



**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. 11-12807

**Appearances**

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

06/13/2013

**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 May 20, 2011, 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 26, 2012, the Department of Defense (DOD) issued him a set of interrogatories. He responded to the interrogatories on December 18, 2012.<sup>2</sup> On December 28, 2012, the DOD issued him a set of e-mail interrogatories. He responded to the e-mail interrogatories on January 14, 2013.<sup>3</sup> On February 11, 2013, the DOD issued a Statement of Reasons (SOR) to him, under Executive Order 10865, *Safeguarding Classified Information within Industry* (February

<sup>1</sup> GE 1 ((SF 86), dated May 20, 2011).

<sup>2</sup> GE 2 (Applicant's Answers to Interrogatories, dated December 18, 2012).

<sup>3</sup> GE 6 (Applicant's Answers to the E-mail Interrogatories, dated January 14, 2013).

20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December 29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant received the SOR on February 19, 2013. In a sworn statement, dated March 8, 2013, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on April 23, 2013. The case was assigned to me on April 25, 2013. A Notice of Hearing was issued on May 7, 2013, and I convened the hearing, as scheduled, on June 3, 2013.

During the hearing, six Government exhibits (GE 1 through GE 6) and eight Applicant exhibits (AE A through AE H) were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on June 12, 2013. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity. He submitted eight additional documents, which were marked as exhibits (AE I through AE P) that were admitted into evidence without objection. The record closed on June 12, 2013.

### **Findings of Fact**

In his Answer to the SOR, Applicant admitted, with an explanation, all of the factual allegations pertaining to financial considerations (¶¶ 1.a. through 1.c.). 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 34-year-old employee of a defense contractor who, since March 2011, has served as a full-time electrical systems engineer, and, since November 2010, has served as a part-time organizer and member of his own limited liability company (LLC).<sup>4</sup> He was previously employed by other employers in various positions, including bank teller, sales associate, car salesman, quality assurance specialist, consumer solutions representative, and electrical engineer.<sup>5</sup> Applicant has been unemployed on several occasions for varying periods. He has never served with the U.S. military.<sup>6</sup> He

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<sup>4</sup> GE 1, *supra* note 1, at 18-19. While Applicant's LLC has been established, it is a business in name only, for there are no business activities associated with the company. See, GE 2 (Applicant's Answers to Interrogatories), *supra* note 2, at 1.

<sup>5</sup> GE 1, *supra* note 1, at 20-26.

<sup>6</sup> GE 1, *supra* note 1, at 30.

has held a secret security clearance since 2008, and is now an applicant for a top secret clearance.<sup>7</sup> Applicant attended a combination of community college, university, and on-line courses, and received a bachelor's degree in electrical engineering in May 2001, and a master's degree in organizational leadership in 2009.<sup>8</sup> He has never been married.<sup>9</sup> Applicant has two sons, born in 1999 and 2006.<sup>10</sup>

## Financial Considerations

Although Applicant contends that there was nothing unusual about his finances until about 2010, it appears that he was experiencing some financial difficulties as early as 2005 when one account became delinquent on three separate occasions.<sup>11</sup> Other accounts also became delinquent in 2007 and 2008.<sup>12</sup> In 2009, as a first-time home buyer, Applicant purchased a residence with \$3,000 down plus financing for a total of \$171,000.<sup>13</sup> He had a fixed rate mortgage, and his monthly payments were initially \$1,280, but in late 2010, because of increased taxes, they increased to \$1,500.<sup>14</sup> Applicant's father was diagnosed with throat cancer in June of 2010. Through 2011, his father underwent chemotherapy and radiation treatment. His father's health struggles prompted Applicant to move from where Applicant worked and resided to where his father resided. Applicant moved in with his father to furnish assistance and finances.<sup>15</sup> The combination of considerable relocation expenses, increased mortgage payments, the lack of a renter, his father's limited ability to work, and the financial assistance Applicant expended on behalf of his father, was overwhelming and resulted in a shortage of available funds, and an inability to maintain his various monthly payments.<sup>16</sup> As a result, accounts became delinquent and were either placed for collection or charged off.

