



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



In the matter of: )  
)  
) ISCR Case No. 20-03617  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Raashid S. Williams, Esq., Department Counsel  
For Applicant: *Pro se*  
04/11/2022

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant mitigated Guideline F (financial considerations) security concerns. He made sufficient progress resolving his delinquent debts. Eligibility for access to classified information is granted.

**Statement of the Case**

On December 18, 2019, Applicant completed and signed a Questionnaire for National Security Positions or security clearance application (SCA). (Government Exhibit (GE) 1) On February 22, 2021, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline F. Applicant provided an undated response to the SOR. (HE 3)

On June 14, 2021, Department Counsel was ready to proceed, and on January 20, 2022, the case was assigned to me. On February 10, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for March 7, 2022. The hearing was held as scheduled using Microsoft Teams video teleconference.

During the hearing, Department Counsel offered four exhibits; Applicant offered 13 exhibits; there were no objections; and all proffered exhibits were admitted into evidence. (Transcript (Tr.) 16-23, GE 1-4; Applicant Exhibits (AE) A-AE M) Applicant noted that some of the information in the credit reports, GE 2 and GE 3, was outdated and no longer accurate because some of the delinquent debts were paid. (Tr. 18) On March 15, 2022, DOHA received a transcript of the hearing. Applicant provided 14 post-hearing exhibits, which were admitted without objection. (AE N-AE AA) The record closed on March 30, 2022. (AE P)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Findings of Fact**

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a through 1.h, 1.j, and 1.l through 1.o. (HE 3) He denied the other SOR allegations. He also provided extenuating and mitigating information. His admissions are accepted as findings of fact.

Applicant is a 41-year-old communications specialist who seeks employment in the Middle East working for a defense contractor. (Tr. 6, 9; GE 1) In 2000, he graduated from high school, and in 2005, he received a bachelor's degree. (Tr. 6-7) He served in the Army National Guard (ARNG) from 2015 to 2019. (Tr. 7, 52) He briefly served overseas in the ARNG in Afghanistan, and for two tours in Kuwait. (Tr. 8; AE V) When he was discharged from the ARNG, he received an honorable discharge. (Tr. 8) In 2012, he married, and in 2016, he divorced. (Tr. 10) His children are ages 10 (P), 11 (A), and 16 (D). (Tr. 10-11)

### **Financial Considerations**

During Applicant's divorce proceeding in 2016, he was allocated all of the marital debts. (Tr. 24) His income was reduced because of underemployed after leaving the ARNG in 2019. (Tr. 24, 48) In early 2020, he was in "lock-down" in the Middle East country where he was employed due to the COVID-19 pandemic, and during that time, he only received sixty percent of his salary. (AE A) Later in 2020, Applicant injured his ankle; he had two surgeries; and he was unable to work from September 15, 2020, to February 18, 2021. (Tr. 51; AE A) He was required to pay a substantial amount of child support and pay for his children's health insurance. (Tr. 24) He uses a budget and is attempting to resolve all of his delinquent debt. (Tr. 25)

SOR ¶ 1.a alleges a child support arrearage of \$3,160. Applicant's monthly payment for child A is \$442 and for child P is \$417. (Tr. 26) He changed employment several times. (Tr. 27) When he started a new job, he attempted to establish automatic

payments for child support; however, sometimes this was ineffective, resulting in child support arrearages. (Tr. 27) He indicated his child support was brought to current status in 2020. (AE A) The state child support entity indicated in December 2021, his child support debt was current. (Tr. 28-29; AE I, AE J) Some of his child support was paid through a lien on his pay. (Tr. 28-29) Medical insurance costs \$379 a month. (AE U)

SOR ¶ 1.b alleges a charged-off vehicle-related debt for \$3,116. Applicant had gap insurance, and his vehicle was wrecked; however, his gap insurance was insufficient to cover the debt. (Tr. 29; AE A) On March 5, 2021, the creditor offered to settle the debt for \$1,245 with monthly \$100 payments starting April 2, 2021. (SOR response at 3) While he was overseas, the payments were not started due to a problem with his bank. (Tr. 29) On March 9, 2022, the creditor acknowledged receipt of \$50 and said the debt was resolved. (AE N)

SOR ¶ 1.c alleges a credit card debt placed for collection for \$3,100. Applicant made monthly payments for about a year, and the creditor wrote in February 2022 that the balance was \$293. (AE F; AE L; AE M) The creditor received a post-dated check for \$120 to apply to the account. (AE L; AE M) The debt is current. (Tr. 32-33)

SOR ¶ 1.d alleges a charged-off debt for \$1,208. On March 5, 2021, Applicant paid \$1,208 and the debt was resolved. (Tr. 33; SOR response at 11; AE A)

SOR ¶ 1.e alleges a charged-off debt for \$1,191. On March 8, 2021, the creditor agreed to settle the debt for \$1,191 with monthly payments of \$75 to \$100. (AE G) Applicant was unsure of the status of this debt; however, he said payments were being made. (Tr. 34-35; AE A) He did not provide receipts showing payments.

