



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



In the matter of:	)	
	)	
	)	ISCR Case No. 10-07080
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Braden M. Murphy, Esquire, Department Counsel  
For Applicant: *Pro se*

July 14, 2011

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**Decision**

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ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the pleadings and exhibits in this case, I conclude that Applicant failed to mitigate the Government's security concerns under Guideline F, Financial Considerations. His eligibility for a security clearance is denied.

**Statement of Case**

Applicant completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP) on May 3, 2010. On July 28, 2010, he was interviewed by an authorized investigator from the U.S. Office of Personnel Management (OPM) and provided information about his financial obligations. On March 16, 2011, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense for SORs issued after September 1, 2006.

On March 29, 2011, Applicant submitted an answer to the SOR. Because he was serving overseas in a war zone, he requested that his case be adjudicated on the written record in lieu of a hearing. The Government compiled its File of Relevant Material (FORM) on April 26, 2011. The FORM contained documents identified as Items 1 through 8. By letter dated May 2, 2011, DOHA forwarded a copy of the FORM to Applicant, with instructions to submit any additional information or objections within 30 days of receipt. Applicant received the FORM on May 9, 2011. His response was due on June 8, 2011. On May 13, 2011, Applicant filed, by mail, a 25-page response to the FORM. On June 8, 2011, Applicant filed a 91-page supplemental response to the FORM by e-mail. On June 17, 2011, the Government filed a response to Applicant's response and supplemental response. The Government also provided, for the record, two e-mail communication chains between Applicant and Department Counsel and offered them as supplemental Item 9 and Item 10 to the FORM.

On June 24, 2011, the case was assigned to me for a decision. Without objection, I marked the 25-page written response that Applicant filed to the FORM as Item A, and I admitted it to the record. Also without objection, I marked Applicant's 91-page supplemental e-mail response to the FORM as Item B and admitted it to the record. I marked the Government's response to Applicant's written response and supplemental e-mail response as GR 1 and admitted it, without objection. Additionally, without objection, I admitted Item 9 and Item 10 as supplemental exhibits to the FORM.

### **Procedural Matters**

SOR ¶¶ 1.g., 1.s., and 1.t. alleged that Applicant owed medical debts to an unspecified creditor. In the FORM, the Government moved to amend those allegations to include the name of the specific creditor. In support of its amendment, the Government provided documentation at Item 6 that specified the name of the medical creditor. Applicant did not object to the Government's motion to amend the SOR. Accordingly, SOR ¶¶ 1.g., 1.s., and 1.t. were so amended.

### **Findings of Fact**

The SOR contains a bankruptcy allegation and 25 allegations of financial delinquency under Guideline F, Financial Considerations (SOR ¶¶ 1.a. through 1.z.). The 25 allegations of financial delinquency total approximately \$52,882. In his Answer to the SOR, Applicant admitted the bankruptcy allegation and 19 allegations of financial delinquency. He denied six allegations of delinquent debt (SOR ¶¶ 1.g., 1.m., 1.p., 1.q., 1.r., and 1.z.).<sup>1</sup> Applicant's admissions are entered as findings of fact. (Item 1; Item 3.)

The facts in this case are established by the record provided by the Government and by information provided by Applicant. The record evidence includes Applicant's May 3, 2010 e-QIP; official investigation and agency records; Applicant's Answer to the SOR

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<sup>1</sup> The 25 debts alleged on the SOR are listed on Applicant's credit reports of May 19, 2010; July 23, 2010; and January 7, 2011. (Item 5; Item 6; Item 8.)

and responses to the FORM; and Applicant's credit reports of May 19, 2010; July 23 2010; and January 7, 2011. (Items 3 through 8; Items A and B.)

Applicant is 44 years old and a high school graduate. In 1984, he enlisted in a National Guard unit. He served until 1990, when he was honorably discharged. Since April 2010, he has been employed as a Government contractor. Applicant seeks a security clearance for his current work. (Item 4.)

Applicant married for the first time in 1990. He and his first wife divorced in 2000. Applicant and his second wife married in 2003. On his e-QIP, Applicant reported that he is the father of six children and one stepchild. Four of Applicant's children are young adults; his younger children are ages 10 and 11. His stepson is 16 years old. (Item 4.)