In July 2012, Applicant hired a law firm to assist him in his efforts to prevent a mortgage foreclosure and to facilitate a short sale.<sup>17</sup> In August 2012, he engaged the services of another law firm to review his accounts and determine consolidation and repayment strategies. Two months later, he decided he did not need their assistance for

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<sup>7</sup> GE 1, *supra* note 1, at 41-42; Tr. at 6, 16-17.

<sup>8</sup> GE 1, *supra* note 1, at 11; Tr. at 6, 31, 33-34.

<sup>9</sup> GE 1, *supra* note 1, at 32.

<sup>10</sup> GE 1, *supra* note 1, at 34-35; Tr. at 69-70.

<sup>11</sup> GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 22, 2011), at 8.

<sup>12</sup> GE 3, *supra* note 11, at 6, 9, 12.

<sup>13</sup> Tr. at 38, 40, 46-47.

<sup>14</sup> Tr. at 44-45.

<sup>15</sup> GE 2 (Personal Subject Interview, dated July 20, 2011), at 4; Tr. at 35.

<sup>16</sup> Tr. at 35-36, 46, 65.

<sup>17</sup> Tr. at 44; Applicant's Answer to the SOR, dated March 8, 2013, at 1.

he could accomplish the same result by himself.<sup>18</sup> He contacted his creditors and collection agents regarding his delinquent accounts, and tried to work out repayment arrangements. He settled some accounts and paid off others.<sup>19</sup> He spoke with his mortgage holder and explored mortgage modifications and short sales, but nothing worked to his satisfaction.<sup>20</sup> On January 29, 2013, nearly two weeks before the SOR was issued, Applicant finally rented his residence for \$1,175 per month.<sup>21</sup>

In response to the DOD interrogatories, in December 2012, Applicant provided a personal financial statement reflecting a monthly net salary of \$6,185.68; monthly household, utility, transportation, and food expenses of \$2,098; and monthly debt repayments of \$2,207.77; leaving a monthly remainder of \$1,879.01 available for discretionary savings or expenditures.<sup>22</sup>

The SOR identified three purportedly continuing delinquencies. There is a credit union credit card account with a high credit of \$3,000 and an unpaid balance of \$3,438, of which \$393 was past due (**SOR ¶ 1.a.**).<sup>23</sup> The amount past due eventually increased to \$186.<sup>24</sup> Applicant contended that he called the creditor and learned that the remaining balance was \$367.<sup>25</sup> He made an initial payment of \$55 in December 2012,<sup>26</sup> and a second payment of \$367 in February 2013.<sup>27</sup> According to the creditor, Applicant's current balance has been reduced to \$2,722.23, and the account is no longer past due.<sup>28</sup> The account has been resolved.

There is a credit card account with a credit limit of \$651 and a balance of \$541 that was current but previously past due (**SOR ¶ 1.b.**).<sup>29</sup> The account was transferred or sold to a debt buyer. The high credit was raised to \$740 and the past due balance was increased to \$555.<sup>30</sup> Applicant and the credit agent agreed to a repayment plan, and

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<sup>18</sup> Tr. at 43.

<sup>19</sup> GE 2 (Personal Subject Interview), *supra* note 15, at 4-6.

<sup>20</sup> Tr. at 41-43.

<sup>21</sup> AE O (Residential Lease, dated January 29, 2013).

<sup>22</sup> GE 2 (Personal Financial Statement, dated December 18, 2012).

<sup>23</sup> GE 3, *supra* note 11, at 11.

<sup>24</sup> GE 5 (Equifax Credit Report, dated January 14, 2013), at 2. It appears that the SOR allegation inadvertently omitted \$100 from the alleged \$86.

<sup>25</sup> Tr. at 58.

<sup>26</sup> AE D (Account Statement, dated December 27, 2012).

<sup>27</sup> AE E (Account Statement, dated February 26, 2013); AE C (Online Statement, dated March 8, 2013).

<sup>28</sup> AE C, *supra* note 27.

<sup>29</sup> GE 3, *supra* note 11, at 10.