SOR ¶ 1.f alleges a charged-off credit card debt for \$982. On an unspecified date, Applicant settled the debt for \$786. (Tr. 35; AE A; AE D) The screen shot of the receipt does not have a date on it. (AE D)

SOR ¶ 1.g alleges a charged-off debt for \$813. Applicant started a \$25 monthly payment plan in March 2022. (Tr. 36; AE A; AE K)

SOR ¶ 1.h alleges a charged-off debt for \$367. On March 5, 2021, Applicant paid \$270, and the creditor wrote that he owed \$97. (Tr. 36; AE I) He thought the debt was paid until he checked the receipt. (Tr. 37) He contacted the creditor in March 2022, and the creditor waived the remaining \$97. (Tr. 37)

SOR ¶ 1.i alleges a debt placed for collection for \$125. On June 8, 2018, Applicant paid the creditor \$125, and this debt is resolved. (Tr. 37; SOR response at 6)

SOR ¶ 1.j alleges a charged-off debt for \$101. On March 4, 2021, Applicant paid the creditor \$101, and this debt is resolved. (Tr. 37; AE O)

SOR ¶ 1.k alleges a charged-off motorcycle debt for \$2,295. On May 26, 2017, Applicant paid the creditor \$2,427, and this debt is resolved. (Tr. 37-38; AE Q)

SOR ¶ 1.l alleges a charged-off debt for \$1,073. Applicant contacted the creditor while he was overseas, and the creditor was unable to locate information on the debt. (Tr. 38) He subsequently learned the account is closed; the creditor said they cannot reopen this debt; and “it has already been submitted as a tax [write] off” in January 2019. (AE A) He did not provide an IRS Form 1099C (cancellation of debt) or correspondence from the creditor indicating the debt was resolved.

SOR ¶ 1.m alleges a debt more than 120 days past due for \$12,161 with a total balance of \$19,246. Applicant said the creditor made some concessions due to the COVID-19 pandemic on payments related to his purchase of a vehicle. (Tr. 39; AE A) He provided receipts showing six payments over a 13-month period: March 27, 2021 (\$503); August 30, 2021 (\$534); November 3, 2021 (\$534); December 13, 2021 (\$499); January 21, 2022 (\$503); and March 8, 2022 (\$519). (AE R; AE W) This debt is being resolved.

SOR ¶¶ 1.n and 1.o allege that Applicant failed to timely file his federal and state income tax returns for TY 2017, and he owes about \$6,000 in delinquent federal income taxes. On January 22, 2022, the state tax authority acknowledged receipt of Applicant’s state tax return for TY 2017. (AE M) On January 22, 2022, Applicant paid the state tax authority \$2,036. (AE M) On March 8, 2022, the state tax authority wrote that the balance owed was zero and refunded \$299 to Applicant. (AE M)

Applicant filed his federal income tax return for TY 2017 late because he was overseas and lacked some W-2 forms. (Tr. 50-51) He was deployed from 2017 to May 24, 2018, while he was on ARNG duty. (AE V; AE Y) From August 2018, to June 2019, he worked as a police officer in the United States. (*Id.*) From June 1, 2019, to March 21, 2021, he was overseas in the Middle East as an employee of a DOD contractor. (*Id.*)

According to the Internal Revenue Service (IRS) website, *U.S. Citizens and Resident Aliens Abroad*, <https://www.irs.gov/individuals/international-taxpayers/us-citizens-and-resident-aliens-abroad>:

If you qualify for the 2-month extension but are unable to file your return by the automatic 2-month extension date, you can request an additional extension to October 15 by filing Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return, before the automatic 2-month extension date. If you are allowed extensions to June 15 and/or October 15, you will owe interest on any unpaid tax amount from the original due date of the return (April 18, 2022, for calendar year 2021).

According to the IRS rules, Applicant’s TY 2017 tax return was due in July 24, 2018 because he did not request an extension. When he sent his 2017 federal income tax return to the IRS, his tax preparer signed his return; however, he failed to sign it. (Tr. 43; AE C)

Applicant’s federal income tax return for TY 2017 indicated an adjusted gross income of \$39,000, and a refund of \$1,752. (AE C) His federal income tax return did not indicate that he was receiving a dependent deduction for any of his children. Applicant

will not receive a credit or refund for the \$1,752 for the overpayment from the IRS because he filed his tax return more than three years after the due date. See IRS website, *Don't Lose Your Refund by Not Filing*, <https://www.irs.gov/individuals/dont-lose-your-refund-by-not-filing>. (noting “There is usually no penalty for failure to file, if you are due a refund. But, if you wait too long to file a return or otherwise claim a refund, you risk losing your refund altogether. . . . Generally, after the three-year window closes, the IRS can neither send a refund for the specific tax year nor apply any credits, including overpayments of estimated or withholding taxes, to other tax years that are underpaid.”).

