



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 17-00569

Appearances

For Government: Allison Marie, Esquire, Department Counsel

For Applicant: *Pro se*

02/05/2018

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 November 10, 2015, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application. On March 23, 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 April 4, 2017. On April 17, 2017, he responded to the SOR and elected to have his case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by the Defense Office of Hearings and Appeals (DOHA) on July 25, 2017, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive. Applicant received the FORM on August 17, 2017. Applicant's response was due on September 16, 2017. Applicant timely submitted a number of documents to which there was no objection, and they were admitted as Applicant exhibits (AE). The case was assigned to me on January 26, 2018.

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.h.) 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 47-year-old employee of a defense contractor. He has been a computer specialist with the company since June 2015. He previously held positions with other employers as a service desk analyst and information technology specialist, and was briefly self-employed as a computer repair consultant. He received his high school diploma in 1988, and he attended some university courses for several years, but did not earn a degree. Applicant enlisted in the U.S. Marine Corps Reserve in May 1996, and, although he was involved in several performance and disciplinary issues, he served until he was honorably discharged in May 2004. Because Applicant's military history was not developed further, it is not known if he was awarded any awards or decorations during his time in service. He was granted a secret security clearance in 1996, and a top secret security clearance in 2005, and that level of security clearance was administratively downgraded to secret in 2015. Applicant has never been married. He has a daughter, born in 2000.

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.

Financial Considerations²

Applicant's initial financial difficulties arose in January 2013. He was initially employed in Iraq from 2007 until 2011, relocated to Kuwait in 2011, and in January 2013, he lost his job as a result of a company reduction in workforce (RIF). He characterized his annual income during his time overseas as being in the six figures, averaging \$135,000. He returned home to search for a new job, while receiving unemployment benefits, but his job search was interrupted when he had to care for his ailing mother. Because he was unable to work full-time (managing to work part-time as a self-employed computer repair consultant), the loss of his income along with his depleted savings, left him unable to maintain his accounts in a current status. By the time he obtained a new job in June 2015, his debts had gotten out of hand. Accounts became delinquent: some were charged off; and a house went into foreclosure. His plan was to get established in his new job, save money, and then reach out to his creditors. His intentions were thwarted when his mother was admitted to the emergency room and had to undergo open-heart surgery. Applicant took emergency leave and was out of work for two months. His mother never fully recovered, and she perished in September 2016. Applicant returned to work, reestablished his plans, reconnected with his creditors, established a budget, and commenced making repayments to his creditors.³

The SOR identified one 2015 foreclosure and eight purportedly delinquent accounts that had been placed for collection or charged off, as generally reflected by Applicant's November 2015 credit report and January 2017 credit report. Those debts total approximately \$118,154. 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.): a home mortgage with a high credit of \$54,920 that was sold to a mortgage servicing company, and because of an unpaid balance, the house went into foreclosure in 2015.⁴ Applicant said the house was sold at a foreclosure auction for over \$100,000, an amount in excess of what he owed, and he does not owe anything more.⁵ The two credit reports do not reflect any unpaid balance. The account has been resolved.

(SOR ¶ 1.b.): a home improvement loan from a credit union with a high credit of \$52,162 and an unpaid and past due balance of \$43,581 that was charged off.⁶ Applicant

² General source information pertaining to the financial accounts discussed below can be found in the following exhibits: Item 5 (e-QIP, dated November 10, 2015); Item 6 (Personal Subject Interview, dated October 6, 2016); Item 7 (Combined Experian, TransUnion, and Equifax Credit Report, dated November 25, 2015); Item 8 (Equifax Credit Report, dated January 24, 2017); and Item 4 (Applicant's Answer to the SOR, dated April 17, 2017).

³ Item 6, *supra* note 2, at 15; Item 4, *supra* note 2, at 1-2.

⁴ Item 5, *supra* note 2, at 30-31; Item 6, *supra* note 2, at 12, 14; Item 7, *supra* note 2, at 6; Item 8, *supra* note 2, at 1.

⁵ Item 4, *supra* note 2, at 1; Item 6, *supra* note 2, at 12.