Applicant was interviewed by an OPM investigator about his finances on July 28, 2010.<sup>2</sup> He told the investigator that two events in the past ten years resulted in his inability to pay his creditors. The first event resulted from a business venture. From 1994 to 1998, Applicant was self-employed and owned a trucking business. In his business, he operated two tractor trailer trucks which he had purchased with loans totaling about \$100,000. When fuel costs rose and freight prices fell, Applicant's business faltered. He was unable to repay the loans on the tractor trailer trucks, and they were repossessed. In 2000, Applicant declared Chapter 7 bankruptcy. His debts were discharged in about June 2000. Applicant's bankruptcy was alleged at SOR ¶ 1.a. (Item 1; Item 7 at 4.)

Applicant reported that the second event impacting his financial strength began in about September 2003 and continued until about 2008. During that time, Applicant incurred large legal fees in attempting to adopt his second wife's two children from a prior marriage. Applicant told the investigator that, in addition to the legal fees, his efforts to adopt the children resulted in certain periods of unemployment. At the time of his personal subject interview, Applicant cited his failed business, his bankruptcy, and his legal expenses attendant to the adoptions and told the investigator that he lacked sufficient resources to satisfy his delinquent debt. (Item 7 at 5.)

On his e-QIP, Applicant listed a month of unemployment in April 2010, two months of unemployment from December 2009 to February 2010, and employment with a safety company, from February 2010 to March 2010, which he left after one month because the job did not provide sufficient money and working hours. (Item 4.)

On his e-QIP, Applicant also stated that he was self-employed as a welder-fitter from February 2003 until December 2009. He stated that for certain periods, he worked

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<sup>2</sup> On November 8, 2010, in response to DOHA interrogatories, Applicant signed a notarized statement affirming that he had read the summary of the interview and found it to be true and correct. He made no changes, corrections, or revisions to the investigator's summary. (Item 7 at 10.)

as a traveling contractor for a business, which laid him off in December 2009 during an economic downturn. From April 2000 until January 2003, Applicant was employed in a family business as a welder-fitter. (Item 4.)

The SOR alleged at ¶ 1.n. that Applicant was 180 days or more past due on a child support account in State A and owed approximately \$274. Applicant denied the allegation. He provided documentation establishing that he was no longer in arrears in his child support payments in State A. However, Applicant also provided documentation from State B showing an ongoing monthly child support obligation of \$435 plus \$87 in arrears for a total monthly amount of \$522. Additionally, Applicant's documentation showed that he owed an arrears balance of \$670. The child support obligation in State B was not alleged on the SOR. (Item 1; Item 3; Item A, 8-14.)

The SOR also alleged that Applicant was responsible for the following delinquent consumer debts: ¶ 1.o (\$434); ¶ 1.p (\$70); ¶ 1.v. (\$159); ¶ 1.w. (\$66); ¶ 1.x. (\$724); and ¶ 1.z. (\$78.). Applicant denied the debt alleged a SOR ¶ 1.p. because he was not sure it was legitimate. In his response to the FORM, Applicant reported that the debt alleged at SOR ¶ 1.p. had not been satisfied because he was still awaiting the creditor's validation of the debt. Applicant denied the debt at SOR ¶ 1.z. because he thought it had been discharged in his 2000 bankruptcy. In his response to the FORM, he provided an annotated copy of his June 2011 bank statement showing that he had authorized payment of the debt alleged at SOR ¶ 1.z. (Item 1; Item 3; Item B at 3, 5.)

Applicant provided documentation dated March 24, 2011, showing that the creditor identified at SOR ¶ 1.v. had received his post-dated credit card payment of \$127.39. He failed to provide documentation from the creditor confirming receipt of funds and satisfaction of the debt, listed on the SOR as \$159. (Item A at 5.)

In his Answer to the SOR, Applicant stated that he had settled the \$434 debt alleged at SOR ¶ 1.o. for \$136.06. In his response to the FORM he provided an annotated bank statement showing a \$136.06 payment made to a creditor on March 24, 2011. (Item 3; Item A at 1, 21, 24.)

In his Answer to the SOR, Applicant stated he had paid in full the \$66 debt alleged at SOR ¶ 1.w. He also stated that he had settled for \$362.33 the \$724 delinquent debt alleged at SOR ¶ 1.x. In his response to the FORM, Applicant provided an annotated bank statement showing a payment of \$71.77 made on March 25, 2011 to the creditor identified at SOR ¶ 1.w. In his response to the FORM, he also provided an annotated bank statement showing a payment of \$362.33 on March 25, 2011 to a creditor identified in SOR ¶ 1.x. Additionally, Applicant's response to the FORM included documentation showing that on March 25, 2011, he had authorized payment of \$120.34 to the creditor identified at SOR ¶ 1.i. (Item 3; Item A at 1, 21, 24.)

