



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



In the matter of: )  
 )  
 --- ) ISCR Case No. 14-06560  
 )  
 Applicant for Security Clearance )

**Appearances**

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

12/30/2015

**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 June 9, 2011, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.<sup>1</sup> On February 11, 2015, 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) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. The SOR alleged security concerns under Guideline F (Financial

<sup>1</sup> GE 1 (e-QIP, dated June 9, 2011).

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 23, 2015. On February 27, 2015, Applicant responded to the SOR allegations and elected to have his case decided on the written record in lieu of a hearing. However, on a subsequent unspecified date, he changed his decision and requested a hearing before an administrative judge.<sup>2</sup> Department Counsel indicated the Government was prepared to proceed on July 21, 2015. The case was assigned to me on July 22, 2015. A Notice of Hearing was issued on July 31, 2015, and I convened the hearing as scheduled on August 24, 2015.

During the hearing, one administrative exhibit, three Government exhibits (GE) 1 through GE 3, and nine Applicant exhibits (AE) A through AE I were admitted into evidence without objection. Applicant and one witness testified. The transcript (Tr.) was received on September 1, 2015. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity. He timely submitted a number of documents, which were marked as AE J through AE N and admitted into evidence without objection. The record closed on September 14, 2015.

### **Findings of Fact**

In his Answer to the SOR, Applicant admitted three of the factual allegations pertaining to financial considerations (¶¶ 1.a., 1.c., and 1.d.). Applicant's answers 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 43-year-old former employee of a defense contractor. He had been a computer field technician from April 2014 until January 2015, when he was "let go," subject to recall, because his security clearance was "inactivated."<sup>3</sup> The recall period has expired.<sup>4</sup> He has been unemployed and seeking permanent employment since January 2015.<sup>5</sup> A June 1987 high school graduate,<sup>6</sup> Applicant subsequently completed some college coursework, but has not completed the requirements for a degree.<sup>7</sup> He held a secret security clearance from October 2002 until January 2015, and once held

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<sup>2</sup> AE E (Letter, undated), at 1. It should be noted that although the letter is undated, Applicant sent it by facsimile to a Department Counsel with the Defense Office of Hearings and Appeals (DOHA) on June 16, 2015.

<sup>3</sup> Applicant's Answer to the SOR, dated February 25, 2015, at 2; Tr. at 8, 41-426.

<sup>4</sup> Applicant's Answer to the SOR, *supra* note 3, at 2.

<sup>5</sup> Tr. at 42.

<sup>6</sup> Tr. at 92.

<sup>7</sup> Tr. at 6-7.

the position of security manager for his unit.<sup>8</sup> Applicant was married in November 1996.<sup>9</sup> He has no children.

### **Military Service**

Applicant enlisted in the U.S. Air Force in March 1992, and he served on active duty until he was honorably discharged in July 1999.<sup>10</sup> In March 2000, he enlisted in the Air National Guard (ANG) where he remained until June 2008 when he returned to the U.S. Air Force.<sup>11</sup> He retired honorably as a Master Sergeant (E-7) in January 2013.<sup>12</sup> During his military service, he was awarded the Air Force Meritorious Service Medal, the Air Reserve Forces Meritorious Service Medal with two oak leaf clusters, the Air Force Commendation Medal with one oak leaf cluster, the Air Force Achievement Medal with one oak leaf cluster, the Air Force Good Conduct Medal with two oak leaf clusters, the National Defense Service Medal with one service star, the Air Force Outstanding Unit Award, the Air Force Organizational Excellence Award with three oak leaf clusters, the Global War on Terrorism Service Medal, the Humanitarian Service Medal, the Air Force Longevity Service Ribbon with two oak leaf clusters, the Armed Forces Reserve Medal with one hourglass device, the Air Force Training Ribbon, and the Air Force Professional Military Education (PME) Graduate Ribbon with one oak leaf cluster.<sup>13</sup>

### **Financial Considerations**

A review of Applicant's June 2011 credit report reveals some isolated delinquencies as far back as 2005.<sup>14</sup> There was nothing unusual about his finances until about 2010. He and his wife had purchased a mobile home in 1997 for approximately \$36,000, and they resided in it for about 10 years, when they decided to purchase a new starter home that seemed more affordable to them. Applicant's wife's sons and niece rented the mobile home from them and continued to reside in it for several years. The sons moved out, and then the niece decided that she could no longer afford residing in the mobile home. Applicant sought to either rent or sell the mobile home. The mobile home park upon which the mobile home was located refused to permit a non-family member to reside in the mobile home, thus thwarting any opportunity to rent the mobile home. No "for sale" signs were permitted making it difficult to sell. At the time, Applicant was paying \$400 per month for the mortgage and \$200 per month for the

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<sup>8</sup> GE 1, *supra* note 1, at 25-26; Applicant's Answer to the SOR, *supra* note 3, at 2.

