



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 17-04323

Appearances

For Government: Bryan Olmos, Esquire, Department Counsel

For Applicant: *Pro se*

10/19/2018

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding financial considerations. Eligibility for a security clearance is granted.

Statement of the Case

On April 11, 2016, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application. On January 12, 2018, 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 Directive 4 of the Security Executive Agent (SEAD 4), (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, effective June 8, 2017.

The SOR 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 January 24, 2018. In a notarized statement, dated April 3, 2018, Applicant responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on May 2, 2018. The case was assigned to me on June 18, 2018. A Notice of Hearing was issued on July 11, 2018. I convened the hearing as scheduled on July 27, 2018.

During the hearing, 4 Government exhibits (GE) 1 through GE 4, and 11 Applicant exhibits (AE) A through AE K were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on August 8, 2018. I kept the record open to enable Applicant to supplement it. He took advantage of that opportunity and timely submitted one document, which was marked and admitted as AE K, without objection. The record closed on August 24, 2018.

Findings of Fact

In his Answer to the SOR, Applicant admitted with comments nearly all of the factual allegations pertaining to financial considerations of the SOR (SOR ¶¶ 1.a. through 1.k., and 1.m.), and he denied the one remaining allegation. 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 58-year-old employee of a defense contractor. He has been serving as an electronic technician with different employers on the same contract since 2014. A 1978 high school graduate, Applicant received a bachelor's of science degree in computer science in 2004. He enlisted in the U.S. Air Force in May 1979, and he served on active duty until he was honorably discharged on July 30, 1987 as a Staff Sergeant (E-5). He was granted a secret clearance in 1981, and again in 2005. Applicant was married in September 1979, and divorced in April 1987. He remarried in November 1990. He has two children and three stepchildren.

Military Service, Awards, and Decorations

During his military service, Applicant was awarded the Air Force Commendation Medal, the Air Force Outstanding Unit Award, the Air Force Good Conduct Medal (with one cluster), the Humanitarian Service Medal, the Air Force Overseas Short Tour Ribbon, the Air Force Overseas Long Tour Ribbon, the Air Force Longevity Service Award Ribbon

(with one cluster), the Small Arms Expert Marksmanship Ribbon, and the Air Force Training Ribbon.¹

Financial Considerations²

Applicant attributed his financial difficulties to several different issues that initially arose in or about mid-2015: his wife's employer went out of business; his business relocation required that he move halfway across the country, and that relocation caused his wife to lose her part-time home-based business income of approximately \$1,000 per month because she lost her customer base; the residence they moved from became a rental property, and eventually his tenants lost their own jobs and were unable to pay the rent and one of their utilities; Applicant came back to his old position so he could move back into the family residence where he could repair it, save it, and put it on the market to sell it; he was required to obtain health insurance under the Affordable Care Act (ACA) which cost him \$1,800 per month – an amount he could not afford – so he removed his wife from coverage to save money, but incurred a federal tax penalty because she was no longer covered; and his wife subsequently required surgery without insurance coverage.³ Because of the additional unexpected expenses, insufficient funds caused some of his accounts to become delinquent.

Applicant and his wife jointly work on a budget, but she has responsibility, with his input, over the finances. They have two lists of bills to pay each payday, and they pay whatever they can, either on-line or by phone.⁴ Applicant sought financial guidance from his employer, but his site manager was unable to furnish him any such guidance. With respect to the delinquent accounts, Applicant had three separate plans: plan A is to sell the house and pay off the delinquent debts before the end of the year; plan B is to engage the professional services of a certified credit counselor to assist him in attempting to resolve those delinquent accounts; and plan C is to attempt to resolve the delinquent accounts by himself. Applicant started plan B, but because of difficulties encountered with the credit counselor, he voided the engagement. Also, some of the creditors refused to work with his credit counselor for a variety of reasons, but some agreed to do so. Pending the completion of plan A, Applicant turned to plan C, and he has worked with some creditors to settle or pay off some of those accounts, and he has a list of other accounts which he intends to address as others are resolved. Applicant's most recent proposed

¹ AE L (Certificate of Release or Discharge from Active Duty (DD Form 214), dated July 30, 1987).