Applicant told the OPM investigator that in 2001, he obtained loans to purchase two automobiles and a mobile home. In 2007, during his period of financial hardship, he was unable to continue payments on the vehicles and the mobile home, and he

surrendered them to the creditor in a voluntary repossession. Applicant reported this delinquent debt on his e-QIP, and he told the investigator that he owed the creditor approximately \$28,026 on the debt. He also acknowledged that he had made no payments since 2007. In his answer to the SOR, Applicant admitted the debt but denied he owed the amount alleged on the SOR. This debt, which is alleged at SOR ¶ 1.q., has not been satisfied. (Item 3; Item 4; Item 7 at 5; Item A at 2.)

Seventeen of the 25 debts alleged on the SOR recite unpaid medical bills (SOR ¶¶ 1.b., 1.c., 1.d., 1.e., 1.f., 1.g., 1.h., 1.i., 1.j., 1.k., 1.l., 1.m., 1.r., 1.s., 1.t., 1.u., and 1.y.). In his interview with the OPM investigator, Applicant stated that he suffered a compound fracture of one of his legs in 2007, and he had no health insurance to cover his medical expenses. He stated that 12<sup>3</sup> of the 17 medical debts alleged on the SOR were incurred for the diagnosis and treatment of his broken leg. The 12 debts totaled approximately \$21,065. At the time of his interviews with the investigator in July 2010, none of these medical debts had been satisfied. (Item 1; Item 7, 4-10.)

In his Answer to the SOR, Applicant provided documentation corroborating payment of the \$309.40 medical debt alleged at SOR ¶ 1.b. In his response to the FORM, he provided documentation showing \$103 payments in March, April, and May 2011 on the medical debts alleged at SOR ¶¶ 1.c. and 1.d.<sup>4</sup> (Item 3 at 10; Item A at 23, 25; Item B at 5.)

In his response to the FORM, Applicant provided documentation corroborating his claim that the medical debts alleged at SOR ¶¶ 1.h., 1.i., and 1.j. had been paid. The three debts, totaling \$225, were satisfied March 23, 2011. (Item A at 7.)

Applicant also provided information on his efforts to satisfy several other debts alleged on the SOR. Applicant provided annotations on his bank checking account statement showing a pending transaction, dated May 10, 2011, authorizing payment of the \$283 debt alleged at SOR ¶ 1.e. In his answer to the SOR, Applicant admitted the allegation at SOR ¶ 1.y. and identified it as “the same creditor as [the debt alleged at SOR ¶ 1.e.]”<sup>5</sup> His annotated bank account statement also identified an authorization, dated June 1, 2011, for the payment of \$630 on the \$840 debt listed at SOR ¶ 1.f. According to Applicant’s annotations, on March 25, 2011, an authorization to pay \$90 was sent from Applicant’s checking account to the creditor identified at SOR ¶ 1.k. Also, according to Applicant’s annotations, on June 1, 2011, an authorization to pay \$82 in satisfaction of the debt alleged at SOR ¶ 1.r. was sent from Applicant’s checking account to the creditor. Applicant also provided documentation that on May 11, 2011, a

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<sup>3</sup> The twelve medical debts are as follows: ¶ 1.d. (\$828); ¶ 1.e. (\$283); ¶ 1.g. (\$762); ¶ 1.h. (\$175); ¶ 1.i. (\$25); ¶ 1.k. (\$90); ¶ 1.l. (\$112); ¶ 1.m. (\$41); ¶ 1.r. (\$78); ¶ 1.s. (\$1,293); ¶ 1.t. (\$17,177); and ¶ 1.u. (\$201).

<sup>4</sup> Together, the debts alleged at SOR ¶¶ 1.c. and 1.d. totaled \$1,375.

<sup>5</sup> Nothing in the record confirms that the debt alleged at SOR ¶ 1.y. was satisfied or was a duplicate of the debt alleged at SOR ¶ 1.e.

creditor acknowledged his attempted telephone payment of \$1,000 in satisfaction of the debt identified at SOR ¶ 1.s. Additionally, Applicant provided documentation from his checking account statement showing that on June 2, 2011, he had authorized payment of \$177.82 in partial satisfaction of the \$17,177 debt alleged at SOR ¶ 1.t. (Item A at 4, 22-24; Item B at 4.)