<sup>30</sup> GE 5, *supra* note 24, at 2.

commencing November 2, 2012, Applicant made preauthorized biweekly payments of \$61.62.<sup>31</sup> He made his last and final payment of \$244.55 on February 26, 2013, and there is now a zero balance.<sup>32</sup> The account has been resolved.

There is a home mortgage account with a high credit of \$171,260 and an unpaid balance of \$168,555, of which \$4,695 was 90 days past due (**SOR ¶ 1.c.**).<sup>33</sup> Applicant was unable to continue making his monthly payments on time, and by mid-June 2011, he was about 90 days past due.<sup>34</sup> He made some increased payments in order to reduce his delinquency status to 60 days past due.<sup>35</sup> In February 2012, the bank account relations manager and a realtor advised him of his options. Following their guidance, he commenced the home payment modification process, otherwise referred to as the Home Affordable Modification Program (HAMP) and withheld monthly payments during the review process. Entry into HAMP was denied in June 2012, leaving Applicant with a larger delinquency.<sup>36</sup> The foreclosure process started.<sup>37</sup>

Applicant offered the house for short sales, but the two offers he received were rejected as being too low. His strategy changed from short sale to restoring the mortgage balance. On November 27, 2012, a reinstatement calculation was issued by the mortgage lender.<sup>38</sup> Applicant was required to make 3 monthly payments of \$1,565.15, and 14 monthly payments of \$1,459.25, for a total of \$20,747.20 (waiving certain fees).<sup>39</sup> Another reinstatement calculation was issued on February 26, 2013, with an increased total payment of \$25,124.95.<sup>40</sup>

In February 2013, the mortgage loan was sold or transferred for servicing to another company.<sup>41</sup> As of April 2013, the total amount due, including monthly payments, default costs, unpaid late charges, and past-due payments, was \$30,670.12.<sup>42</sup> A final reinstatement quote was issued in May 2013, reflecting a total amount due of

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<sup>31</sup> AE F (Letter, dated February 28, 2013).

<sup>32</sup> AE F, *supra* note 31; AE A (Online Statement, dated March 6, 2013); GE 6, *supra* note 3, at 1.

<sup>33</sup> GE 3, *supra* note 11, at 5.

<sup>34</sup> GE 2 (Personal Subject Interview), *supra* note 15, at 4.

<sup>35</sup> GE 2 (Personal Subject Interview), *supra* note 15, at 4.

<sup>36</sup> GE 6, *supra* note 3, at 2.

<sup>37</sup> GE 4 (Equifax Credit Report, dated October 26, 2012), at 2.

<sup>38</sup> GE 2 (Reinstatement Calculation, dated November 27, 2012).

<sup>39</sup> GE 2 (Reinstatement Calculation), *supra* note 38.

<sup>40</sup> AE B (Reinstatement Calculation, dated February 26, 2013).

<sup>41</sup> AE K (Letter, dated March 27, 2013); AE J (Notice of Sale of Ownership of Mortgage Loan, dated February 8, 2013); Tr. at 27.

<sup>42</sup> AE L (Mortgage Statement, dated April 10, 2013).

\$29,371.46.<sup>43</sup> With the money from his income tax refund and other available financial resources, Applicant anticipates resolving the deficiency by June 15, 2013.<sup>44</sup> Applicant's account was placed into a pay plan under which 50 percent of his mortgage payment is automatically deducted from his account two times per month.<sup>45</sup> The account is in the process of being resolved, or conceivably already might have been resolved.

Although Applicant has never received "traditional" financial counseling,<sup>46</sup> he has received financial counseling and guidance from two law firms. He has no other delinquent debts.<sup>47</sup> On May 1, 2013, Applicant, on behalf of his LLC, and an investor agreed that the investor would make an investment of \$15,000 to the LLC within 30 days.<sup>48</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>49</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>50</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

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<sup>43</sup> AE G (Reinstatement Quote, dated May 31, 2013). AE G and AE N (Reinstatement Quote, dated May 31, 2013) are identical copies of the same document.

<sup>44</sup> Tr. at 51-52.

<sup>45</sup> Tr. at 65-66; Applicant's Answer to the SOR, *supra* note 17, at 2.

