrearage, and several accounts became delinquent. A judgment was filed against him. He filed for bankruptcy in 2011.

The mitigating evidence under the whole-person concept is more substantial. A variety of factors including the inconsistent pattern of his jobs, taking college courses, the expense of commuting long distances to work, a divorce, and child support, all contributed to his financial problems. In addition, his father opened several accounts in Applicant's name without Applicant's knowledge, and ran up approximately \$30,000 in debt. It was also during a period when the national economy was floundering, and Applicant survived financially by being self-employed. Applicant sought protection and assistance under the protection plan offered by Chapter 13 of the U.S. Bankruptcy Code. Applicant made \$10,180 in payments to the Trustee, and \$8,344.58 of that amount was paid towards Applicant's child-support obligations. Wage withholdings were made to further reduce Applicant's child-support obligations. Additional wage withholdings are currently being made to apply to his delinquent student loans. Applicant resolved various non-SOR accounts as well as some SOR-related accounts. With steady employment, Applicant anticipates being able to increase his payments to more rapidly resolve his delinquent accounts.

During his service in Iraq, Applicant came under hostile fire. That circumstance increases the probability that Applicant will recognize, resist, and report any attempts by a foreign power, terrorist group, or insurgent group to coerce or exploit him.⁴⁷ While there is a current garnishment of his wages to apply towards his delinquent student loans, Applicant has a monthly remainder available for discretionary spending or savings, and his financial situation is now under better control.

⁴⁶ 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).

⁴⁷ See ISCR Case No. 07-00034 at 2 (App. Bd. Feb. 5, 2008).

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁴⁸

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 a positive track record of debt reduction and elimination efforts. With the assistance of Chapter 13 of the U.S. Bankruptcy Code, as well as a wage withholding, Applicant substantially reduced his child-support arrearage. A current garnishment is reducing his delinquent student-loan balance. The three accounts over which Applicant had no initial responsibility – those opened by his father without his knowledge – will be addressed as the other debts are reduced. There are no other more recent delinquent accounts. He has a substantial monthly remainder, and his financial situation is under better control. This decision should serve as a warning that Applicant’s failure to continue his resolution efforts with respect to his unresolved debts, or the actual accrual of new delinquent debts, may adversely affect his future eligibility for a security clearance.⁴⁹

Overall, the evidence leaves me without questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has mitigated the security concerns arising from his financial considerations. See SEAD 4, App. A, ¶¶ 2(d)(1) through AG 2(d)(9).

⁴⁸ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

⁴⁹ While this decision should serve as a warning to Applicant as security officials may continue to monitor his finances, this decision, including the warning, should not necessarily be interpreted as a conditional eligibility to hold a security clearance under SEAD 4, App. C. Failure to comply with payment plans or other delinquent debt may raise a security concern. The Government has the option of following-up with more questions about Applicant’s finances. The Government can re-validate Applicant’s financial status at any time through credit reports, investigation, and interrogatories. Approval of a clearance now does not bar the Government from subsequently revoking it, if warranted. The Government has the right to reconsider the security significance of past conduct or circumstances in light of more recent conduct having negative security significance.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraphs 1.a. through 1.n: For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

ROBERT ROBINSON GALES
Administrative Judge