The debts alleged at SOR ¶¶ 1.g. (\$762), 1.m. (\$41), and 1.u. (\$201) remain unsatisfied. Applicant stated in his response to the SOR that he planned to seek a payment plan to resolve the debt alleged at SOR ¶ 1.g. He stated that he had been unable to locate the creditors for the debts alleged at SOR ¶¶ 1.m. and 1.u., and he would dispute them at a future time. (Item A at 2.)

Applicant provided four letters of character reference and his most recent employment letter. Three of the letters were from managers and supervisors who work with Applicant in his assignment as contractor in a war zone. All three letters praised Applicant's work ethic and expertise. One of his supervisors called him the very best in his field in theater and "an invaluable asset to our military." His company's lead in the region stated that Applicant was part of a team that put forth great effort to keep equipment in readiness, and their commitment to this mission helped to save military and civilian lives. Applicant's landlord provided a letter stated that Applicant had paid in rent on time for the past three years. (Item A 15-20.)

In his November 2010 response to DOHA interrogatories, Applicant provided a personal financial statement. He reported a monthly net income of \$8,226 and monthly living expenses of approximately \$6,294. He also reported that he made payments of \$613 on his current debts each month. His net monthly remainder is approximately \$1,319. In his response to the FORM, he provided information documenting that he sought financial credit counseling on May 11, 2011. He also asserted that he had attempted to pay, settle, or enter into payment plans for 17 of the 25 delinquent debts alleged on the SOR. (Item 7 at 19; Item A at 1, 3.)

### **Burden of Proof**

The Government has the initial burden of proving controverted facts alleged in the SOR. To meet its burden, the Government must establish by substantial evidence a *prima facie* case that it is not clearly consistent with the national interest for an applicant to have access to classified information. The responsibility then shifts to the applicant to refute, extenuate or mitigate the Government's case. Because no one has a right to a security clearance, the applicant carries a heavy burden of persuasion. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access to classified information in favor of protecting national security.

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, and it has emphasized that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant an applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, the administrative judge applies these guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge’s over-arching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), 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 decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The Applicant has the ultimate burden of persuasion in seeking to obtain a favorable security decision.

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. The Government reposes a high degree of trust and confidence in 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 protect or 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.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **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 two disqualifying conditions that could raise security concerns in this case. 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 has a history of financial delinquency. He has accumulated delinquent debt which has not been paid or which has been paid only recently. This evidence is sufficient to raise potentially disqualifying conditions under Guideline F.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Several Guideline F mitigating conditions could apply to the security concerns raised by Applicant's financial delinquencies. Unresolved financial delinquency might be mitigated if “it 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.” (AG ¶ 20(a)). Additionally, unresolved financial delinquency might be mitigated if “the conditions that resulted in the financial problem were largely beyond the person's control,” such as “loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation, and the individual acted responsibly under the circumstances.” (AG ¶ 20(b)). Still other mitigating circumstances that might be applicable include evidence “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” (AG ¶ 20(c) or “the individual has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.” (AG ¶ 20 (d)). Finally, security concerns related to financial delinquencies might be mitigated if “the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.” (AG ¶ 20 (e)).

The record in this case established that Applicant paid or was paying as the result of a payment plan the following six delinquent debts alleged on the SOR: SOR ¶¶ 1.b., 1.c., 1.d., 1.h., 1.i., and 1.j. Moreover, he has resolved his delinquent child support obligation in State A, which was alleged at SOR ¶ 1.n. Accordingly, those allegations are concluded for Applicant.

However, Applicant has a history of financial delinquencies that began in the 1990s and resulted in a bankruptcy in 2000. In about 2007, he again experienced financial difficulties. Applicant has known of some of his financial delinquencies since he completed his e-QIP in May 2010, and he learned of other debts when he was interviewed by the OPM investigator in July 2010. Yet, he addressed his financial delinquencies only after he received the SOR in March 2011. His debt payments are so recent that he has not received acknowledgments of satisfaction from most of his creditors. He plans to dispute some of his debts in the future. Moreover, he has only recently initiated financial credit counseling. He does not have a plan in place for managing his financial responsibilities and avoiding financial delinquencies in the future.

