



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 11-04276

**Appearances**

For Government: Tovah A. Minster, Esquire, Department Counsel  
For Applicant: *Pro se*

06/18/2012

**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 5, 2010, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application (SF 86).<sup>1</sup> On October 27, 2011, the Defense Office of Hearings and Appeals (DOHA) issued him a set of interrogatories. He responded to the interrogatories on November 17, 2011.<sup>2</sup> On January 6, 2012, DOHA issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; Department of Defense 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

<sup>1</sup> Item 5 ((SF 86), dated August 5, 2010).

<sup>2</sup> Item 6 (Applicant's Answers to the Interrogatories, dated November 17, 2011).

29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why DOHA was 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 acknowledged receipt of the SOR on January 18, 2012. In a notarized statement, dated February 2, 2012,<sup>3</sup> Applicant responded to the SOR allegations and elected to have his case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was provided to Applicant on April 5, 2012, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. Applicant received the FORM on April 19, 2012. He timely submitted additional documents and other information to which there was no objection. The case was assigned to me on May 24, 2012.

### Findings of Fact

In his Answer to the SOR, Applicant admitted, with explanations, portions of seven of the factual allegations pertaining to financial considerations in the SOR (¶¶ 1.a. through 1.g.). He denied portions of those seven factual allegations as well as three other factual allegations in their entirety (SOR ¶¶ 1.h. through 1.j.). Applicant's admissions 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 58-year-old employee of two defense contractors. He has been serving as a security officer with one company since January 2010, and with the other company since July 2010.<sup>4</sup> He was previously employed as a cashier from January 2000 until July 2010.<sup>5</sup> He has never served with the U.S. military,<sup>6</sup> and has never held a security clearance.<sup>7</sup> The record is silent regarding Applicant's employment status or activities between 1978 and 2000. Applicant graduated from high school in November 1972.<sup>8</sup> He graduated from a teacher's college in August 1978.<sup>9</sup> Applicant was married in

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<sup>3</sup> Item 4 (Applicant's Answer to the SOR, dated February 2, 2012).

<sup>4</sup> Item 5, *supra* note 1, at 15-17.

<sup>5</sup> Item 5, *supra* note 1, at 18-19.

<sup>6</sup> Item 5, *supra* note 1, at 20-21.

<sup>7</sup> Item 5, *supra* note 1, at 39.

<sup>8</sup> Item 5, *supra* note 1, at 14.

<sup>9</sup> Item 5, *supra* note 1, at 13.

March 1978.<sup>10</sup> He and his wife have four children, born in January 1979, July 1980, August 1982, and June 1986.<sup>11</sup>

## Financial Considerations

There was nothing unusual about Applicant's finances until about 2008 when he first started having financial problems, and began falling behind on his various payments.<sup>12</sup> He attributed it to several factors: he was not making as much money; he was supporting his children; and "the rising cost of living in the area."<sup>13</sup> As a result of his delayed payments, accounts became delinquent and were placed for collection or charged off. One account went to judgment. In May 2010, Applicant sought the professional guidance and assistance of a consumer debt counselor, and consolidated his debts with that company, and engaged the services of a contractual payment service.<sup>14</sup> In September 2010, he enrolled three accounts in the program.<sup>15</sup>

The SOR identified ten purportedly continuing delinquencies. Three of those accounts (SOR ¶¶ 1.a., 1.d., and 1.e.) refer to the same bank accounts in different stages of development. Two of the accounts (SOR ¶¶ 1.d. and 1.e.) were for loans obtained from the same bank at different times,<sup>16</sup> and appear in an August 2010 credit report as three separate entries with three different account numbers, and two different balances.<sup>17</sup> The account in SOR ¶ 1.d. reflects a balance of \$8,599 that was charged off in June 2010,<sup>18</sup> as well as an unpaid balance of \$8,327 that was 180 days past due as of July 2010.<sup>19</sup> An October 2011 credit report reflects the account as having been charged off, with a balance of \$4,524,<sup>20</sup> the amount listed in the SOR. In the August 2010 credit report, the account in SOR ¶ 1.e. reflects an unpaid balance of \$8,599 that

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<sup>10</sup> Item 5, *supra* note 1, at 23-24.

<sup>11</sup> Item 5, *supra* note 1, at 27-30.

<sup>12</sup> Item 6 (Personal Subject Interview, dated September 2, 2010), at 3.

<sup>13</sup> Item 6, *supra* note 12, at 3.

<sup>14</sup> Item 6, *supra* note 12, at 3; Letter from Contractual Payment Services company, dated April 5, 2012), attached to Statement in Response to FORM, dated May 10, 2012. Applicant has been paying the contractual payment service between \$250.81 and \$350.81 since November 2011. See Transaction History Status from Contractual Payment Services company, dated April 5, 2012, attached to Statement in Response to FORM, dated May 10, 2012.

