



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 14-00605

Appearances

For Government: Robert J. Kilmartin, Esquire, Department Counsel
For Applicant: *Pro se*

08/27/2014

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 August 22, 2013, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application (SF 86).¹ On April 18, 2014, the Department of Defense (DOD) Consolidated Adjudications Facility – Division A (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

¹ GE 1 ((SF 86), dated August 22, 2013).

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 May 6, 2014. In a sworn statement, dated May 19, 2014, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on July 1, 2014. The case was assigned to me on July 10, 2014. A Notice of Hearing was issued on July 25, 2014, and I convened the hearing, as scheduled, on August 12, 2014.

During the hearing, 3 Government exhibits (GE 1 through GE 3) and 14 Applicant exhibits (AE A through AE N) were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on August 19, 2014. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity. He submitted an additional document which were marked as exhibit AE O and admitted into evidence without objection. The record closed on August 26, 2014.

Findings of Fact

In his Answer to the SOR, Applicant admitted nearly all of the factual allegations pertaining to financial considerations (§§ 1.a. through 1.d., 1.g., and 1.h.). He denied the two remaining allegations (§§ 1.e. and 1.f.). Applicant's answers and explanations 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 34-year-old employee of a defense contractor, for which, since August 2013, he has served as a test engineer.² Applicant was unemployed on several occasions for a variety of reasons: from November 2007 until December 2007; from September 2008 until November 2008; from February 2010 until April 2010; and again from August 2011 until September 2011.³ During some of those periods, he received either unemployment compensation or financial assistance from the Department of Veterans Affairs while attending school.⁴ He served on active duty in an enlisted capacity with the U.S. Navy from July 1997 until November 2007, when he was discharged for alcohol rehabilitation failure and issued an honorable discharge certificate.⁵ Applicant held a secret security clearance while serving on active duty, and again since July 2007.⁶

² GE 2 (Personal Subject Interview, dated November 18, 2013), at 2.

³ GE 1, *supra* note 1, at 21-22, 24; GE 2, *supra* note 2, at 3-4.

⁴ GE 2, *supra* note 2, at 3-4.

⁵ AE N (Certificate of Release or Discharge from Active Service (DD Form 214), dated November 15, 2007).

⁶ GE 1, *supra* note 1, at 50.

Applicant graduated from high school in May 1997.⁷ He attended two different universities while on active duty and for some time thereafter, and in May 2013, he was awarded a bachelor's degree in technical management.⁸ He is currently enrolled in a master's degree program. He was married in May 2001, separated in 2007, and divorced in February 2010.⁹ He has no children.

Military Awards and Decorations

During his active military service, Applicant was awarded the Meritorious Unit Commendation, the Good Conduct Medal (two awards), the National Defense Service Medal, the Armed Forces Expeditionary Medal, the Global War on Terrorism Service Medal, the Sea Service Deployment Ribbon (six awards), the Overseas Service Ribbon, and the Enlisted Aviation Warfare Badge.¹⁰

Financial Considerations

There was nothing unusual about Applicant's finances until about 2007. While he was on active duty, he was always current on his bills.¹¹ Following his discharge in November 2007, Applicant found it "kind of rough" when he first got out of the military, and was unemployed for two months. He also separated from his wife due to his prior 14 military deployments, and incurred additional expenses by maintaining separate households for his wife and himself.¹² With insufficient money to maintain his monthly payments, some accounts became delinquent. However, once Applicant obtained new employment, he went overseas in an effort to generate additional income. He was deployed to Iraq and Afghanistan on three occasions in support of various combat operations.¹³ During 2008 and 2009, he addressed and resolved a significant number of delinquent accounts, and managed to do so by making between \$5,000 and \$6,000 in payments.¹⁴

Applicant's next period of financial difficulty arose in 2010. In addition to initially helping his wife with her separate household, he also assisted her to relocate to her

⁷ GE 2, *supra* note 2, at 2.

⁸ GE 1, *supra* note 1, at 14-15.

⁹ GE 1, *supra* note 1, at 31-32; Tr. at 32.

¹⁰ AE N, *supra* note 5.

¹¹ Tr. at 33.

¹² Tr. at 32, 44-45, 48.

¹³ Tr. at 32.

¹⁴ Tr. at 22-25. Applicant offered to submit documents that measured approximately one inch in thickness to support his contention that he had established a meaningful track record of resolving a substantial number of non-SOR accounts during that time period. Instead of accepting the documents and marking them as evidence, without objection from Department Counsel, I took official notice that Applicant had established a meaningful track record of resolving a substantial number of non-SOR accounts during 2008 and 2009.

home country. He had previously made some poor investments in the stock market, and some of the money he had saved was mismanaged.¹⁵ Once again, he was unemployed for several months. With insufficient money to maintain his monthly payments, especially after he no longer had his wife's income to assist him, some accounts became delinquent.