<sup>46</sup> Tr. at 66-67.

<sup>47</sup> GE 2 (Personal Subject Interview), *supra* note 15, at 6.

<sup>48</sup> AE H (Agreement, dated May 1, 2013). AE H and AE P (Agreement, dated May 1, 2013) are identical copies of the same document.

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

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

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>51</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>52</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>53</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>54</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.

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<sup>51</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>52</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>53</sup> *Egan*, 484 U.S. at 531

<sup>54</sup> See Exec. Or. 10865 § 7.

## 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. Commencing in 2010, Applicant started experiencing some financial difficulties. Over the next few years, those difficulties increased to the point where he was unable to make routine monthly payments for a number of accounts. His accounts eventually started becoming delinquent and were placed for collection or sold. 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>55</sup>

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<sup>55</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 [or statute of limitations]) in order to claim the benefit of [the "good-faith" mitigating condition].



AG ¶¶ 20(b), 20(c), and 20(d) apply. AG ¶ 20(a) does not apply. The nature, frequency, and relative recency of Applicant's financial difficulties since 2010 make it difficult to conclude that it occurred "so long ago" or "was so infrequent." Applicant's financial problems were not caused by frivolous or irresponsible spending, and he did not spend beyond his means. Instead, his financial problems were largely beyond Applicant's control. His father's health struggles prompted Applicant to move to where his father resided so that he could furnish assistance and finances. However, the combination of considerable relocation expenses, increased mortgage payments, the lack of a renter for his house, his father's limited ability to work, and the financial assistance Applicant expended on behalf of his father, was overwhelming and resulted in a shortage of available funds, and an inability to maintain his various monthly payments. Accounts became delinquent and were either placed for collection or charged off.

Applicant acted responsibly by addressing his delinquent accounts.<sup>56</sup> While he never received "traditional" financial counseling, he hired one law firm to assist him in his efforts to prevent a mortgage foreclosure and to facilitate a short sale, and another law firm to review his accounts and determine consolidation and repayment strategies. He contacted his creditors and collection agents regarding his delinquent accounts, and tried to work out repayment arrangements. He settled some accounts and paid off others. All of his SOR and non-SOR delinquencies have either been resolved or are in the process of being resolved. He no longer has any other delinquent debts. Applicant spoke with his mortgage holder and explored mortgage modifications and short sales. He applied for assistance under the HAMP, but that application was rejected. Nearly two weeks before the SOR was issued, Applicant finally rented his residence, and he now receives additional income in the form of rent. He is enrolled in a program to enable him to pay off his mortgage delinquency. There are clear indications that Applicant's financial problems are under control. Applicant's actions under the circumstances confronting him do not cast doubt on his current reliability, trustworthiness, or good judgment.<sup>57</sup>

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's

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

<sup>56</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.

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

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>58</sup>

There is some evidence against mitigating Applicant's conduct. His handling of his finances permitted a number of accounts to become delinquent. As a result, accounts were placed for collection or sold, and his residence went into a foreclosure status.

The mitigating evidence under the whole-person concept is more substantial. Applicant's financial problems were not caused by frivolous or irresponsible spending, and he did not spend beyond his means. Instead, they were largely beyond Applicant's control. Applicant contacted his creditors and collection agents, and sought the assistance of two law firms. While he was unable to commence making payments simultaneously on all of the accounts, Applicant did attempt to enter into repayment plans with his creditors. The result was positive. He resolved a number of accounts, including non-SOR accounts, well before the SOR was even issued. The one remaining delinquency was his home mortgage, and his initial unsuccessful efforts to seek modification under the HAMP and later to obtain a short sale, were followed by successful efforts to have the mortgage reinstated and paid. Applicant's actions under the circumstances confronting him do not cast doubt on his current reliability, trustworthiness, or good judgment.

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

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<sup>58</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>59</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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

Applicant has demonstrated a “meaningful track record” of debt reduction and elimination. Applicant has made some significant timely efforts to resolve his accounts. Overall, the evidence leaves me without questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has mitigated the security concerns arising from his financial considerations. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

### **Formal Findings**

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

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant

### **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