



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



In the matter of: )  
 )  
 --- ) ISCR Case No. 15-00994  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Eric Borgstrom, Esquire, Department Counsel  
For Applicant: *Pro se*

06/29/2016

**Decision**

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding financial considerations and personal conduct. Eligibility for a security clearance and access to classified information is granted.

**Statement of the Case**

On November 21, 2001, Applicant applied for a security clearance and submitted a Security Clearance Application (SF 86).<sup>1</sup> On August 8, 2012, he submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.<sup>2</sup> On September 11, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him, under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining*

<sup>1</sup> GE 2 (SF 86, dated November 21, 2001).

<sup>2</sup> GE 1 (e-QIP, dated August 8, 2012).

*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 Guidelines F (Financial Considerations) and E (Personal Conduct), 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 September 24, 2015. In his answer to the SOR allegations, Applicant requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on March 16, 2016. The case was assigned to me on March 28, 2016. A Notice of Hearing was issued on April 8, 2016. I convened the hearing as scheduled on April 27, 2016.

During the hearing, six Government exhibits (GE 1 through GE 6) and nine Applicant exhibits (AE A through AE I) were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on May 6, 2016. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity. He timely submitted a number of documents, which were marked as AE J through AE R and admitted into evidence without objection. The record closed on May 25, 2016.

### **Findings of Fact**

In his Answer to the SOR, Applicant essentially admitted and denied various portions, with explanations, of the factual allegations pertaining to financial considerations and personal conduct in the SOR (¶¶¶ 1.a. through 1.c., 2.a. and 2.b.). 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 53-year-old employee of a defense contractor. He has been a quality engineer since June 2001.<sup>3</sup> A 1982 high school graduate,<sup>4</sup> Applicant received an associate's degree in 1992 and a bachelor's degree in industrial engineering in 1994.<sup>5</sup> He enlisted in the U.S. Navy and apparently served in both the inactive duty reserve (from 1990 until 1994) and on active duty (from 1983 until 1990) as a submariner. He retired honorably because of physical disability (subsequently awarded a 70 percent disability) in the grade of petty officer first class (E-6) in 1994.<sup>6</sup> He held a top secret security clearance while in the U.S. Navy, and he has held a secret security clearance

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<sup>3</sup> GE 1, *supra* note 2, at 10.

<sup>4</sup> GE 6 (Personal Subject Interview, dated September 25, 2012), at 2.

<sup>5</sup> Tr. at 21-23.

<sup>6</sup> GE 6, *supra* note 4, at 2; GE 1, *supra* note 2, at 12; GE 2, *supra* note 1, at 5; AE K (Letter, dated October 20, 1994); AE J (Letter, dated April 28, 2016); AE L (Identification Cards, undated); Tr. at 60, 62.

since 2002.<sup>7</sup> Applicant was married the first time in June 1988 and divorced in June 1995; the second time in August 1998 and divorced in January 2009; and the third time in July 2012.<sup>8</sup> He has two sons and a daughter, born in 1995 and 1997,<sup>9</sup> as well as several stepchildren.

### **Financial Considerations<sup>10</sup>**

It is unclear if Applicant encountered financial difficulties or if certain accounts became delinquent because of oversight or other unusual circumstances. The SOR identified three purportedly continuing delinquent accounts which had been placed for collection, charged off, or for which foreclosure proceedings had commenced. His August 2012 credit report reflects one minor collection account in the amount of \$62, but the remaining accounts were all current.<sup>11</sup> That account does not appear in either of Applicant's more recent credit reports, and it is not listed in the SOR.

There is, however, one delinquent medical account in the amount of \$48 (actually \$47.67) that is listed in the SOR (SOR ¶ 1.a.). Applicant explained that the medical provider failed to submit the bill to both his primary insurance carrier and to his secondary insurance carrier. He was unaware that the account had been placed for collection.<sup>12</sup> When he first learned of the delinquency during his interview with an investigator from the U.S. Office of Personnel Management (OPM) in September 2012, he indicated he would follow up and resolve it.<sup>13</sup> Applicant paid the entire amount owed in September 2015.<sup>14</sup> The debt has been resolved.

When Applicant decided to move from one residence to another, he instructed the utility company to turn off both his gas and electric service. They failed to do as instructed. Unbeknownst to Applicant, the service continued, generating approximately \$1,155 in charges that were eventually charged off (SOR ¶ 1.b.). No final bill was ever

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<sup>7</sup> GE 1, *supra* note 2, at 32-33; GE 2, *supra* note 1, at 10.