<sup>15</sup> Item 6 (Addendum to Agreement, dated September 8, 2010) at 1-2.

<sup>16</sup> Item 4, *supra* note 3, at 7.

<sup>17</sup> Item 9 (Combined Experian, TransUnion, and Equifax Credit Report, dated August 14, 2010), at 6-7, 10.

<sup>18</sup> Item 9, *supra* note 17, at 6.

<sup>19</sup> Item 9, *supra* note 17, at 10.

<sup>20</sup> Item 7 (Equifax Credit Report, dated October 24, 2011), at 2.

was 180 days or more past due as of February 2010.<sup>21</sup> The October 2011 credit report reflects the account as being 180 or more days past due, with an unpaid balance of \$2,013,<sup>22</sup> the amount listed in the SOR.

Applicant contends that those two accounts were merged in July 2010, when the bank filed and obtained a small claims judgment in the amount of \$11,920 (SOR ¶ 1.a.).<sup>23</sup> Applicant and the bank attorneys agreed to a repayment plan under which Applicant is to make a monthly payment of \$286.<sup>24</sup> He has continued to make his monthly payments.<sup>25</sup> As of November 4, 2011, the unpaid balance, including judgment principal, accrued interest, attorney's fees, and court costs, was \$9,699.03.<sup>26</sup> As of January 4, 2012, the unpaid balance, including judgment principal, accrued interest, attorney's fees, and court costs, was \$9,254.41.<sup>27</sup> As of May 2012, Applicant contends his remaining balance is less than \$8,000.<sup>28</sup> It is Applicant's intention to increase his monthly payments to \$600 now that other accounts have been satisfied.<sup>29</sup> Applicant's actions related to the three alleged accounts reflect he is making progress in resolving the accounts.

There is a bank credit card account that was 150 days past due in the amount of \$3,463<sup>30</sup> (SOR ¶ 1.b.). The account was charged off in June 2010.<sup>31</sup> This account was one of those enrolled in his debt consolidation with his consumer debt counselor.<sup>32</sup> The creditor settled the account for \$1,065, provided monthly payments were received, and monthly payments of \$125 were made starting in November 2011, and continuing through at least March 2012.<sup>33</sup> Applicant's actions related to the account reflect he is making progress in resolving the account.

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<sup>21</sup> Item 9, *supra* note 17, at 7.

<sup>22</sup> Item 7, *supra* note 20, at 2.

<sup>23</sup> Item 4, *supra* note 3, at 7; Item 7, *supra* note 20, at 1.

<sup>24</sup> Item 4, *supra* note 3, at 7;

<sup>25</sup> Item 6 (Applicant's Answers to the Interrogatories), *supra* note 2, at 4.

<sup>26</sup> Item 6 (Judgment Creditor's Monthly Report, dated November 4, 2011).

<sup>27</sup> Item 6 (Judgment Creditor's Monthly Report, dated January 4, 2012).

<sup>28</sup> Applicant's notation, undated, attached to Statement in Response to FORM, dated May 10, 2012.

<sup>29</sup> Statement in Response to FORM, dated May 10, 2012, at 1.

<sup>30</sup> Item 9, *supra* note 17, at 5.

<sup>31</sup> Item 9, *supra* note 17, at 5.

<sup>32</sup> Item 6, *supra* note 12, at 3, 19.

<sup>33</sup> Letter from Collection Agent, dated November 15, 2011, attached to Statement in Response to FORM, dated May 10, 2012; Letter from Collection Agent, dated March 27, 2012, attached to Statement in Response to FORM, dated May 10, 2012; Transaction History Status, *supra* note 14.

There is a bank credit card account with a high credit of \$5,075 that became delinquent and was charged off and then sold to another entity.<sup>34</sup> That collection company increased the unpaid balance to \$5,148.<sup>35</sup> The unpaid balance was subsequently increased to \$5,505 (SOR ¶ 1.c.).<sup>36</sup> This account was one of those enrolled in his debt consolidation with his consumer debt counselor.<sup>37</sup> The collection company reduced the balance to \$5,075.81, provided monthly payments were received.<sup>38</sup> Applicant made the initial payment of \$1,700 on October 21, 2011, as well as subsequent \$148 monthly payments, with several more remaining, continuing through at least March 2012.<sup>39</sup> Applicant's actions related to the account reflect he is making progress in resolving the account.

There is a bank credit card account that was 180 days past due in the amount of \$823<sup>40</sup> (SOR ¶ 1.f.). The account was charged off in May 2010.<sup>41</sup> This account was one of those enrolled in his debt consolidation with his consumer debt counselor.<sup>42</sup> The consumer debt counselor and the creditor settled the account for \$301.95 on January 28, 2011,<sup>43</sup> provided one lump-sum payment was timely received.<sup>44</sup> Applicant made the payment on January 28, 2011.<sup>45</sup> The account has been resolved.