² General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1 (e-QIP, dated April 11, 2016); GE 2 (Personal Subject Interview, dated September 8, 2017); GE 2 (Personal Subject Interview, dated September 15, 2017); GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 28, 2016); GE 4 (Equifax Credit Report, dated December 4, 2017); AE A (TransUnion Credit Report, dated February 2, 2018); AE O (Experian Credit Report, dated September 22, 2017); and Applicant's Answer to the SOR, dated February 13, 2018.

³ Tr. at 27-38; Letter, dated September 15, 2017, attached to GE 2; AE J (Form 1095-B, Health Coverage – 2017, undated).

⁴ Tr. at 37; AE G (Budget, various dates).

repayment plan reflected monthly payments to eight creditors and the credit counselor in the total amount of \$457, but that repayment plan was not enacted.⁵

The SOR identified 13 purportedly delinquent accounts that had been placed for collection or charged off, as generally reflected by Applicant's June 2016 credit report or December 2017 credit report. Those debts total approximately \$20,606. The current status of those accounts, is as follows.

(SOR ¶ 1.a.): This is a bank-issued store charge account with an unpaid balance of \$5,105 that was sold to a debt purchaser.⁶ Although Applicant has not yet made any payments on this account, the debt purchaser was originally scheduled to be paid \$105 on a monthly basis once the first set of delinquent debts has been satisfied.⁷ The account has not been resolved.

(SOR ¶¶ 1.b. and 1.j.): These are two separate listings of the same bank-issued credit card for an outdoor recreation retail specialty store with two separate snapshots of the changing unpaid balances of \$2,583 and \$3,083 that were charged off.⁸ The bank that issued the credit card was subsequently purchased by a larger bank.⁹ Applicant has been making monthly payments of at least \$25 under a payment plan since either August 2015 or April 2016, and he intends to increase that amount once another debt is resolved. While one of the credit report listings simply referred to the pay status as "charged off," the other listing reported it as "current; paid or paying as agreed."¹⁰ The account is in the process of being resolved.

(SOR ¶ 1.c.): This is a bank-issued charge account for an automobile service center with an unpaid and past-due balance of \$2,280 that was sold to a debt purchaser.¹¹ The debt purchaser was originally scheduled to be paid \$47 on a monthly basis once the first set of delinquent debts has been satisfied.¹² However, a claim was filed against Applicant in court in January 2018, and on February 13, 2018, Applicant paid the

⁵ AE I (Credit Counseling File, various dates); Tr. at 42-43.

⁶ GE 3, *supra* note 1, at 16; GE 4, *supra* note 1, at 2; AE A, *supra* note 1, at 9.

⁷ AE I, *supra* note 5, at 4.

⁸ GE 3, *supra* note 1, at 6; GE 4, *supra* note 1, at 2.

⁹ AE B (Letter, dated June 21, 2018).

¹⁰ AE A, *supra* note 1, at 2-3, 13-14; AE B, *supra* note 9; Applicant's Answer to the SOR, *supra* note 1, at 1; Tr. at 43-45.

¹¹ GE 3, *supra* note 1, at 6; GE 4, *supra* note 1, at 2.

¹² AE I, *supra* note 5, at 4.

plaintiff/debt purchaser \$2,280.31 that was borrowed from his mother. The lawsuit was voluntarily dismissed on February 23, 2018.¹³ The account has been resolved.

(SOR ¶ 1.d.): This is a bank-issued charge account for a retail home improvement store with an unpaid balance of \$2,153 that was sold to a debt purchaser.¹⁴ The debt purchaser was originally scheduled to be paid \$45 on a monthly basis once the first set of delinquent debts has been satisfied.¹⁵ Applicant anticipated making his initial payment in September 2018.¹⁶ The account has not been resolved.

(SOR ¶ 1.e.): This is a bank-issued department store charge account with an unpaid balance of \$1,382 that was charged off and sold to a debt purchaser.¹⁷ The debt purchaser was originally scheduled to be paid \$42 on a monthly basis once the first set of delinquent debts has been satisfied.¹⁸ However, in April 2018, the debt purchaser offered to settle the account for \$1,037.19, a savings to Applicant of \$345.72. Applicant agreed to the offer, and on June 15, 2018, his final payment was received by the debt purchaser, and the account was considered settled with a zero balance.¹⁹ The account has been resolved.

