



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



In the matter of: )  
 )  
----- ) ISCR Case No. 12-06611  
 )  
Applicant for Security Clearance )

**Appearances**

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

12/10/2015

**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 February 14, 2012, 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 July 21, 2014, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued him a set of interrogatories. He responded to the interrogatories on September 3, 2014.<sup>2</sup> On April 4, 2015, the DOD 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*

<sup>1</sup> GE 1 (e-QIP, dated February 14, 2012).

<sup>2</sup> GE 2 (Applicant's Answers to Interrogatories, dated September 3, 2014).

(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 Considerations), and detailed reasons why the DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant received the SOR on April 22, 2015. On May 12, 2015, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on June 16, 2015. The case was assigned to me on July 9, 2015. A Notice of Hearing was issued on July 31, 2015, and I convened the hearing as scheduled on August 26, 2015.

During the hearing, five Government exhibits (GE 1 through GE 5) and one administrative exhibit were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on September 3, 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 Applicant exhibits (AE) A through AE J and admitted into evidence without objection. The record closed on September 24, 2015.

### **Findings of Fact**

In his Answer to the SOR, Applicant admitted all of the factual allegations pertaining to financial considerations (¶¶ 1.a. through 1.h.). 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 46-year-old employee of a defense contractor. He has been a technician working with hazardous material, including supplies and waste, since early 2014.<sup>3</sup> A June 1987 high school graduate,<sup>4</sup> Applicant subsequently completed some online courses, but chose not to complete the requirements for a degree.<sup>5</sup> He has held a secret security clearance since May 1987.<sup>6</sup> Applicant was married in May 1991.<sup>7</sup> He has two daughters, born in 1996 and 2000, respectively.<sup>8</sup>

---

<sup>3</sup> Tr. at 32-34.

<sup>4</sup> GE 2 (Personal Subject Interview, dated March 27, 2012), at 2; Tr. at 21.

<sup>5</sup> Tr. at 21.

<sup>6</sup> GE 2 (Personal Subject Interview), *supra* note 4, at 4; Tr. at 6.

<sup>7</sup> GE 1, *supra* note 1, at 16.

<sup>8</sup> GE 1, *supra* note 1, at 22; Tr. at 30-31.

## Military Service

Applicant enlisted in the U.S. Navy in June 1987, and he served on active duty until he retired honorably as a Petty Officer First Class (E-6) in June 2009.<sup>9</sup> During his military service, he was awarded the Navy/Marine Corps Commendation Medal, the Navy/Marine Corps Achievement Medal (five awards), the Navy “E” Ribbon (four times), the Good Conduct Medal (seven awards), the National Defense Service Medal (two awards), the Armed Forces Expeditionary Medal (two awards), the Global War on Terrorism Service Medal, the Armed Forces Service Medal, the Sea Service Deployment Ribbon (four times), the Navy/Marine Corps Expeditionary Medal, the Overseas Service Ribbon, the NATO Medal, the Pistol Marksmanship Ribbon, and the Coast Guard Special Operation Ribbon.<sup>10</sup>

## Financial Considerations

There was nothing unusual about Applicant’s finances until his retirement in June 2009. He had taken a two-week “superficial” transition assistance class in order to anticipate potential problems that might arise after retirement. The class did not discuss financial issues, such as financial planning or budgeting, but instead focused on writing a resume.<sup>11</sup> His wife, until then a stay-at-home mom, returned to the work force.<sup>12</sup> Unable to find suitable post-retirement employment on a full-time basis, Applicant obtained part-time employment in July 2009.<sup>13</sup>

Applicant’s transition into his naval retirement turned into a big culture shock. He was used to making \$6,000 per month while on active duty, and his income, including his retirement income, plummeted down to \$3,000 or \$4,000 per month.<sup>14</sup> Because of his status while on active duty as a geographical bachelor aboard ship, Applicant’s wife routinely handled the family finances. In June 2010, he found his wife crying because money was tight and they were unable to maintain their monthly payments. She had been unable to come to any agreements regarding the potential settlement of accounts because they had insufficient funds at the end of the month to be able to do so.<sup>15</sup> Although he briefly considered bankruptcy to resolve his financial problems, he

---

<sup>9</sup> AE A (Certificate of Release or Discharge from Active Duty (DD Form 214), dated June 30, 2009); GE 1, *supra* note 1, at 14.

<sup>10</sup> AE A, *supra* note 9.

<sup>11</sup> Tr. at 40-41; GE 2 (Personal Subject Interview), *supra* note 4, at 6.

<sup>12</sup> Tr. at 43; GE 2 (Personal Subject Interview), *supra* note 4, at 6.

