



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



In the matter of: )  
 )  
----- ) ISCR Case No. 11-13505  
 )  
Applicant for Security Clearance )

**Appearances**

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

10/31/2013

**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 February 18, 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 November 27, 2012, the Department of Defense (DOD) issued him a set of interrogatories. He responded to the interrogatories on January 26, 2013.<sup>2</sup> On April 17, 2013, the DOD issued a Statement of Reasons (SOR) to him, under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December 29, 2005) (AG) applicable to

<sup>1</sup> GE 1 ((SF 86), dated February 18, 2011).

<sup>2</sup> GE 2 (Applicant's Answers to Interrogatories, dated January 26, 2013).

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 April 24, 2013. In a sworn undated statement, Applicant responded to the SOR allegations and requested a hearing. Department Counsel indicated the Government was prepared to proceed on July 22, 2013. The case was assigned to me on August 9, 2013. A Notice of Hearing was issued on September 11, 2013, and I convened the hearing, as scheduled, on September 24, 2013.

During the hearing, four Government exhibits (GE 1 through GE 4) and nine Applicant exhibits (AE A through AE I) were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on October 11, 2013. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity. He submitted five additional documents, which were marked as exhibits (AE J through AE N) and admitted into evidence without objection. The record closed on October 22, 2013.

### **Findings of Fact**

In his Answer to the SOR, Applicant admitted, with an explanation, three of the factual allegations pertaining to financial considerations (¶¶ 1.a., 1.c., and 1.d.). He denied the remaining allegation. 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 53-year-old employee of a defense contractor who, since February 2011, has served as a C-130 simulator technician.<sup>3</sup> He was previously employed as a security officer and truck driver.<sup>4</sup> He was granted a security clearance in 1985,<sup>5</sup> but it was terminated in 2008 because he was in arrears in child support.<sup>6</sup> Applicant received an Associate's degree in electronics in May 1980; a Bachelor of Science degree in electronics technology in May 1983;<sup>7</sup> and a commercial pilot's license in August 2004 or 2005.<sup>8</sup> Applicant was married in November 1984, and divorced in September 1991; and

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<sup>3</sup> GE 2 (Personal Subject Interview, dated March 16, 2011), at 1, attached to Applicant's Answers to Interrogatories.

<sup>4</sup> GE 1, *supra* note 1, at 14, 17-18; GE 2 (Personal Subject Interview), *supra* note 3, at 1.

<sup>5</sup> GE 1, *supra* note 1, at 38.

<sup>6</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 3.

<sup>7</sup> GE 1, *supra* note 1, at 9-10.

<sup>8</sup> GE 1, *supra* note 1, at 9; GE 2 (Personal Subject Interview), *supra* note 3, at 2; Tr. at 28.

married in September 1993, and divorced in January 1998.<sup>9</sup> Applicant and his first two wives did not have any children together.<sup>10</sup> He married his current wife in March 2005.<sup>11</sup> He and his current wife have one daughter, born in July 2000.<sup>12</sup> Applicant also has a son from another relationship, born in May 1993.<sup>13</sup>

## **Military Service**

Applicant served in an enlisted capacity with the U.S. Army Reserve from September 1981 until April 1985;<sup>14</sup> and with the U.S. Air Force from April 1985 until October 1993.<sup>15</sup> It appears that Applicant also served with either the U.S. Air Force Reserve or the U.S. Air Force from October 1993 until February 2010.<sup>16</sup> He was deployed to Guam from August 1990 until October 1993 in support of Operations Desert Shield and Desert Storm.<sup>17</sup>

During the first four years of his military service, Applicant was awarded the Air Force Basic Military Training Ribbon, the Air Force Non-Commissioned Officer Professional Military Education Ribbon (with one device), the National Defense Service Medal, the Air Force Overseas Service Ribbon - Long Tour, the Air Force Longevity Service Award (with one device), the Air Force Outstanding Unit Award (with one device), and the Air Force Good Conduct Medal (with one oak leaf cluster).<sup>18</sup>

## **Financial Considerations**

There was nothing unusual about Applicant's finances until about 1994 or 1995. After discovering that his former girlfriend was pregnant, and a DNA test he requested was granted three years later, which proved to be positive, Applicant was ordered to pay the child's mother \$334 per month until the child reached the age of 18. The order stipulated that the child support would commence with the child's birth, and Applicant

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<sup>9</sup> GE 1, *supra* note 1, at 25-26; GE 2 (Personal Subject Interview), *supra* note 3, at 2.