(SOR ¶ 1.f.): This is a bank-issued furniture store charge account with an unpaid balance of \$1,231 that was charged off and sold to a debt purchaser.²⁰ Although Applicant has not yet made any payments on this account, the debt purchaser was originally scheduled to be paid \$31 on a monthly basis once the first set of delinquent debts has been satisfied.²¹ The account has not been resolved.

(SOR ¶ 1.g.): This is a cellular telephone account with an unpaid balance of \$1,017.²² Although Applicant has not yet made any payments on this account, he intends to make his initial payments once the first set of delinquent debts has been satisfied. The account has not been resolved.

¹³ AE C (Statement of Claim and Notice of Voluntary Dismissal, various dates).

¹⁴ GE 3, *supra* note 1, at 17; GE 4, *supra* note 1, at 2.

¹⁵ AE I, *supra* note 5, at 4.

¹⁶ Tr. at 47.

¹⁷ GE 3, *supra* note 1, at 6; GE 4, *supra* note 1, at 2; AE A, *supra* note 1, at 3-4.

¹⁸ AE I, *supra* note 5, at 4.

¹⁹ AE D (Letters, various dates).

²⁰ GE 4, *supra* note 1, at 2; AE A, *supra* note 1, at 6.

²¹ AE I, *supra* note 5, at 4.

²² GE 4, *supra* note 1, at 2.

(SOR ¶ 1.h.): This is an unspecified type of telephone account with an unpaid balance of \$599.²³ Although Applicant has not yet made any payments on this account, he intends to make his initial payments once the first set of delinquent debts has been satisfied. The account has not been resolved.

(SOR ¶ 1.i.): This is an Internet or cable television account with an unpaid balance of \$181.²⁴ Although Applicant has not yet made any payments on this account, he intends to make his initial payments once the first set of delinquent debts has been satisfied. The account has not been resolved.

(SOR ¶ 1.k.): This is a power utility account that became over 120 days past due in the amount of \$764 when Applicant's tenants were evicted from his rental property for not paying him their rent and they departed without paying their utility bill.²⁵ In order to switch service back into his name, Applicant was placed on a prepay basis. In accordance with that decision, 25 percent of each bill paid by Applicant is credited to the deferred arrearage.²⁶ Applicant's most recent payment for \$100 was made on July 13, 2018, and the remaining unpaid balance was reduced to \$621.50.²⁷ The account is in the process of being resolved.

(SOR ¶ 1.l.): This is an unspecified type of telephone account with an unpaid balance of \$122.84.²⁸ However, in May 2017, the collection agent offered to settle the account for \$67.56. Applicant agreed to the offer, and on May 9, 2017, his payment was received by the creditor, and the account was considered settled with a zero balance.²⁹ The account has been resolved.

(SOR ¶ 1.m.): This is an unspecified type of utility account with an unpaid balance of \$106.³⁰ At the hearing, Applicant acknowledged that he had not yet addressed the account because he was focusing on other accounts. He stated an intention to call the creditor and pay off the balance.³¹ The account has not been resolved.

²³ GE 3, *supra* note 1, at 17; GE 4, *supra* note 1, at 2.

²⁴ GE 3, *supra* note 1, at 17; GE 4, *supra* note 1, at 2.

²⁵ GE 3, *supra* note 1, at 6.

²⁶ Applicant's Answer to the SOR, *supra* note 1, at 1-2.

²⁷ AE E (Account Status, undated).

²⁸ GE 3, *supra* note 1, at 17.

²⁹ AE F (Letters, various dates).

³⁰ GE 3, *supra* note 1, at 18.

³¹ Tr. at 54.

Applicant submitted a budget, prepared in July 2018. It reflected a monthly net income of \$4,640; monthly expenses of \$3,967; and a monthly remainder of \$673 that might be available for discretionary spending or savings.³² Other than the delinquent debts listed above, Applicant is aware of only one other delinquent account. He pays his federal and state income taxes, and has received refunds. There is no evidence of financial counseling. Nevertheless, Applicant has made significant progress in stabilizing his finances and avoiding other more recent financial delinquencies. Once he sells his house and relocates to his earlier location where the taxes and expenses are lower, he can focus on his delinquent accounts to resolve them under a combination of his plans A and C.