<sup>13</sup> GE 1, *supra* note 1, at 11.

<sup>14</sup> Tr. at 37-40.

<sup>15</sup> GE 2 (Personal Subject Interview), *supra* note 4, at 6.

abandoned that option because he wanted to resolve his debts by setting up repayment plans.<sup>16</sup>

In early August 2014, eight months before the SOR was issued, Applicant went to the base support center and received approximately three hours of financial counseling on budgeting and debt-resolution.<sup>17</sup> One week later, on August 16, 2014, Applicant entered into a debt resolution agreement with a debt-relief company in an effort to negotiate agreeable settlements and make repayment arrangements with his creditors. He agreed to make a monthly program deposit. He initially listed four creditors in the program, with an estimated \$19,438 in debts at the time.<sup>18</sup> He anticipates adding two additional accounts to the program once the initial ones are resolved.<sup>19</sup> Under the debt resolution program, Applicant has \$213 automatically deducted from his bank account every two weeks.<sup>20</sup> Since the commencement of his program, until as recently as August 2015, Applicant has made \$2,770 in payments to one or more of his creditors.<sup>21</sup>

The SOR identified eight delinquent debts that had been placed for collection or charged off, as reflected by a February 2012 credit report,<sup>22</sup> a June 2014 credit report,<sup>23</sup> and a January 2015 credit report.<sup>24</sup> Those debts, totaling approximately \$46,054, 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 a line of credit account with a credit limit of \$7,000 and a past-due balance of \$6,925 that was placed for collection in early 2014.<sup>25</sup> Applicant contacted the creditor and authorized recurring payments, but when other expenses took priority (such as a new clutch in his automobile), those payments ceased. The account became further delinquent, and it was eventually charged off.<sup>26</sup> In June 2015, the creditor offered to settle the account, which by then had increased to approximately

---

<sup>16</sup> GE 2 (Personal Subject Interview), *supra* note 4, at 6.

<sup>17</sup> AE G (Statement, undated); Tr. at 81-82.

<sup>18</sup> GE 2 (Debt Resolution Agreement, dated August 16, 2014).

<sup>19</sup> Tr. at 68.

<sup>20</sup> Tr. at 48.

<sup>21</sup> AE E (Client Transactions, undated). The term "one or more of his creditors" is used because four of the accounts are actually from three creditors being represented by the same collection agent or debt purchaser.

<sup>22</sup> GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated February 22, 2012).

<sup>23</sup> GE 4 (Equifax Credit Report, dated June 30, 2014).

<sup>24</sup> GE 5 (Equifax Credit Report, dated January 8, 2015).

<sup>25</sup> GE 3, *supra* note 22, at 8; GE 4, *supra* note 23, at 2; GE 5, *supra* note 24, at 1.

<sup>26</sup> Tr. at 51; GE 2, *supra* note 2, at 64.

\$7,452. The options offered included a payment of approximately \$2,608 within 30 days of the offer.<sup>27</sup> He was unable to accept the offers at the time. This account is one of the two accounts Applicant intends to add to the debt-resolution program once the initial ones are resolved. The account is not yet in the process of being resolved.

(SOR ¶ 1.b.): This is a credit card account with a credit limit of \$10,000 and a past-due balance of \$10,524 that was placed for collection in early 2014.<sup>28</sup> Applicant contacted the creditor, the same one holding the line of credit, and after making some payments, his other issues arose, and those payments ceased. The account became further delinquent, and it was eventually charged off.<sup>29</sup> In July 2015, the creditor offered to settle the account, which by then had increased to approximately \$10,545. The options offered included a payment of approximately \$4,745 within 30 days of the offer.<sup>30</sup> He was unable to accept the offers at the time. This account is the other one of the two accounts Applicant intends to add to the debt-resolution program once the initial ones are resolved. The account is not yet in the process of being resolved.

(SOR ¶ 1.c.): This is a credit card with a credit limit of \$8,200 and a remaining past-due balance of \$613 that was placed for collection and charged off.<sup>31</sup> Because the debt was considered an indebtedness to the government, an allotment was set up and various amounts have been withheld from his military retirement payment each month:<sup>32</sup> in July 2014, it was \$184.50;<sup>33</sup> in August 2014, it was \$123.50;<sup>34</sup> and as recently as August 2015, it was \$193.79.<sup>35</sup> Because of the nature of the indebtedness, the creditor, the source of the funds, and the method of payment, it appears that the account is in the process of being resolved.