There are two medical accounts with unidentified service providers. One account, with a balance of \$185, was placed for collection in February 2006 (SOR ¶ 1.g.).<sup>46</sup> The other account, with a balance of \$101 (SOR ¶ 1.h.), was placed for collection in May 2009.<sup>47</sup> Applicant denied that the larger account was still unresolved, and contended it was settled and resolved in 2006 when he paid the creditor \$187.<sup>48</sup> He stated that his payment was confirmed by a letter that was supposedly attached to his Answer to the

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<sup>34</sup> Item 9, *supra* note 17, at 7.

<sup>35</sup> Item 9, *supra* note 17, at 9.

<sup>36</sup> Item 7, *supra* note 20, at 2.

<sup>37</sup> Item 6, *supra* note 12, at 3, 19.

<sup>38</sup> Item 6 (Letter from Collection Company, dated October 20, 2011).

<sup>39</sup> Item 4 (Applicant's notation, undated, on letter from collection company); Transaction History Status, *supra* note 14.

<sup>40</sup> Item 9, *supra* note 17, at 7.

<sup>41</sup> Item 9, *supra* note 17, at 7.

<sup>42</sup> Item 6, *supra* note 12, at 4, 19.

<sup>43</sup> Item 6 (Letter from Consumer Debt Counselor, dated April 23, 2011).

<sup>44</sup> Item 6, *supra* note 43.

<sup>45</sup> Transaction History Status, *supra* note 14; Item 4 (Letter from Creditor, dated January 20, 2012).

<sup>46</sup> Item 9, *supra* note 17, at 8.

<sup>47</sup> Item 9, *supra* note 17, at 8.

<sup>48</sup> Item 4, *supra* note 3, at 2.

SOR,<sup>49</sup> but there was no such attachment found. He had previously indicated that the accounts were actually one account that had been handled by separate collection agencies, and had been settled, but acknowledged that he no longer had proof of payment.<sup>50</sup> In fact, he was correct. Despite the account being listed twice in his August 2010 credit report under different creditors, with different account numbers, and different balances,<sup>51</sup> one of the collection agents confirmed that the two accounts were actually only one account.<sup>52</sup> The unpaid balance was \$100.80, and once the payment was received, the other collection agent would be notified that the account had been paid in full.<sup>53</sup> The other collection agent subsequently confirmed that the account had been paid.<sup>54</sup> Both accounts have been resolved.

There is an unspecified account with a collection agency with a past due balance of \$88 that was placed for collection in February 2010 (SOR ¶ 1.i.).<sup>55</sup> Applicant contends that the account is actually the same as the two medical accounts previously discussed, and based his contention on a telephone discussion he had with the representative of one of the collection agents.<sup>56</sup> He has not submitted any documentation, other than his own handwritten note, confirming his contention. Although the account was listed in the August 2010 credit report,<sup>57</sup> it no longer appears in the October 2011 credit report.<sup>58</sup> Based on the available evidence, I conclude that the account has been resolved.

There purportedly is an account with a cable company in the approximate amount of \$173 that was placed for collection. Applicant denied ever having an account with the particular creditor,<sup>59</sup> and claimed that when he called the creditor on several occasions, they indicated they had no record of an account in Applicant's name.<sup>60</sup> The account does not appear in the August 2010 credit report, a February 2011 credit report,<sup>61</sup> or in the October 2011 credit report. I conclude the Government has failed to

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<sup>49</sup> Item 4, *supra* note 3, at 2.

<sup>50</sup> Item 6, *supra* note 12, at 4.

<sup>51</sup> Item 9, *supra* note 17, at 8.

<sup>52</sup> Item 6 (Letter from Collection Agent, dated November 16, 2011).

<sup>53</sup> Item 6, *supra* note 52.

<sup>54</sup> Letter from Collection Agent, dated April 13, 2012, attached to Statement in Response to FORM, dated May 10, 2012.

<sup>55</sup> Item 9, *supra* note 17, at 9.

<sup>56</sup> Item 6, *supra* note 52; Item 6 (Applicant's Answers to the Interrogatories), *supra* note 2, at 5.

<sup>57</sup> Item 9, *supra* note 17, at 9.

<sup>58</sup> Item 7, *supra* note 20.

<sup>59</sup> Item 4, *supra* note 3, at 2.

<sup>60</sup> Statement in Response to FORM, *supra* note 14, at 2-3.

offer any evidence that the account exists, and in light of Applicant's denials, the issue is resolved in favor of Applicant.