At some unspecified point Applicant approached a financial counselor at his church and sought assistance. She guided him on how to pay some of his accounts and how to reduce his debt.¹⁶ Applicant recently furnished a personal financial statement. A review of that document reveals a total monthly net income of \$4,260.90. With routine monthly living expenses, including rent, utilities, food, and transportation, as well as debt payments of \$2,689.00, he has approximately \$1,571.90 available for discretionary spending or savings.¹⁷ All of Applicant's newer accounts are current.¹⁸

The SOR identified eight delinquent debts that had been placed for collection or charged off, as generally reflected by an October 2013 credit report.¹⁹ Some accounts listed in the credit report have been transferred, reassigned, or sold to other creditors or collection agents. Other accounts are referenced repeatedly in the credit report, in some instances duplicating other accounts listed, either under the same creditor name or under a different creditor name. While the SOR does not include complete or even partial account numbers, several accounts in the credit reports are listed with only partial account numbers. Those debts listed in the SOR and their respective current status, according to the credit report, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below.

The debts listed in the SOR can be divided into three separate categories: (1) those which have already been resolved, either through settlement or by payment in full; (2) those that are currently being paid under a repayment agreement; and (3) those for which repayment plans and settlements may have been discussed, but which payments have not yet commenced.

The largest number of accounts listed in the SOR fall within the first category - those which have already been resolved, either through settlement or by payment in full. There was a mobile phone account with one provider with two different collection agencies or debt purchasers (SOR ¶ 1.c.) for \$765 and (SOR ¶ 1.d.) for \$640 that were placed for collection.²⁰ It appears that the most recent activity, such as the date of the

¹⁵ Tr. at 47-48.

¹⁶ Tr. at 53.

¹⁷ AE O (Personal Financial Statement, undated).

¹⁸ Tr. at 54.

¹⁹ GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated October 1, 2013).

²⁰ GE 3, *supra* note 19, at 14.

last payment or the last charge, on the account occurred in July 2010.²¹ The account was transferred from one collection agent to the other in September 2013.²² Applicant denied having two separate accounts with the same provider, and contended the two allegations refer to the same account.²³ He paid the most recent collection agent in August 2014, and was advised that the account would be deleted from his credit report.²⁴ Despite having two different account numbers (one for each collection agent) reflected in the credit report, based on the available evidence, I conclude that the allegations refer to the same account; that the account has been paid in full; and it has been resolved. Department Counsel concurred in that conclusion.²⁵

A telephone account (SOR ¶ 1.e.) for \$534 was placed for collection.²⁶ Applicant and the collection agent agreed to settle the account for \$277, and that amount was paid, leaving a zero balance.²⁷ The account has been resolved.

A utility bill (SOR ¶ 1.f.) for \$105 was placed for collection.²⁸ The bill was paid in full, leaving a zero balance.²⁹ The account has been resolved.

An employment search-related account (SOR ¶ 1.g.) for \$80 was placed for collection.³⁰ Applicant paid the collection agent \$80.07, leaving a zero balance.³¹ The account has been resolved.

The second category of accounts alleged in the SOR - those that are currently being paid under a repayment agreement, is as follows. There is an unspecified type of account, thought to be a credit card or possibly a vehicle loan, from a credit union (SOR ¶ 1.a.) for \$6,756 that was placed for collection and sold to a debt purchaser as a

²¹ GE 3, *supra* note 19, at 14.

²² GE 3, *supra* note 19, at 14.

²³ Tr. at 26, 36, 50-52.

²⁴ Tr. at 26, 36; AE B (Letter, dated August 6, 2014).

²⁵ Tr. at 52.

²⁶ GE 3, *supra* note 19, at 14.

²⁷ AE C (Letter, dated July 9, 2014).

²⁸ GE 3, *supra* note 19, at 14.

²⁹ Tr. at 21. Applicant did not submit a hard copy of the receipt, but did have a digital copy on his mobile phone which he displayed to Department Counsel. Based on the digital display, Department Counsel was satisfied that the account had been paid and resolved, and he moved to amend the SOR by withdrawing the allegation. There being no objection, I granted the motion and amended the SOR by deleting SOR ¶ 1.f. Tr. at 22.

³⁰ GE 3, *supra* note 19, at 15.

³¹ AE D (Letter, downloaded August 3, 2014).

factoring company account.³² It was subsequently sold to another debt purchaser.³³ Applicant approached the initial collection agent and they agreed to a repayment plan calling for monthly payments of \$100. After the account was sold the second time, the new collection agent agreed to eventually settle the account for \$4,000.³⁴ Applicant has been making his monthly payments since before the SOR was issued, and by January 2014, the remaining balance had been reduced to \$6,373.27.³⁵ Applicant intends to keep making his monthly payments for the next few months until he can accumulate enough funds to make the final \$4,000 pay-off.³⁶ The account is in the process of being resolved.