<sup>8</sup> GE 1, *supra* note 2, at 14-17.

<sup>9</sup> GE 1, *supra* note 2, at 21-22.

<sup>10</sup> General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 5 (Combined Experian, TransUnion, and Equifax Credit Report, dated August 22, 2012); GE 4 (Equifax Credit Report, dated December 2, 2014); GE 3 (Equifax Credit Report, dated August 13, 2015); GE 6, *supra* note 4. More recent information can be found in the exhibits furnished and individually identified.

<sup>11</sup> GE 5, *supra* note 10, at 14.

<sup>12</sup> Applicant's Answer to the SOR, dated September 24, 2015.

<sup>13</sup> GE 6, *supra* note 4, at 1.

<sup>14</sup> AE E (Receipt, dated September 24, 2015); Tr. at 27-28.

received by Applicant.<sup>15</sup> Upon learning of the delinquency, Applicant paid the entire balance due.<sup>16</sup> The debt has been resolved.

Applicant purchased a residence in 2007 and refinanced it for approximately \$190,692 in 2010. Although the house had been inspected when he bought it, Applicant subsequently learned that there were structural deficiencies involving the presence of lead in the paint, asbestos under the siding, and something akin to dry rot in the structural beams. Contractors would not touch the house to repair it. Applicant was also unable to sell it. He approached the mortgage lender for a solution, but none was forthcoming, so he stopped making his monthly payments (SOR ¶ 1.c.). Once he had secured another residence, Applicant relinquished the house keys and moved out. A foreclosure was subsequently completed. The house was sold by the mortgage lender for \$212,080.42 in August 2014.<sup>17</sup> Since the sale was for more than the amount owed by Applicant, the amount owed by Applicant was reduced to zero – a fact clearly set forth in Applicant’s December 2014 and August 2015 credit reports.<sup>18</sup> The debt was resolved 13 months before the SOR was issued.

In April 2016, Applicant submitted a Personal Financial Statement setting forth his net monthly income of \$7,691; and his monthly household expenses of \$1,184.93. Based on those figures, it appears that he has a monthly remainder of approximately \$6,506 available for savings or spending. His wife owns their residence. Applicant has substantial assets (\$348,050) in a diverse variety of accounts, and only approximately \$18,522 in liabilities, including a \$12,600 mortgage in his wife’s name.<sup>19</sup> Applicant has no delinquent accounts. His finances are under control.

## Personal Conduct

In October 2013, Applicant accompanied his daughter while she was driving the family car using her learner’s permit. When she turned down a road that narrows, a driver in a pickup truck behind them tried to pass them on the right curb. When Applicant told his daughter to move to the center of the road to allow the other driver to pass, the other driver shook his fist at them and pulled his vehicle in front of Applicant’s car and stopped, blocking their path. Road rage ensued. The other driver exited his

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<sup>15</sup> Applicant’s Answer to the SOR, *supra* note 12.

<sup>16</sup> AE B (Account Statement, undated); AE C (E-mail and Statement, both dated April 18, 2016); Tr. at 28.

<sup>17</sup> Tr. at 29-35; GE 6, *supra* note 4, at 1; AE G (Loan Activity, dated September 24, 2015); AE D (Loan Activity, dated April 8, 2016).

<sup>18</sup> GE 4, *supra* note 10, at 2; GE 3, *supra* note 10, at 5. *See also* AE H (Current Loan Information, dated September 9, 2015). Applicant’s recent April 2016 credit report reflects the account as “foreclosure redeemed.” AE A (TransUnion Credit Report, dated April 11, 2016), at 2.

<sup>19</sup> AE M (Personal Financial Statement, dated April 28, 2016); AE P (Statement of Account, dated March 31, 2016); AE Q (Salaried Savings Plan, dated April 27, 2016); AE O (Summary of Tour Statement Information, undated); AE N (Paycheck Print, dated April 28, 2016); AE I (Personal Account Summary, undated); AE R (Account Statement, undated).