In January 2022, Applicant and the IRS agreed on a settlement agreement to address a debt for \$10,527. (Tr. 41-43, 53-54) On March 8, 2022, Applicant made his two monthly payment of \$175. (Tr. 41-44; AE P) His tax debt resulted from IRS Form 1099s employers submitted for his part-time employments in TYs 2014 through 2016, which were not included in the income on those tax returns. (Tr. 49, 52)

Applicant completed credit counseling on March 10, 2022. (AE T) His gross monthly salary is \$3,979. (AE U) His child support and medical insurance cost \$1,246 a month. (AE U) He listed six debts totaling \$22,931. (AE U) He indicated his net monthly remainder was negative \$160. (AE U) His personal financial statement included his \$175 monthly payment to the IRS. (AE U) If he is able to obtain a security clearance, his annual pay will be \$104,000. (Tr. 46) Most of his overseas pay will not be taxed by the federal government, and his housing will be free. (Tr. 46) At the end of March 2022, Applicant returned to the Middle East country for employment.

## **Character Evidence**

Applicant received the following Army ribbons and medals: Army Achievement Medal; National Defense Service Medal; Global War on Terrorism Service Medal; Global War on Terrorism Expeditionary Medal; Army Service Ribbon; Overseas Service Ribbon; and Armed Forces Reserve Medal with M Device. (AE S) He completed some ARNG training. (*Id.*)

## **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.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are

applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. 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." See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and DNI have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "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). "The Directive presumes there is a nexus or rational connection between proven conduct under any of the Guidelines and an applicant's security eligibility. Direct or objective evidence of nexus is not required." ISCR Case No. 18-02581 at 4 (App. Bd. Jan. 14, 2020) (citing ISCR Case No. 15-08385 at 4 (App. Bd. May 23, 2018)).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Financial Considerations**

AG ¶ 18 articulates the security concern for financial problems:

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.

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

The record establishes the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 19(f), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

The relevant financial considerations mitigating conditions under AG ¶ 20 in this case are as follows:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear

victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

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

(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;

(f) the affluence resulted from a legal source of income; and

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

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

Applicant's divorce, injury to his ankle, the COVID-19 pandemic and his ensuing lockdown in the Middle East country where he was employed, and underemployment were conditions largely beyond his control. His monthly child support payments and payments for health care insurance substantially reduced his income. Moreover, he acted reasonably under the circumstances because he paid, brought to current status, or resolved the majority of his SOR debts, and he established payment plans for his remaining debts whenever possible.

Two Appeal Board decisions illustrate the analysis for applying AG ¶¶ 20(a) and 20(b) when an Applicant lacks the income to address debts. In ISCR Case No. 09-08533



(App. Bd. Oct. 6, 2010), the applicant had \$41,871 in delinquent credit card debt and defaulted on a home loan generating a \$162,000 delinquent debt. *Id.* at 2. That applicant filed for bankruptcy the same month the Administrative Judge issued her decision. *Id.* at 1-2. The applicant in ISCR Case No. 09-08533 was recently divorced, had been unemployed for 10 months, and had childcare responsibilities. Her former husband was inconsistent in his child support payments to her. The Appeal Board determined that AG ¶ 20(a) was “clearly applicable (debt occurred under such circumstances that it is unlikely to recur and [the debt] does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment)” even though that applicant’s debts were unresolved at the time the Administrative Judge’s decision was issued. *Id.* at 3. The Appeal Board also decided that the record evidence raised the applicability of AG ¶ 20(b) because of the absence of evidence of irresponsible behavior, poor judgment, unreliability, or lack of trustworthiness. *Id.* at 4. It is noteworthy that Applicant has the burden of proving the applicability of any mitigating conditions, and the burden to disprove a mitigating condition never shifts to the Government.

Similarly, in ISCR Case No. 08-06567 (App. Bd. Oct. 29, 2009) the Appeal Board addressed a situation where an applicant was sporadically unemployed and lacked the ability to pay his creditors. The Appeal Board noted “it will be a long time at best before he has paid” all of his creditors. *Id.* at 3. The applicant was living on unemployment compensation at the time of his hearing. The Appeal Board explained that such a circumstance was not necessarily a bar to having access to classified information stating:

However, the Board has previously noted that an applicant is not required to be debt-free nor to develop a plan for paying off all debts immediately or simultaneously. All that is required is that an applicant act responsibly given his [or her] circumstances and develop a reasonable plan for repayment, accompanied by “concomitant conduct,” that is, actions which evidence a serious intent to effectuate the plan.