⁶ Item 5, *supra* note 2, at 31; Item 6, *supra* note 2, at 12-13; Item 7, *supra* note 2, at 5; Item 8, *supra* note 2, at 2.

and the creditor agreed to a repayment plan in May 2017, under which he is to make monthly \$25 payments.⁷ The account balance had increased to \$52,180.13. Applicant consolidated his payment on this account with identical payments on two other accounts with the same creditor, and has been routinely making those payments.⁸ The account is in the process of being resolved.

(SOR ¶ 1.c.): a student loan with a high credit of \$53,164 and an unpaid and past due balance of \$34,297 that went into a default status.⁹ In March 2017, a Wage Garnishment Order was issued to Applicant's employer.¹⁰ In May 2017, Applicant and the servicing agent agreed to a Repayment Agreement Under the Loan Rehabilitation Program, under which Applicant would make monthly \$5 payments.¹¹ Applicant's payment history reflects 13 garnishment payments and self-payments totaling \$1,000.04 since April 2017.¹² The account is in the process of being resolved.

(SOR ¶ 1.d.): a home improvement loan from a credit union with an unpaid and past due balance of \$21,268 that was charged off.¹³ Applicant and the creditor agreed to a repayment plan in May 2017, under which he is to make monthly \$25 payments.¹⁴ The account balance had increased to \$24,589.46. Applicant consolidated his payment on this account with identical payments on two other accounts with the same creditor, and has been routinely making those payments.¹⁵ The account is in the process of being resolved.

(SOR ¶ 1.e.): a credit card from a credit union with a \$10,000 credit limit and an unpaid and past due balance of \$10,571 that was charged off.¹⁶ Applicant and the creditor agreed to a repayment plan in May 2017, under which he is to make monthly \$25 payments.¹⁷ The account balance had increased to \$11,583.56. Applicant consolidated

⁷ Letter, dated May 18, 2017, attached to Applicant's Answer to the SOR.

⁸ Receipts, various dates, attached to Applicant's Response to the FORM; Letters, various dates, attached to Applicant's Response to the FORM.

⁹ Item 8, *supra* note 2, at 2.

¹⁰ Wage Garnishment File, dated March 14, 2017, attached to Applicant's Answer to the SOR.

¹¹ Repayment Agreement Under the Loan Rehabilitation Program, dated May 12, 2017, attached to Applicant's Answer to the SOR.

¹² Payment History, undated, attached to Applicant's Response to the FORM.

¹³ Item 5, *supra* note 2, at 31-32; Item 6, *supra* note 2, at 13; Item 7, *supra* note 2, at 5; Item 8, *supra* note 2, at 2.

¹⁴ Letter, dated May 18, 2017, attached to Applicant's Answer to the SOR.

¹⁵ Receipts, *supra* note 8; Letters, various dates, attached to Applicant's Response to the FORM.

¹⁶ Item 6, *supra* note 2, at 13; Item 7, *supra* note 2, at 5; Item 8, *supra* note 2, at 2.

¹⁷ Letter, dated May 18, 2017, attached to Applicant's Answer to the SOR.

his payment on this account with identical payments on two other accounts with the same creditor, and has been routinely making those payments.¹⁸ The account is in the process of being resolved.

(SOR ¶ 1.f.): a child support account that was purportedly initially past due in the amount of \$4,259, but later reduced to \$3,753.¹⁹ Applicant made a few monthly payments in 2014, and in March 2015, he started routinely making monthly payments. In August 2015, an income withholding order was issued,²⁰ and commencing in September 2015, his by-weekly payments were set at \$242, totaling \$484 per month. In April 2017, his state income tax refund of \$534 was offset and applied to his child support obligations,²¹ and that same month, his federal income tax refund of \$2,072.27 was offset and applied to his child support obligations.²² In his Answer to the SOR, Applicant contended that the debt had been reduced to less than \$1,000.²³ The Account Financial Summary prepared by the state in August 2017 indicates that the arrearage has been resolved because nothing from his August payment was applied to any arrearage.²⁴ The account has been resolved.