vehicle, opened his jacket to expose a pistol in a shoulder holster, and came towards Applicant's vehicle. The other driver kept his hand under his jacket. As he approached the car, Applicant, fearing for his life and that of his daughter, turned and tried to shield her, while at the same time, drawing his own concealed handgun. Applicant did not point the weapon at the other driver. He yelled at the other driver and told him to move away from their car. The driver complied, but he failed to move his truck. The police arrived shortly thereafter, but Applicant is not sure who called them because his cell phone was dead and his daughter did not have one. After explaining what had occurred, Applicant was arrested and charged with menacing in the second degree, a misdemeanor. The district attorney eventually dismissed the original charge and reduced it to disorderly conduct, a violation, which is less serious than a misdemeanor. Because of the costs which would have faced him to fight the charge, Applicant chose not to fight it. He was required to pay a small fine of less than \$100. He was not required to do any probation, community service, or to attend any anger-management classes. Applicant's handgun and pistol permit were promptly returned to him by the police authorities at the direction of the district attorney. The other driver's pistol permit was revoked.<sup>20</sup>

In August 2012, when Applicant completed his e-QIP, he responded to some questions pertaining to his financial record. One particular question in § 26 was if he was currently over 120 days delinquent on any debt. Applicant answered "no" to the question. He certified that the response was "true, complete, and correct" to the best of his knowledge and belief.<sup>21</sup> The SOR had erroneously alleged that Applicant completed the e-QIP on January 1, 2014, but that allegation was incorrect, and Department Counsel moved to amend the SOR to correct the error. The motion was to substitute the date "August 8, 2012" for the alleged date of "January 1, 2014." There being no objection, the motion was granted.<sup>22</sup> At the time Applicant completed the e-QIP, the August 2012 credit report, issued two weeks after the e-QIP was completed, reflected the account was already over 120 days past due.<sup>23</sup> Applicant denied that he was aware that the account was being reported as past due as he had been advised that it had been placed in a suspense status, and he had not obtained a copy of his credit report before completing the e-QIP.<sup>24</sup> Upon being examined by Department Counsel, Applicant still denied intending to falsify his response, but did concede that his response was probably an oversight on his part and that he should have responded with a "yes" to the question.<sup>25</sup>

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<sup>20</sup> Tr. at 42-54; AE F (Letter, dated November 6, 2014); Applicant's Answer to the SOR, *supra* note 12. Applicant noted that under the state law, it is mandatory to arrest anyone who has drawn a weapon. He also indicated that he had been advised that if all charges had been dismissed, the state might be liable for false arrest.

<sup>21</sup> GE 1, *supra* note 2, at 35, 38.

<sup>22</sup> Tr. at 11-13.

<sup>23</sup> GE 5, *supra* note 10, at 17.

<sup>24</sup> Tr. at 40-41.

<sup>25</sup> Tr. at 41.

## 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>26</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>27</sup>

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

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

In the decision-making process, facts must be established by “substantial evidence.”<sup>28</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>29</sup>

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This

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<sup>26</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>27</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>28</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>29</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

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>30</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>31</sup> Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

## **Analysis**

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

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

Failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly, under AG ¶ 19(c), a “history of not meeting financial obligations” may raise security concerns. Applicant had three isolated delinquent debts that were placed for collection, charged off, or went to foreclosure. 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

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<sup>30</sup> *Egan*, 484 U.S. at 531.

<sup>31</sup> See Exec. Or. 10865 § 7.

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>32</sup>

AG ¶¶ 20(a), 20(b), 20(c), and 20(d) apply. Applicant’s financial problems were not caused by frivolous or irresponsible spending, and he did not spend beyond his means. Instead, those financial problems were largely beyond his control. He was unaware that one small medical bill was not sent by the provider to his two health insurance carriers. Instead, the provider apparently ignored or overlooked the second carrier and simply placed the debt for collection. Another debt was created when the utility company failed to comply with Applicant’s wishes to terminate service, and instead, continued to charge him for undesired service. When Applicant learned of the two delinquent accounts, he paid them off. The third debt arose over a dispute regarding the structural deficiencies in his residence. Apparently there was some miscommunication between Applicant and the mortgage lender, for rather than having the issue placed in suspense, foreclosure proceedings commenced. The house was eventually sold for more than the remaining mortgage balance, and Applicant’s responsibility under the mortgage loan is now zero.

Applicant has substantial assets in a diverse variety of accounts, and only minimal liabilities, including a modest mortgage in his wife’s name. He has no delinquent accounts. His finances are under control. There are substantial indications that Applicant’s finances have never really been out of control. Applicant’s actions,

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<sup>32</sup> The Appeal Board has previously explained what constitutes a good-faith effort to repay overdue creditors or otherwise resolve debts:

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

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

under the circumstances confronting him, do not cast doubt on his current reliability, trustworthiness, or good judgment.<sup>33</sup>

### **Guideline E, Personal Conduct**

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 16(a), it is potentially disqualifying if there is

Deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

Under AG ¶ 16(e), it is also potentially disqualifying if there is

personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as . . . engaging in activities which, if known, may affect the person's personal, professional, or community standing. . . .