An automobile loan from the same credit union (SOR ¶ 1.h.) with a high credit of \$31,473 was placed for collection and transferred or sold to a collection agent.³⁷ The SOR allegation is that the account was charged off in the amount of \$22,959.56. When interviewed by an investigator from the U.S. Office of Personnel Management (OPM) in November 2013, both Applicant and the investigator referred to this account and the one in SOR ¶ 1.a. interchangeably and indicated the remaining balance, as of the interview, should be around \$6,000.³⁸ There is no evidence to support the allegation that any amount had been charged off. Applicant contends he and the collection agent have an agreed repayment plan in place under which he is paying \$200 per month over a period of six months at a time, until such time as he is able to make a final settlement of \$7,600.³⁹ While Applicant submitted a copy of the plan approved by the collection agent, he has not submitted any documentation to confirm that he has actually made the down payment or the scheduled \$200 payment for August 15, 2014.⁴⁰ Nevertheless, it appears that the account is in the process of being resolved.

The third category of accounts alleged in the SOR - those for which repayment plans and settlements have been discussed, but which payments have not yet commenced, consists of only one account. There is permanent change of station (PCS) separation travel claim overpayment of \$434.40 for travel done when Applicant was discharged in 2007 (SOR ¶ 1.b.) that was charged off in the amount of \$445.⁴¹ Applicant

³² GE 2, *supra* note 2, at 7; GE 3, *supra* note 19, at 5, 9. It should be noted that a "factoring company" is a company that buys "accounts receivable" from a current creditor and then collects on those receivables from the debtor. A factored account is not supposed to be an account that is delinquent or charged off.

³³ Tr. at 25.

³⁴ Tr. at 35; AE A (Letter, dated January 9, 2014).

³⁵ AE A, *supra* note 34.

³⁶ Tr. at 35.

³⁷ GE 3, *supra* note 19, at 9.

³⁸ GE 2, *supra* note 2, at 6, 9.

³⁹ Tr. at 37-38.

⁴⁰ AE E (Letter, undated).

⁴¹ AE M (Defense Finance and Accounting Service (DFAS) file, various dates); GE 3, *supra* note 19, at 7.

contended that the original balance was \$4,434, and that he had paid it down to the current amount, and was under the erroneous impression that the entire balance had been paid.⁴² Applicant has offered two inconsistent explanations as to what has transpired regarding the account. In November 2013, he told the OPM investigator that he was in a repayment plan under which he paid the balance off in six months in 2010.⁴³ During the hearing, he claimed he had contacted DFAS in an effort to establish a repayment plan, but his efforts were rejected.⁴⁴ He indicated that when he receives his first check from his new employer, he will pay either half or the entire balance.⁴⁵ Once his initial payment is confirmed, the status of the account will transition to being in the process of being resolved.

Work Performance and Character References

Applicant's deputy director of engineering from his former employer, the product director from the service program executive office, and Applicant's civilian and military colleagues, are effusive in support of Applicant's application for a security clearance. He has been characterized as trustworthy, dedicated, loyal, highly professional, well respected by his peers, a proactive member of the community, dependable, reliable, and respectful of privacy, classified information, rules and restrictions.⁴⁶ Applicant's ex-wife supports his application.⁴⁷ Applicant's father has urged him to resolve the financial issues as quickly as possible, and endorses Applicant in every way possible for increased levels of security clearance. He also suggested granting Applicant a clearance on a conditional basis, or as he referred to it, as a probationary period to evaluate Applicant's willingness to manage his arrearages.⁴⁸

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."⁴⁹ 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

⁴² Tr. at 39-40, 49.

⁴³ GE 2, *supra* note 2, at 8.

⁴⁴ Tr. at 49.

⁴⁵ Tr. at 54.

⁴⁶ AE F (Character Reference, dated August 7, 2014); AE G (Character Reference, dated July 9, 2014); AE H (Character Reference, dated August 1, 2014); AE I (Character Reference, undated); AE J (Character Reference, undated).

⁴⁷ AE L (Character Reference, dated July 12, 2014).

⁴⁸ AE K (Character Reference, dated July 20, 2014).

⁴⁹ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

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.”⁵⁰

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.”⁵¹ 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.⁵²

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.”⁵³

⁵⁰ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

⁵¹ “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “Substantial evidence” is “more than a scintilla but less than a preponderance.” *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

⁵² *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁵³ *Egan*, 484 U.S. at 531.

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.”⁵⁴ 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. Although he encountered some financial difficulties as early as 2007, Applicant’s most significant financial problems arose in 2010, and continued for several years thereafter. He was unable to continue making his routine monthly payments, and various accounts became delinquent and were either 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 ¶ 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*

⁵⁴ See Exec. Or. 10865 § 7.