<sup>9</sup> GE 1, *supra* note 1, at 17.

<sup>10</sup> GE 1, *supra* note 1, at 14-15.

<sup>11</sup> AE N (Certificate of Appointment, dated June 25, 2008).

<sup>12</sup> AE N (Certificate of Release or Discharge from Active Duty (DD Form 214), dated January 31, 2013); GE 1, *supra* note 1, at 14.

<sup>13</sup> AE N, *supra* note 11; AE N (Award Certificate, dated January 20, 2013).

<sup>14</sup> GE 2 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 21, 2011), at 5, 9.

trailer park space. It would have cost Applicant approximately \$5,000 to relocate the mobile home, but that amount simply was too much for him to handle. Applicant contacted the creditor but nothing could be worked out, so Applicant agreed to voluntarily relinquish it. The mobile home was repossessed in June 2010 and eventually sold for \$9,800. The creditor demanded approximately \$21,000 to pay off the loan. A repayment plan was rejected by the creditor. The balance was charged off in July 2010. Applicant sought guidance from a financial advisor at a bank. Based on the known facts, the financial advisor said it would be in Applicant's best interest if he did not settle the account with the creditor because the statute of limitations would expire and the account would be removed from his credit report by March 2017. Applicant followed that advice and focused on reducing or paying off credit cards and auto loans.<sup>15</sup>

The SOR identified four purportedly delinquent debts that had been placed for collection or charged off, as reflected by the June 2011 credit report,<sup>16</sup> and an August 2014 credit report.<sup>17</sup> Those debts, totaling approximately \$21,843, and their respective current status, according to the credit reports, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below.

(SOR ¶ 1.a.): This is the mortgage loan for the mobile home discussed above. Upon learning of the SOR focus on this and other accounts, Applicant again contacted the creditor in an effort to establish a repayment plan. Although the current balance on the account was listed as \$21,066, the creditor offered to settle it for one payment of \$5,000, an amount that Applicant could not accumulate because of his unemployment status. Also required by the creditor was a "financial hardship letter" explaining Applicant's current financial status.<sup>18</sup> In September 2015, Applicant proposed a lump-sum settlement for \$3,000, and noted that the statute of limitations had already expired. In anticipation of some sort of agreed settlement, Applicant withdrew \$10,375.96 from his Thrift Savings Plan (TSP) to enable him to resolve this one remaining delinquent account.<sup>19</sup> No response from the creditor has yet been received. Nevertheless, the account is in the process of being resolved.

(SOR ¶ 1.b.): This is an automobile loan with a high credit of \$14,548 and remaining balance of \$397 that was placed for collection, charged off, and sold to a debt purchaser.<sup>20</sup> Applicant denied the allegation and contacted the creditor in an effort to resolve it. Applicant contends that he paid off the car loan in 2005 and received the title.

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<sup>15</sup> Applicant's Answer to the SOR, *supra* note 3, at 1; GE 3 (Equifax Credit Report, dated August 12, 2014), at 13; AE D (TransUnion Credit Report, dated February 24, 2015), at 3; AE K (Letter, dated September 8, 2015), at 1-2; AE L (Letter, dated September 9, 2015), at 1; Tr. at 24, 45-62.

<sup>16</sup> GE 2, *supra* note 14.

<sup>17</sup> GE 3, *supra* note 15.

<sup>18</sup> AE E, *supra* note 2, at 1; AE L, *supra* note 15, at 1.

<sup>19</sup> AE K, *supra* note 15, at 2; AE L, *supra* note 15, at 1; AE M (Check, dated August 31, 2015).

<sup>20</sup> GE 2, *supra* note 14, at 9, 13.

He traded the vehicle to a used car dealer in 2007.<sup>21</sup> The account does not appear in his August 2014 credit report<sup>22</sup> or in his February 2015 credit report.<sup>23</sup> Applicant called the creditor when he learned of the alleged delinquent status of the account, but the creditor had no recollection of any remaining unpaid balance.<sup>24</sup> It appears that the account was resolved in 2005, ten years before the issuance of the SOR.

(SOR ¶ 1.c.): This is a cellular telephone account with a high credit and a remaining past-due balance of \$265 that was placed for collection and charged off in January 2007.<sup>25</sup> Applicant contended that the account was paid in full as of February 2, 2007. The account does not appear in his August 2014 credit report<sup>26</sup> or in his February 2015 credit report.<sup>27</sup> The creditor acknowledged that the account had been previously paid in full.<sup>28</sup> It appears that the account was resolved in 2007, eight years before the issuance of the SOR.