Applicant was involved in an incident of road rage. The other driver exited his vehicle, opened his jacket to expose a pistol in a shoulder holster, and came towards Applicant's vehicle. The other driver kept his hand under his jacket. As he approached the car, Applicant, fearing for his life and that of his daughter, turned and tried to shield her, while at the same time, drawing his own concealed handgun. Applicant did not point the weapon at the other driver. He yelled at the other driver and told him to move away from their car. The driver complied, but he failed to move his truck. The police arrived shortly thereafter. After explaining what had occurred, Applicant was arrested and charged with menacing in the second degree, a misdemeanor. It was reduced to disorderly conduct, a violation, which is less serious than a misdemeanor. Applicant did not fight the reduced charge. He was required to pay a small fine of less than \$100. With respect to the road rage incident, AG ¶ 16(e) has been established.

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<sup>33</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

In August 2012, when Applicant completed his e-QIP, he denied that he was currently over 120 days delinquent on any debt. At the time Applicant completed the e-QIP, he did, in fact, have one account that was over 120 days past due. However, Applicant denied that he was aware that the account was being reported as past due as he had been advised that it had been placed in a suspense status, and he had not obtained a copy of his credit report before completing the e-QIP. Applicant steadfastly denied intending to falsify his response, but he did eventually concede that his response was probably an oversight on his part and that he should have responded with a “yes” to the question. With respect to Applicant’s response to the e-QIP question, AG ¶ 16(a) has not been established

The guideline also includes examples of conditions that could mitigate security concerns arising from personal conduct. AG ¶ 17(c) may apply if

the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment.

AG ¶ 17(c) applies. As noted above, in October 2013, Applicant accompanied his daughter while she was driving the family car using her learner’s permit. When she turned down a road that narrows, a driver in a pickup truck behind them tried to pass them on the right curb. The other driver shook his fist at them and pulled his vehicle in front of Applicant’s car and stopped, blocking their path. Road rage ensued. Weapons were displayed. Applicant feared for his life and that of his daughter. He turned and tried to shield her, while at the same time, drawing his own concealed handgun. Applicant did not point the weapon at the other driver. Although Applicant was arrested and charged with menacing in the second degree, a misdemeanor, the district attorney eventually dismissed the original charge and reduced it to disorderly conduct, a violation, which is less serious than a misdemeanor. Because of the costs which would have faced him to fight the charge, Applicant chose not to fight it. He paid a small fine of less than \$100. Because the offense was so minor, and it happened under such unique circumstances, Applicant was not required to do any probation, community service, or to attend any anger-management classes. His handgun and pistol permit were promptly returned to him by the police authorities at the direction of the district attorney. Applicant’s actions in exercising his right to protect his daughter from possible impending harm, under the circumstances, does not cast doubt on his reliability, trustworthiness, or good judgment.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of the applicant’s conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.<sup>34</sup>

There is some evidence against mitigating Applicant's conduct. Applicant's residence went into foreclosure after he stopped making his monthly mortgage payments, and two other diverse accounts became delinquent. During a road-rage confrontation, he drew a handgun to deter an aggressor. He was convicted of disorderly conduct.

The mitigating evidence under the whole-person concept is more substantial. Applicant is a disabled military veteran as well as a good and involved parent. He possesses a concealed gun permit in a state not known for being liberal in issuing such permits. Although he was involved in a road-rage incident while teaching his daughter to drive, he drew his handgun in self-defense only after the other driver displayed his weapon while approaching Applicant and his daughter, and Applicant feared for their safety. Although Applicant was convicted of the "violation" called disorderly conduct, the significance of the violation has been greatly diminished by the return of Applicant's handgun and permit and the minimal penalty imposed by the court.

Applicant did incur two small debts, but upon becoming aware of them, he promptly paid them off. The larger debt, over which there was a dispute regarding structural deficiencies in his residence, was eventually resolved over a year before the SOR was issued, and he has no further financial liability or responsibility under it. There are substantial indications that Applicant's finances have never really been out of control. Applicant's actions under the circumstances confronting him during both the road-rage incident and related to his mortgage issues do not cast doubt on his current reliability, trustworthiness, and good judgment.

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 and personal conduct. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

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<sup>34</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).

## Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR and amended 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
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant

## Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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ROBERT ROBINSON GALES  
Administrative Judge