(SOR ¶ 1.d.): This is an unspecified type of bank account with a credit limit of \$7,509 and a past-due balance of \$8,043 that was placed for collection and charged off.<sup>36</sup> The creditor agreed to settle the account for \$3,600.<sup>37</sup> The account is one of the four accounts listed in Applicant's debt-resolution program for which he has \$213

---

<sup>27</sup> AE I (Letter, dated June 30, 2015).

<sup>28</sup> GE 3, *supra* note 22, at 7; GE 4, *supra* note 23, at 2; GE 5, *supra* note 24, at 1.

<sup>29</sup> Tr. at 53.

<sup>30</sup> AE H (Letter, dated July 18, 2015).

<sup>31</sup> GE 3, *supra* note 22, at 7; GE 4, *supra* note 23, at 2; GE 5, *supra* note 24, at 1.

<sup>32</sup> Tr. at 47.

<sup>33</sup> GE 2 (Retiree Account Statement, dated July 25, 2014), at 2.

<sup>34</sup> GE 2 (Retiree Account Statement, dated August 22, 2014), at 2.

<sup>35</sup> AE B (Retiree Account Statement, dated August 21, 2015), at 2.

<sup>36</sup> GE 3, *supra* note 22, at 11; GE 4, *supra* note 23, at 2; GE 5, *supra* note 24, at 2; GE 2 (Personal Subject Interview), *supra* note 4, at 5.

<sup>37</sup> AE E (Letter, undated).

automatically deducted from his bank account every two weeks.<sup>38</sup> The account is in the process of being resolved.

(SOR ¶ 1.e.): This is a bank credit card issued on behalf of a home-improvement store with a credit limit of \$3,246 and a past-due balance of \$4,616 that was placed for collection and charged off.<sup>39</sup> The creditor agreed to settle the account for \$2,033.<sup>40</sup> The account is one of the four accounts listed in Applicant's debt-resolution program for which he has \$213 automatically deducted from his bank account every two weeks.<sup>41</sup> The account is in the process of being resolved.

(SOR ¶ 1.f.): This is a bank credit card with a credit limit of \$2,109 and a past-due balance of \$4,662 that was placed for collection, charged off, and sold to a debt purchaser.<sup>42</sup> The account is one of the four accounts listed in Applicant's debt-resolution program for which he has \$213 automatically deducted from his bank account every two weeks.<sup>43</sup> The account is in the process of being resolved.

(SOR ¶ 1.g.): This is another bank credit card with a credit limit of \$1,092 (subsequently increased to \$1,108) and a past-due balance of \$2,324 (later increased to \$2,461) that was placed for collection, charged off, and sold to a debt purchaser.<sup>44</sup> The account is one of the four accounts listed in Applicant's debt-resolution program for which he has \$213 automatically deducted from his bank account every two weeks.<sup>45</sup> The account is in the process of being resolved.

(SOR ¶ 1.h.): This is an indebtedness to the Internal Revenue Service (IRS) for unpaid income tax for the tax years 2010 and 2011 in the respective amounts of \$277.51 and \$1,333.38, or a combined total of \$1,610.89.<sup>46</sup> Applicant had timely filed his income tax returns online with a nationwide tax preparation service. In completing his returns for those years, Applicant entered information in the incorrect blocks, resulting in a repeated error.<sup>47</sup> When the IRS eventually informed him of the errors,

---

<sup>38</sup> GE 2 (Debt Resolution Agreement), *supra* note 18.

<sup>39</sup> GE 3, *supra* note 22, at 6; GE 4, *supra* note 23, at 2; GE 5, *supra* note 24, at 2; GE 2 (Personal Subject Interview), *supra* note 4, at 5.

<sup>40</sup> AE F (Letter, undated).

<sup>41</sup> GE 2 (Debt Resolution Agreement), *supra* note 18.

<sup>42</sup> GE 3, *supra* note 22, at 5-6; GE 4, *supra* note 23, at 2; GE 5, *supra* note 24, at 2; GE 2 (Personal Subject Interview), *supra* note 4, at 4-5.

<sup>43</sup> GE 2 (Debt Resolution Agreement), *supra* note 18.

<sup>44</sup> GE 3, *supra* note 22, at 5-6; GE 4, *supra* note 23, at 2; GE 5, *supra* note 24, at 2; GE 2 (Personal Subject Interview), *supra* note 4, at 7.

<sup>45</sup> GE 2 (Debt Resolution Agreement), *supra* note 18.

<sup>46</sup> GE 2 (Annual Installment Agreement Statement, dated July 28, 2014), at 3.

<sup>47</sup> Tr. at 61.