(SOR ¶ 1.d.): This is a cellular telephone account with a high credit and a remaining past-due balance of \$115 that was placed for collection and charged off in May 2011.<sup>29</sup> The account was sold to a debt purchaser in August 2011.<sup>30</sup> Applicant contended that the account was paid in full August 17, 2012, and Applicant's August 2014 credit report confirms that the account was paid before October 2012.<sup>31</sup> The debt purchaser and its attorney have confirmed that the debt has been paid.<sup>32</sup> The account does not appear in his February 2015 credit report.<sup>33</sup> It appears that the account was resolved in 2012, three years before the issuance of the SOR.

In August 2015, Applicant met with a financial counselor at the military facility's Airman and Family Readiness Center to prepare an action plan. They reviewed his

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<sup>21</sup> Applicant's Answer to the SOR, *supra* note 3, at 2; Tr. at 70-71.

<sup>22</sup> See GE 3, *supra* note 15.

<sup>23</sup> See AE D, *supra* note 15.

<sup>24</sup> Tr. at 71-73; AE H (E-Mail Stream, various dates); AE E, *supra* note 2, at 1; Applicant's Answer to the SOR, *supra* note 3, at 2.

<sup>25</sup> GE 2, *supra* note 14, at 11.

<sup>26</sup> See GE 3, *supra* note 15.

<sup>27</sup> See AE D, *supra* note 15.

<sup>28</sup> AE G (E-Mail, dated May 28, 2015).

<sup>29</sup> GE 2, *supra* note 14, at 11.

<sup>30</sup> GE 3, *supra* note 15, at 2.

<sup>31</sup> Applicant's Answer to the SOR, *supra* note 3, at 2; GE 3, *supra* note 15, at 2.

<sup>32</sup> AE F (Letter, dated May 28, 2015); AE I (Letter, dated May 28, 2015).

<sup>33</sup> See AE D, *supra* note 15.

finances, developed a budget, and prepared a financial strategy.<sup>34</sup> Applicant receives a net monthly military retirement income of \$2,018.<sup>35</sup> He does not collect unemployment compensation.<sup>36</sup> Applicant's wife has two jobs. She has been a waitress for over 20 years and a hairdresser for over 18 years. Depending on the number of hours she works, Applicant's wife may earn between \$1,000 and \$3,000 per month.<sup>37</sup> When he was still employed in 2014, Applicant was grossing around \$80,000 per year, and his monthly net income from that job alone was approximately \$2,466.<sup>38</sup> His normal monthly expenses are approximately \$4,001, and his consumer debt obligations are \$875.<sup>39</sup> Because of the fluctuation of his wife's income, it is unclear if there is a net monthly remainder available for discretionary savings or spending. Applicant's credit score dropped to 575 at one point. However, since May 2014, Applicant's credit score has improved from approximately 650 to 689 in February 2015.<sup>40</sup> Despite his present unemployment status, Applicant is continuing to pay his bills.

### **Work Performance and Character References**

A retired major has known Applicant for approximately a decade. He was at one point a branch chief with Applicant serving as a member of the branch. They worked very closely for several years until the major retired and became a civil servant. Their work relationship required interaction with both classified, unclassified, and sensitive information. The major always found it a "greater risk to not include [Applicant]. His ability to lead, his integrity, never in question. I mean I couldn't have gotten the things I got - - accomplished without him." Although Applicant is no longer working for him, they continued to see each other professionally when Applicant was providing his office with professional services. Applicant's honesty and integrity were never in doubt.<sup>41</sup>

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance."<sup>42</sup> As Commander in Chief, the President has the authority to control access to information bearing on national

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<sup>34</sup> AE J (Action Plan, undated); AE L, *supra* note 15, at 1-2.

<sup>35</sup> AE B (Retiree Account Statement, dated February 18, 2015).

<sup>36</sup> Applicant's Answer to the SOR, *supra* note 3, at 2.

<sup>37</sup> Tr. at 43-44.

<sup>38</sup> Applicant's Answer to the SOR, *supra* note 3, at 1; AE A (Leave and Earnings Statement, dated December 10, 2014).

<sup>39</sup> AE J, *supra* note 35.

<sup>40</sup> AE C (Credit Summary, dated February 27, 2015; Applicant's Answer to the SOR, *supra* note 3, at 1.

<sup>41</sup> Tr. at 31-37.

<sup>42</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

security and to determine whether an individual is sufficiently trustworthy to have access to such information. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.”<sup>43</sup>

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.”<sup>44</sup> The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government.<sup>45</sup>

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

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<sup>43</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>44</sup> “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994).

<sup>45</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

Furthermore, “security clearance determinations should err, if they must, on the side of denials.”<sup>46</sup>

Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.”<sup>47</sup> Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly, under AG ¶ 19(c), “a history of not meeting financial obligations” may raise security concerns. Applicant’s financial problems arose shortly after his “tenants” vacated his rented mobile home in 2010 and he relinquished it in a voluntary repossession. He was unable to pay the remaining balance on the mobile home or continue making some routine monthly payments on other accounts. Some accounts became delinquent and were placed for collection or charged off. AG ¶¶ 19(a) and 19(c) apply.