(SOR ¶ 1.g.): a bank credit card with a \$2,300 credit limit and an unpaid and past due balance of \$2,545 that was charged off.²⁵ Applicant and the creditor discussed three payment options (1. pay full amount; 2. pay settlement amount; or 3. make monthly payments), but because he could not afford the first two options, he selected the third option. Applicant made his initial \$25 payment on May 12, 2017.²⁶ Applicant made another \$25 payment on July 28, 2017.²⁷ While Applicant's two payments were not made in consecutive months, he has nevertheless made two payments under the repayment plan. The account is in the process of being resolved.

(SOR ¶ 1.h.): a bank credit card with a \$1,500 credit limit and an unpaid balance of \$1,538.²⁸ Applicant and the collection agent agreed to a repayment plan in May 2017, under which he is to make monthly \$25 payments, commencing in June 2017.²⁹ In August

¹⁸ Receipts, *supra* note 8; Letters, various dates, attached to Applicant's Response to the FORM.

¹⁹ Item 6, *supra* note 2, at 13-14; Item 7, *supra* note 2, at 7; Item 8, *supra* note 2, at 2.

²⁰ Income Withholding Order, dated August 18, 2015, attached to Applicant's Answer to the SOR.

²¹ Letter, dated April 26, 2017, attached to Applicant's Answer to the SOR.

²² Letter, dated April 28, 2017, attached to Applicant's Answer to the SOR.

²³ Item 4, *supra* note 2, at 3.

²⁴ Financial Summary, dated August 11, 2017, attached to Applicant's Response to the FORM.

²⁵ Item 6, *supra* note 2, at 13; Item 7, *supra* note 2, at 5; Item 8, *supra* note 2, at 2.

²⁶ Item 4, *supra* note 2, at 4; Sales Draft, dated May 12, 2017, attached to Applicant's Answer to the SOR.

²⁷ Sales Draft, dated July 28, 2017, attached to Applicant's Response to the FORM.

²⁸ Item 6, *supra* note 2, at 13-14; Item 7, *supra* note 2, at 6, 9; Item 8, *supra* note 2, at 2.

²⁹ Letter, dated May 16, 2017, attached to Applicant's Answer to the SOR.

2017, the same collection agent wrote Applicant and indicated that the outstanding balance on the account was \$1,462.95, thus inferring that three \$25 payments had already been received.³⁰ The account is in the process of being resolved.

(SOR ¶ 1.i.): a medical account with an unidentified provider with a reported unpaid balance of \$601.³¹ Applicant was unaware of the account, and when he sought information from Equifax, he was purportedly informed that no such account was in their system.³² The account is not listed in the 2017 Equifax credit report. Since the creditor is not identified, and Equifax no longer has a record of the account, Applicant has exhausted his possible avenues of resolution. The account appears to have been resolved.

Applicant failed to submit a Personal Financial Statement to reflect his monthly income; monthly expenses; or any monthly remainder that might be available for discretionary spending or savings. In the absence of such information, it is difficult to determine if he has sufficient funds to maintain his new accounts in a current status while his various repayment arrangements are underway. However, a review of his January 2017 credit report reveals no new delinquent accounts. There is no evidence of financial counseling. Nevertheless, Applicant has made significant progress in stabilizing his finances and avoiding other financial delinquencies. Other than the foreclosure and the unidentified medical account, Applicant has either resolved, or is in the process of resolving, his other delinquent debts. With no additional financial distractions, Applicant's finances appear to be under control.

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."³³ 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."³⁴

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

³⁰ Letter, dated August 28, 2017, attached to Applicant's Response to the FORM.

³¹ Item 7, *supra* note 2, at 9.

³² Item 4, *supra* note 2, at 4.

³³ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

³⁴ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

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."³⁵ 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.³⁶

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."³⁷

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."³⁸ 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

³⁵ "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).

³⁶ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

³⁷ *Egan*, 484 U.S. at 531.

³⁸ See Exec. Or. 10865 § 7.