Applicant entered into an installment agreement with the IRS under which, between February 2014 and April 2014, he paid the IRS \$600.<sup>48</sup> An overpayment of \$3,176 for the tax year 2014 was applied to his unpaid income tax balances (including penalties, interest, and other charges), and as of August 2015, the unpaid balance was \$1,671.58.<sup>49</sup> The account is in the process of being resolved.

In August 2014, Applicant completed a Personal Financial Statement which reflected a net monthly family income of \$5,735; normal monthly expenses of \$3,040; and mortgage and other financial obligations of \$2,186. His net monthly remainder was approximately \$527, available for discretionary savings or spending.<sup>50</sup> His more recent budgeting worksheet reflects similar, but not identical, data.<sup>51</sup>

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

A former coworker, whose relationship has evolved into a friendship, characterized Applicant as professional, respectful, helpful, easygoing, and honest, with a positive work ethic.<sup>52</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>53</sup> 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.”<sup>54</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.

---

<sup>48</sup> GE 2 (Annual Installment Agreement Statement), *supra* note 46, at 2.

<sup>49</sup> AE C (IRS Notice, dated August 17, 2015).

<sup>50</sup> AE 2 (Personal Financial Statement, dated August 24, 2014).

<sup>51</sup> AE D (Household Budgeting Worksheet, undated).

<sup>52</sup> AE J (Character Reference, dated September 22, 2015).

<sup>53</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>54</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

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>55</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>56</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. Furthermore, "security clearance determinations should err, if they must, on the side of denials."<sup>57</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>58</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

---

<sup>55</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>56</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>57</sup> *Egan*, 484 U.S. at 531.

<sup>58</sup> See Exec. Or. 10865 § 7.



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 retirement in 2009. He was unable to continue making his routine monthly payments. Various accounts became delinquent and were placed for collection or charged off. He mistakenly underpaid his federal income tax for a two-year period. 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 ¶ 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>59</sup>

---

<sup>59</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

AG ¶¶ 20(c) and 20(d) apply, and AG ¶¶ 20(a) and 20(b) partially apply. Applicant's financial problems were not caused by frivolous or irresponsible spending, but he apparently did spend beyond his newly-established post-retirement means. The nature, frequency, and recency of Applicant's continuing financial difficulties make it difficult to conclude that it occurred "so long ago" or "was so infrequent." Instead, as noted above, Applicant's financial problems started shortly after his retirement from the U.S. Navy in June 2009, occasioned by culture shock and his unanticipated decrease in salary due to his brief period of unemployment, subsequent underemployment, and the loss of benefits associated with active duty. Those were circumstances that were substantially beyond his control. Applicant's wife, the family member who usually handled the family finances since Applicant frequently resided aboard ship while on active duty, was forced to prioritize their monthly payments because of an inability to make the normal payments. Now that the financial situation has stabilized and the issues clarified, it appears that Applicant's unanticipated financial issues occurred under such circumstances that they are unlikely to recur.

To his credit, upon learning of the situation, Applicant took control over the perilous financial situation. He went to the base support center and received financial counseling on budgeting and debt resolution. Shortly thereafter, before the SOR was issued, he entered into a debt-resolution agreement with a debt-relief company in an effort to negotiate agreeable settlements and make repayment arrangements with his creditors. Applicant has \$213 automatically deducted from his bank account every two weeks to address four specific debts. Another debt is paid by allotment and various amounts have been withheld from his military retirement payment each month. Applicant entered into an installment agreement with the IRS and made payments under that agreement. Applicant's overall repayment strategy has been successful, and he is in the process of resolving most of his delinquent debts. There are clear indications that Applicant's financial problems are under control. Applicant's actions, under the circumstances confronting him, do not cast doubt on his current reliability, trustworthiness, or good judgment.<sup>60</sup>

### **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):

---

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)).

<sup>60</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

(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>61</sup>

There is some evidence against mitigating Applicant's conduct. His apparent naïveté regarding his post-retirement finances, as well as his failure to secure a full-time job before actually retiring, along with his continued pre-retirement spending level, resulted in various accounts becoming delinquent. He erroneously underpaid his federal income tax. Accounts were placed for collection or charged off.

The mitigating evidence under the whole-person concept is more substantial. A decorated naval retiree, Applicant has an outstanding reputation in the workplace and in the community in which he has resided. Upon learning of his financial situation, Applicant commenced a course of conduct to address and resolve it. He received financial counseling, entered into a debt-resolution agreement, set up settlement agreements, and has continuing repayment arrangements with his creditors. Routine periodic repayments are currently made to his creditors. Applicant is in the process of resolving most of his delinquent debts. There are 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

---

<sup>61</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).

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>62</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 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
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	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

---

<sup>62</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).