*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.*⁵⁵

AG ¶¶ 20(b), 20(c), and 20(d) apply. AG ¶ 20(a) partially applies. The nature, frequency, and relative recency of Applicant's continuing financial difficulties initially since 2007, but reappearing in 2010 make it difficult to conclude that it occurred "so long ago" or "was so infrequent." While there is some evidence of poor investments in the stock market and mismanaged money, Applicant's financial problems were not caused by frivolous or irresponsible spending, and he did not spend beyond his means. Instead, his financial problems were largely beyond Applicant's control. Because of his many deployments, his marriage collapsed. Maintaining two households, assisting his wife to relocate to her home country, and repeated periods of unemployment, merely exacerbated his financial problems.

When he obtained new employment in 2007, and went on additional deployments as a civilian contractor to Iraq and Afghanistan, during 2008 and 2009, he was able to resolve a significant number of delinquent accounts by making between \$5,000 and \$6,000 in payments. In 2010 and 2011, he was faced with additional periods of unemployment. Each time he started making a regular salary Applicant approached his creditors in an effort to set up repayment arrangements. Applicant's overall repayment strategy has been successful, and he has resolved, in addition to the numerous non-SOR accounts, five of the accounts alleged in the SOR. He is also in the process of resolving two other SOR-related accounts that are currently in repayment plans. There is one remaining SOR-related account which he erroneously thought he had resolved, but which he now intends to resolve with one or two payments, depending on his ability to do so.

He received counseling from a financial counselor at his church, and she guided him on how to pay some of his accounts and how to reduce his debt. All of Applicant's newer accounts are current. A review of his personal financial statement reveals that he now has approximately \$1,571.90 each month available for discretionary spending or savings. Applicant acted responsibly by addressing all of his delinquent accounts, and

⁵⁵ 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)).

working with his creditors.⁵⁶ With his current job, 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.⁵⁷

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.⁵⁸

There is some evidence against mitigating Applicant's conduct. His handling of his finances permitted a number of accounts to become delinquent. He also made some poor investments in the stock market, and some of the money he had saved was mismanaged. As a result, in 2007, and again in 2010, various accounts became delinquent and were either placed for collection or charged off. One account, the DFAS overpayment, has been unresolved since 2007.

The mitigating evidence under the whole-person concept is more substantial. He has an outstanding reputation in the workplace. Applicant's financial problems were not caused by frivolous or irresponsible spending, and he did not spend beyond his means.

⁵⁶ "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

⁵⁷ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁵⁸ 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).

Rather, his problems were largely beyond Applicant's control. He was a decorated member of the U.S. Navy who, in a ten-year period, participated in 14 deployments, and subsequently as a civilian contractor, participated in additional deployments to Iraq and Afghanistan. Deployments wrecked his marriage. Repeated periodic unemployment and the expenses of maintaining two separate households, in addition to his divorce, left him with insufficient funds to maintain his monthly payments. However, Applicant did not ignore his debts. Instead, whenever he gained regular employment, he addressed whatever delinquent debts he could. In 2008 and 2009, he was able to resolve a significant number of delinquent accounts. Applicant set up repayment arrangements. In addition to the numerous non-SOR accounts, Applicant has resolved, or is in the process of resolving, all but one of the accounts identified in the SOR. As for that one remaining account, he intends to resolve with one or two payments, depending on his ability to do so. 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 entire situation occurred under such circumstances that it is unlikely to recur.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁵⁹

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has ". . . established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan." The Judge can reasonably consider the entirety of an applicant's financial situation and his [or her] actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ("Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.") There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

Applicant has demonstrated a "meaningful track record" of debt reduction and elimination efforts. Nevertheless, this decision should serve as a warning that his failure to continue his debt resolution efforts or the actual accrual of new delinquent debts will adversely affect his future eligibility for a security clearance.⁶⁰ Overall, the evidence

⁵⁹ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

⁶⁰ While this decision should serve as a warning to Applicant, the decision, including the warning, should not be interpreted as being contingent on future monitoring of Applicant's financial condition. The Defense Office of

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:	Withdrawn
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

Hearings and Appeals (DOHA) has no authority to attach conditions to an applicant's security clearance. See, e.g., ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012) (citing ISCR Case No. 10-03646 at 2 (App. Bd. Dec. 28, 2011)). See also ISCR Case No. 06-26686 at 2 (App. Bd. Mar. 21, 2008); ISCR Case No. 04-03907 at 2 (App. Bd. Sep. 18, 2006); ISCR Case No. 04-04302 at 5 (App. Bd. Jun. 30, 2005); ISCR Case No. 03-17410 at 4 (App. Bd. Apr. 12, 2005); ISCR Case No. 99-0109 at 2 (App. Bd. Mar. 1, 2000).