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 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

³² AE G, *supra* note 4, at 4; AE K (Church Contributions, dated January 19, 2018).

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.

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.

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 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

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.

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.

A number of Applicant's charge accounts, credit-card accounts, and other commercial accounts became delinquent, and they were placed for collection, charged off, or sold to debt purchasers. 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;³⁹
- (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

³⁹ A debt that became delinquent several years ago is still considered recent because "an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sep. 13, 2016)).

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;⁴⁰ 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), and 20(d) all partially or fully apply, and ¶ 20(e) does not apply. Applicant's financial difficulties initially arose in or about mid-2015, and they were exacerbated by other events over the ensuing two years: his wife's employer went out of business; his business relocation caused his wife to lose her part-time home-based business income; the residence they moved from became a rental property, and eventually his tenants lost their own jobs and were unable to pay the rent and one of their utilities; Applicant returned to the family residence so he could repair it, save it, and put it on the market to sell it; he was required to obtain health insurance under the ACA which cost him \$1,800 per month – an amount he could not afford – so he removed his wife from coverage to save money, but incurred a federal tax penalty because she was no longer covered; and his wife subsequently required surgery without insurance coverage. Those factors were clearly beyond Applicant's control. Although he was faced with insufficient funds to enable him to maintain his accounts in a current status, Applicant tried to take the honorable course and sought assistance from at least one credit counselor, but that relationship failed.

Applicant had three separate plans to resolve his delinquent debts. While the plan involving the credit counselor failed, circumstances led him to try one plan (starting to

⁴⁰ 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)).

resolve accounts on his own) while preparing for the remaining plan (selling the residence to resolve the remaining debts). Of the delinquent accounts alleged in the SOR, they can be separated into two groups. Applicant has either started making monthly payments, settled accounts at a reduced amount, or entirely paid off several of those accounts in the first group. While he has taken little action to resolve the remaining accounts in the other group, he has a list of those accounts, and he intends to address them as others are resolved.

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, Applicant has made significant progress in stabilizing his finances and avoiding other major financial delinquencies. With a current monthly remainder of \$673 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, first by seeking financial guidance, then by establishing several plans to resolve his debts, and finally by addressing individual accounts, one at a time.⁴¹ Once he sells his house and relocates to his earlier location where the taxes and expenses are lower, he can focus on his remaining delinquent accounts to resolve them under a combination of his plans.⁴² Applicant's actions under the circumstances no longer cast doubt on his current reliability, trustworthiness, and good judgment.⁴³

⁴¹ "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. 990462 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.

⁴² It should be noted that the Appeal Board has indicated that promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. ISCR Case No. 07-13041 at 4 (App. Bd. Sep. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)).

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

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a 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.⁴⁴

There is some evidence against mitigating Applicant's conduct. Commencing in mid-2015, a number of Applicant's charge accounts, credit-card accounts, and other commercial accounts, totaling approximately \$20,606, became delinquent, and they were placed for collection, charged off, or sold to debt purchasers.

The mitigating evidence under the whole-person concept is more substantial. Applicant is a 58-year-old employee of a defense contractor, serving as an electronic technician on the same contract since 2014. He received a bachelor's of science degree in computer science in 2004. He enlisted in the U.S. Air Force in May 1979, and he served on active duty until he was honorably discharged on July 30, 1987 as a Staff Sergeant. He was granted a secret clearance in 1981, and again in 2005. Two of the larger accounts listed in the SOR are different versions of the same account. Applicant did not ignore his delinquent accounts. Instead, he set up three different plans to resolve them, and after ruling out the first plan, he devised a strategy of following up with a combination of the two other plans. Some of his delinquent accounts have been resolved or are in the process of being resolved. The remaining debts are expected to be resolved in the near future.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁴⁵

⁴⁴ 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).

⁴⁵ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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 fair-to-good track record of debt reduction and elimination efforts, resolving some of his debts, limited only by insufficient funds, and lining up the remaining debts for eventual resolution. Overall, the evidence leaves me without substantial 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).

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.m.:	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