As of September 2010, with an improved income, Applicant's financial status was considered to be otherwise stable, and he was capable of meeting his financial obligations.<sup>62</sup> Applicant intends to continue his repayment arrangements, and make larger payments when he is able to do so, until all of his accounts are resolved.<sup>63</sup>

### Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance."<sup>64</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>65</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>66</sup> The Government initially has the burden of producing evidence to establish

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<sup>61</sup> Item 8 (Equifax Credit Report, dated February 25, 2011).

<sup>62</sup> Item 6 (Personal Subject Interview), *supra* note 12, at 3.

<sup>63</sup> Item 4, *supra* note 3, at 8.

<sup>64</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>65</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>66</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,

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>67</sup>

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Furthermore, "security clearance determinations should err, if they must, on the side of denials."<sup>68</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>69</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

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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>67</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>68</sup> *Egan*, 484 U.S. at 531

<sup>69</sup> See Exec. Or. 10865 § 7.



questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an *"inability or unwillingness to satisfy debts"* is potentially disqualifying. Similarly, under AG ¶ 19(c), *"a history of not meeting financial obligations"* may raise security concerns. Applicant's financial problems commenced in about 2008 when accounts became delinquent and were placed for collection, charged off, or went to judgment. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where *"the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment."* Also, under AG ¶ 20(b), financial security concerns may be mitigated where *"the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances."* Evidence that *"the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control"* is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows *"the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts."*<sup>70</sup>

AG ¶¶ 20(a) and 20(b) partially apply. Applicant's financial problems commenced in 2008 when he began falling behind on his various payments. He attributed his financial problems to several factors: he was not making as much money; he was supporting his children; and *"the rising cost of living in the area."* Applicant's financial difficulties were in some small measure beyond his control, considering the nature of the overall national economic conditions and his insufficient income, and occurred under

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<sup>70</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 she or she relied on a legally available option (such as bankruptcy [or statute of limitations]) 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)).

such circumstances that they are unlikely to recur and do not cast doubt on his current reliability, trustworthiness, or good judgment.<sup>71</sup>

AG ¶¶ 20(c) and 20(d) apply. In May 2010, well before the SOR was issued, Applicant was addressing his financial difficulties when he sought the professional guidance and assistance of a consumer debt counselor, and consolidated his debts with that company, and engaged the services of a contractual payment service. While the specifics of the “financial counseling” he received were not enumerated, it is clear that he received counseling related to debt management, debt consolidation, and debt repayment, etc. Commencing in 2010, some accounts were settled with the assistance of his consumer debt counselor, and he followed the guidance received, and has continued to make his monthly payments to his contractual payment service, which in turn has been making monthly payments to his remaining creditors. Circumstances may have been such that Applicant was unable to resolve all of his accounts by bringing them up-to-date or resolving them before the SOR was issued, but he did do so with several of his accounts. His failure with respect to his remaining accounts was not for lack of trying.<sup>72</sup>

There is a substantial risk when one accepts, at face value, the contents of a credit report without obtaining original source documentation to verify entries. Credit bureaus collect information from a variety of sources, including public records and “other sources,” and it is these other unidentified sources that are the cause for concern. Likewise, when accounts are transferred, reassigned, sold, or merely churned, an individual’s credit history can look worse than it really is. In this particular instance, the combined Experian, TransUnion, and Equifax credit report and the Equifax credit reports referred to numerous creditors for relatively few delinquent accounts. Because of abbreviated names and acronyms, many of those entries are garbled and redundant, and have inflated the financial concerns.

### **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

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<sup>71</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

<sup>72</sup> “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.

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.

There is evidence against mitigating Applicant's conduct. He allowed several accounts to become delinquent, and they were either placed for collection, charged off, or went to judgment.

The mitigating evidence under the whole-person concept is more substantial. Applicant's financial problems commenced in 2008 when he began falling behind on his various payments because: he was not making as much money; he was supporting his children; and "the rising cost of living in the area." Those financial difficulties were in some small measure beyond his control, and occurred under such circumstances that they are unlikely to recur. In May 2010, Applicant addressed his financial difficulties when he sought the professional guidance and assistance of a consumer debt counselor, and consolidated his debts with that company, and engaged the services of a contractual payment service. Some accounts were settled with the assistance of his consumer debt counselor, and he has continued to make his monthly payments to his contractual payment service, which in turn has been making monthly payments to his remaining creditors. Applicant's efforts pertaining to his delinquent accounts have been unrelenting, and have eliminated any doubt as to his current reliability, trustworthiness, or good judgment. Moreover, several of the accounts alleged in the SOR are duplicates of other accounts alleged in the SOR. 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>73</sup> Applicant's continuing good-faith efforts have been extensive, and are sufficient to mitigate security concerns. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>74</sup>

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

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<sup>73</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).

<sup>74</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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.

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.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	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