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

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<sup>46</sup> *Egan*, 484 U.S. at 531.

<sup>47</sup> See Exec. Or. 10865 § 7.

¶ 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, or a death, divorce or separation), and the individual acted responsibly under the circumstances.” Evidence that “the person has received or is receiving counseling for the problem and/or 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 a good-faith effort to repay overdue creditors or otherwise resolve debts.”<sup>48</sup>

AG ¶¶ 20(a), 20(b), 20(c), and 20(d) apply. Applicant’s financial problems were not caused by frivolous or irresponsible spending. Those problems essentially started because his mobile home tenants left it, and Applicant’s efforts to seek new tenants were thwarted by the trailer park when it refused to permit him to rent to non-family tenants. Applicant’s efforts to sell the mobile home were made more difficult when he was not permitted to place a “for sale” sign near the mobile home. He could not move the mobile home because he did not have enough money saved to do so. Faced with continuing mortgage payments and trailer park payments, Applicant chose to voluntarily relinquish the mobile home to the creditor as a repossession. Following the guidance of a bank financial advisor, Applicant focused on reducing or paying off credit cards and auto loans. Applicant’s financial difficulties were exacerbated when, relying in large part on some erroneous or otherwise incorrect information appearing in his credit report, the DOD CAF revoked his security clearance, and Applicant’s employer subsequently fired him. All of those factors detailed above were circumstances that were substantially beyond his control.

Applicant took control over the financial situation. He met with a financial counselor to prepare an action plan. The counselor reviewed Applicant’s finances, developed a budget, and prepared a financial strategy. Applicant has been negotiating with the mobile home creditor over a lengthy period, and the original demand for approximately \$21,000 has been reduced to \$5,000. Applicant has tendered an offer to the creditor for \$3,000, even though the statute of limitations has expired. As to the other purportedly delinquent debts listed in the SOR, the automobile loan (SOR ¶ 1.b.) was actually resolved in 2005, ten years before the SOR was issued; the cellular telephone account (SOR ¶ 1.c.) was actually resolved in 2007, eight years before the

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<sup>48</sup> The Appeal Board has previously explained what constitutes a good-faith effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the “good-faith” mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant’s debts. The Directive does not define the term “good-faith.” However, the Board has indicated that the concept of good-faith “requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.” Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) 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)).

SOR was issued; and the other cellular telephone account (SOR ¶ 1.d.) was actually resolved in 2012, three years before the SOR was issued. Under normal circumstances, there would be clear indications that Applicant's financial problems would be considered to be under control. But these are not normal circumstances because Applicant has been unemployed for nearly one year based on the information appearing in the SOR. Nevertheless, while there is still the outstanding mobile home debt (now reduced to a somewhat insignificant amount), Applicant is seemingly able to keep to his action plan. Applicant's actions, under the circumstances confronting him, do not cast doubt on his current reliability, trustworthiness, or good judgment.<sup>49</sup>

Security clearance adjudications are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The adjudicative guidelines do not require an applicant to establish resolution of each and every debt alleged in the SOR. An applicant need only establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in an SOR be paid first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts 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 AG ¶ 2(a):

- (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 AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.<sup>50</sup>

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<sup>49</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

<sup>50</sup> See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); See also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

There is some evidence against mitigating Applicant's conduct. His apparent naïveté regarding his trailer park rights and obligations pertaining to tenants and "for sale" signs, as well as his failure to more timely address the deficiency balance from his repossessed mobile home, especially while still employed, resulted in various accounts becoming delinquent. Accounts were placed for collection or charged off.

The mitigating evidence under the whole-person concept is more substantial. A decorated Air Force retiree, Applicant has an outstanding reputation for honesty and integrity in the workplace. He received financial guidance from the local bank and then financial counseling at the military facility. His finances were reviewed, an action plan was prepared, along with a budget, and a financial strategy was developed. He is negotiating with the mobile home creditor to finally resolve the delinquent debt. Despite his current unemployment, routine monthly payments are currently made to his creditors. Applicant had previously resolved three of his four SOR-related delinquent debts years before the SOR was issued. Notwithstanding Applicant's current unemployment, there appear to be clear indications that Applicant's financial problems are under control. His actions under the circumstances confronting him do not cast doubt on his current reliability, trustworthiness, or good judgment.

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

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.<sup>51</sup>

Applicant has demonstrated a "meaningful track record" of debt reduction and elimination efforts. 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

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<sup>51</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

conclude Applicant has mitigated the security concerns arising from his financial considerations. See AG ¶ 2(a)(1) through AG ¶ 2(a)(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
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	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.

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ROBERT ROBINSON GALES  
Administrative Judge