ISCR Case No. 08-06567 at 3 (App. Bd. Oct. 29, 2009) (citing ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008)). The applicant in ISCR Case No. 08-06567 used his limited resources to (1) resolve some of his debts; (2) had a repayment plan for the remaining debts; and (3) took “reasonable actions to effectuate that plan.” *Id.* The Appeal Board remanded the Administrative Judge’s decision because it did not “articulate a satisfactory explanation for his conclusions,” emphasizing the Administrative Judge did “not explain[] what he believes that applicant could or should have done under the circumstances that he has not already done to rectify his poor financial condition, or why the approach taken by applicant was not ‘responsible’ in light of his limited circumstances.” *Id.*

The timing of the resolution of Applicant’s debts is a pertinent consideration. The Appeal Board has observed, “Applicants who begin to resolve their debts only after having been placed on notice that their clearances or trustworthiness designations are in jeopardy may be disinclined to follow rules and regulations when their personal interests are not at stake.” ADP Case No. 17-00263 at 3 (App. Bd. Dec. 19, 2018) (citing ISCR Case No. 16-03122 at 3-4 (App. Bd. Aug. 17, 2018)). He reduced or paid several SOR debts before the SOR was issued. For example, he paid the debt in SOR ¶ 1.k in 2017,

and the debt in SOR ¶ 1.i in 2018. He made efforts to bring his child support to current status and to maintain medical insurance for his children.

The Appeal Board has explained what constitutes a “good faith” effort to repay overdue creditors or otherwise resolve debts under AG ¶ 20(d):

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].

ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (citations, footnote, and last quotation marks omitted).

The primary financial issue of security concern is Applicant’s handling of his taxes. He failed to timely file his federal and state income tax returns for TY 2017. He was overseas for some of the last four years, and he lacked documentation needed to file his federal income tax return. When a person moves frequently, sometimes receipts are mailed to a previous address or are lost. The IRS notes there is no penalty for late filings if a refund is due, and Applicant had a federal income tax refund based on his TY 2017 federal income tax return. The Appeal Board has concluded that careful scrutiny of a late filing of a tax return is still necessary even when no taxes are owed based on that overdue return because a failure to timely file a tax return is a violation of a federal rule.

Applicant paid his state income taxes; however, he still owes about \$10,500 to the federal government. Applicant is financially inexperienced. He failed to show due diligence when he filed his tax returns, and he failed to include all of his income, thereby accruing this federal tax debt. He will be able to pay this debt once he starts his new overseas employment over the next year. He promised to continue to establish his financial responsibility, and I found his hearing statement to be sincere, candid, and honest.

There are clear indications that Appellant’s financial problems are being resolved or are under control. See Tr. 61-64. He received financial counseling and generated a budget. He made a good-faith effort to resolve several of his delinquent debts, and I am confident he will rapidly resolve the remainder with the increase in financial resources resulting from his overseas employment. His finances do not cast doubt on his current reliability, trustworthiness, and good judgment. Financial considerations security concerns are mitigated.

## 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(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 AG ¶ 2(c), "[t]he 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. My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 41-year-old communications specialist who seeks employment in the Middle East working for a defense contractor. In 2005, he received a bachelor's degree. He served in the ARNG from 2015 to 2019, including overseas in Afghanistan and Kuwait. When he was discharged from the ARNG, he received an honorable discharge. In 2012, he married, and in 2016, he divorced. His children are ages 10, 11, and 16. He received several Army awards and ribbons and completed several Army training courses.

Applicant acted responsibly under the circumstances, when he resolved or established payment plans on all of his debts. He understands that he needs to pay his debts, and the conduct required to retain his security clearance. The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

. . . 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 has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has . . . established a plan to resolve his 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 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.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). Applicant understands what he needs to do to establish and maintain his financial responsibility. His efforts at debt resolution have established a “meaningful track record” of debt re-payment. With the increased income from his new employment in a Middle East country, I am confident he will have the ability and resources to pay his federal income tax debt in the next 12 months, and that he will maintain his financial responsibility. Security officials have the ability to monitor his financial progress, and revoke his security clearance if he shows future financial irresponsibility.

It is well settled that once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence to the facts and circumstances in the context of the whole person. Applicant mitigated financial considerations security concerns.

### **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.o:	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 or continue Applicant’s eligibility for access to classified information. Eligibility for access to classified information is granted.

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Mark Harvey  
Administrative Judge