Applicant’s trucking business failed during a financial downturn in the late 1990s, and he declared Chapter 7 bankruptcy in 2000. His efforts to adopt his second wife’s two children apparently led to further financial difficulties for five years between 2003 and 2008. In 2007, when he suffered a compound fracture of his leg, he had no health insurance, and he incurred many of the medical debts alleged on the SOR. His medical debts are at least four years old, and Applicant addressed them only in the last four months, under the stimulus of the SOR. Also in 2007, Applicant was unable to maintain payments on two vehicles and a motor home, and they were repossessed by the creditor. This unresolved debt was alleged at SOR ¶ 1.q. Applicant admitted knowledge of the debt and acknowledged that he had made no effort to resolve it. While it is reasonable to conclude that a financial downturn led to the failure of his trucking business in the 1990s and was beyond Applicant’s control, it is not clear from the written record that the financial consequences associated with the adoption of his stepsons were beyond Applicant’s control for five years or that he acted responsibly under the circumstances.

Applicant initiated payment of the delinquent debts alleged on the SOR after receiving the SOR in March 2011. His personal financial statement indicates that he has been allocating over \$600 each month to paying his more recent financial obligations, and he reports a monthly remainder of over \$1,300. This raises a concern about Applicant’s good faith in paying the delinquent debts alleged on the SOR. DOHA’s

Appeal Board has 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 option (such as bankruptcy [or statute of limitations] in order to claim the benefit of [the good faith” mitigating condition.

(ISCR Case No. 02-30304 at 3 (App. Bd. April 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

Even though he was aware of the vehicle and motor home repossessions and the medical debts attendant to his broken leg in 2007, Applicant took no actions to resolve those financial obligations until he was served with the SOR in March 2011. This raises concerns about his judgment, adherence to duty or obligation, and good faith in resolving his just debts. While Applicant deserves some credit for addressing his financial obligations after March 2011, this record does not reflect a consistent and responsible pattern of debt resolution. Insufficient time has passed to conclude that Applicant can avoid the recurrence of financial delinquency in the future.

I conclude that AG ¶¶ 20(a) and 20(e) do not apply in mitigation to the facts of Applicant’s case. Additionally, I conclude that AG ¶¶ 20(b), 20(c), and 20(d) apply only in part to mitigate the facts of this case.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of an applicant’s conduct and all relevant 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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Since receiving the SOR in March 2011, Applicant has attempted to pay, settle, or enter into payment plans for the majority of his delinquent debts. However, since Applicant's efforts to resolve his delinquent debts are recent, it is unclear from this record whether he will maintain responsible financial conduct in the future. His recent attempts to satisfy his delinquent debts occur after years of inaction. At issue here is not simply whether he can resolve the majority of his financial delinquencies after receiving the SOR. Of greater concern is whether his financial decisions and circumstances raise concerns about his fitness to hold a security clearance.

Applicant provided strong character references. He is undertaking contract work overseas that provides support to U.S. military efforts. His supervisors and managers consider him to be a valued employee. Despite his recent efforts to resolve many of his delinquent debts, his failure over many years to satisfy his creditors raises security concerns about his judgment and reliability.

Overall, the record evidence leaves me with questions and doubts at the present time as to Applicant's eligibility and suitability for a security clearance. However, the awarding of a security clearance is not a once-in-a-lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. Under Applicant's current circumstances, a clearance is not recommended. It is possible that in the future he may well demonstrate persuasive evidence of his security worthiness. If his employer concurs, Applicant can reapply for a security clearance one year after the date that this decision becomes final. (See Directive, Enclosure 3, Additional Procedural Guidance, ¶ E3.1.37.)

Should Applicant be afforded an opportunity to reapply for a security clearance in the future, he may wish to provide documentation from his creditors showing that he has paid his delinquent obligations, established compliance with repayment plans, and established a track record of timely and consistent payment of his debts.

From the record evidence in this case, I conclude Applicant failed to mitigate the security concerns arising from his financial delinquencies. A security clearance is not warranted at this time.

### **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:           AGAINST APPLICANT

Subparagraph 1.a.:           Against Applicant

Subparagraphs 1.b. - 1.d.: For Applicant

Subparagraphs 1.e. - 1.g.: Against Applicant

Subparagraphs 1.h.- 1.j.: For Applicant

Subparagraphs 1.k. - 1.m.: Against Applicant

Subparagraph 1.n.:           For Applicant

Subparagraphs 1.o. -1.z.: Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Joan Caton Anthony  
Administrative Judge