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 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), an “inability to satisfy debts” is potentially disqualifying. In addition, AG ¶ 19(b) may apply if there is an “unwillingness to satisfy debts regardless of the ability to do so.” Similarly, under AG ¶ 19(c), “a history of not meeting financial obligations” may raise concerns. Applicant lost one residence to foreclosure, a student loan was in default, his child support was in arrears, and he had a number of credit cards and other accounts become delinquent, with some being charged off. AG ¶¶ 19(a) and 19(c) 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 disqualifying condition may be mitigated where “the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment.” Also, under AG ¶ 20(b), financial security concerns may be mitigated where “the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances.” Evidence that “the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control” is potentially mitigating under AG ¶ 20(c).

Similarly, AG ¶ 20(d) applies where the evidence shows “the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.”³⁹ In addition, AG ¶ 20(e) may apply if “the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.”

I have concluded that AG ¶¶ 20(a), 20(b), and 20(d) apply, AG ¶ 20 (c) partially applies, and AG ¶ 20(e) does not apply. Applicant’s financial issues commenced in January 2013 when he lost his job and \$135,000 annual salary as a result of a RIF. His job search was interrupted when he had to care for his ailing mother. Those two factors were clearly beyond Applicant’s control. Unable to work full-time, Applicant managed to work part-time as a self-employed computer repair consultant. The loss of his income along with his depleted savings, left him unable to maintain his accounts in a current status. Applicant’s plan was to get established in his new job, save money, and then reach out to his creditors, but those intentions were thwarted when his mother’s health deteriorated. She never fully recovered, and she perished in September 2016.

Applicant acted responsibly by seeking information from his creditors or collection agents.⁴⁰ He returned to work, reestablished his plans, reconnected with his creditors, established a budget, and commenced making repayments to his creditors. Applicant has made significant progress in stabilizing his finances and avoiding other financial delinquencies. Other than the foreclosure and the unidentified medical account, Applicant has either resolved, or is in the process of resolving, his other delinquent debts. With no additional financial distractions, Applicant’s finances appear to be under control. Applicant is committed to resolving his delinquent accounts. While there is no evidence that Applicant received financial counseling, his January 2017 Equifax credit report reflects no other delinquent accounts. Applicant has made significant progress in stabilizing his finances and avoiding other financial delinquencies. Applicant’s actions under the

³⁹ 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)).

⁴⁰ “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.

circumstances no longer cast doubt on his current reliability, trustworthiness, and good judgment.⁴¹

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.

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.⁴²

There is some evidence against mitigating Applicant's conduct. His residence was foreclosed, his student loan went into default, child support fell into arrears, and several credit cards and other accounts became delinquent, with some being charged off. Those debts total approximately \$118,154.

The mitigating evidence under the whole-person concept is more substantial. Applicant's financial issues commenced in January 2013, when he lost his job and his

⁴¹ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁴² 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).

\$135,000 annual salary as a result of a RIF. His job search was interrupted when he had to care for his ailing mother. The loss of his income along with his depleted savings, left him unable to maintain his accounts in a current status. By the time he obtained a new job, his accounts had become delinquent. Applicant's plan was to get established in his new job, save money, and then reach out to his creditors, but those intentions were thwarted when his mother's health deteriorated. He eventually returned to work, reestablished his plans, reconnected with his creditors, established a budget, and commenced making repayments to his creditors. Applicant has either resolved, or is in the process of resolving, nearly all of his delinquent debts. While there is no evidence that Applicant received financial counseling, he is committed to resolving his delinquent accounts. Applicant has made significant progress in stabilizing his finances and avoiding other financial delinquencies. Applicant's actions under the circumstances no longer cast doubt on his current reliability, trustworthiness, and good judgment.⁴³

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁴⁴

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. He has no other delinquent accounts. Applicant's financial situation appears to be under control.

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

⁴³ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁴⁴ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Applicant has mitigated the security concerns arising from his financial considerations. See SEAD 4, App. A, ¶¶ 2(d)(1) through AG 2(d)(9).

Formal Findings

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

Paragraph 1, Guideline F: FOR APPLICANT

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

Conclusion

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

ROBERT ROBINSON GALES
Administrative Judge