<sup>10</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 1-2.

<sup>11</sup> GE 1, *supra* note 1, at 24.

<sup>12</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 2.

<sup>13</sup> GE 1, *supra* note 1, at 28; GE 2 (Personal Subject Interview), *supra* note 3, at 2.

<sup>14</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 1.

<sup>15</sup> AE D (Certificate of Release or Discharge from Active Duty (DD Form 214), dated October 26, 1993).

<sup>16</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 1; GE 1, *supra* note 1, at 15-16, 20-21.

<sup>17</sup> AE D, *supra* note 15; Tr. at 67.

<sup>18</sup> AE D, *supra* note 15. Applicant's military accomplishments after October 1993 were not described.

found himself immediately in arrears.<sup>19</sup> In addition to the monthly child support, at some unspecified point, Applicant was required to pay an additional \$67 per month for arrearage.<sup>20</sup> In November 2003, Applicant and his ex-girlfriend discussed the financial hardship he would encounter if he had to continue paying her child support while attending flying school full-time. She agreed that he could stop paying the child support while he did so.<sup>21</sup> Unfortunately for Applicant, the state in which the mother and child were residing was not as empathetic, and his child support arrearage increased even further. After graduation, Applicant secured a position as a pilot, but he was prevented from working because he was unable to secure a required passport because of his child support arrearage.<sup>22</sup>

Applicant was unemployed from November 2004 until August 2005.<sup>23</sup> In August 2005, Applicant's residence was partially destroyed by Hurricane Katrina. When the insurance company refused to cover the damage, Applicant was forced to pay for the repairs himself. With no incoming salary, the situation caused a financial burden and strain on his ability to continue making child support payments.<sup>24</sup> In November 2010, Applicant was notified that he owed the state \$17,087.63, including \$16,799.63 in arrears and \$288 in fees.<sup>25</sup> In January 2011, at the child's mother's request, Applicant's son moved in with Applicant, and was enrolled in a local school for his senior year.<sup>26</sup> Applicant continued to make frequent, not necessarily monthly, payments, generally in the amount of \$401 or \$334, over a multi-year period.<sup>27</sup> On two occasions, his income tax refunds were also applied to his unpaid child support balance.<sup>28</sup> As of May 7, 2013, Applicant's unpaid balance was down to \$2,035.75.<sup>29</sup> In September 2013, Applicant paid off the remaining balance, and there is no longer any child support arrearage.<sup>30</sup> SOR ¶ 1.d. has been resolved.

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<sup>19</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 2; Tr. at 33. Applicant was not made aware of the paternity of the child and the assessment of child support and child support arrearage was not made until three years after the child was born.

<sup>20</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 5; Tr. at 31.

<sup>21</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 2.

<sup>22</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 3.

<sup>23</sup> GE 1, *supra* note 1, at 15-16.

<sup>24</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 3; Tr. at 49-50, 65-66.

<sup>25</sup> GE 2 (Letter from State, dated November 6, 2010, attached to Applicant's Answers to Interrogatories.

<sup>26</sup> Tr. at 35.

<sup>27</sup> AE A (Child Support Payment History Report, dated May 7, 2013).

<sup>28</sup> AE A, *supra* note 26; Letter from State, dated June 13, 2012, attached to Applicant's Answers to Interrogatories; Tr. at 57.

<sup>29</sup> AE A, *supra* note 26.

<sup>30</sup> AE B (Letter from State, dated September 23, 2013); Tr. at 60.

As a result of his pursuit of a commercial pilot's license, Applicant incurred three student loans totaling more than \$100,000.<sup>31</sup> Six months after graduating from flight school, Applicant started making monthly \$200 payments to each of his student loans.<sup>32</sup> Those payments continued until he lost his job due to the hurricane, when they were reduced.<sup>33</sup> In June 2009, he lost another job when he was involved in a vehicle accident.<sup>34</sup> In about September 2009, the three accounts were placed for collection, and by January 2011, they were charged off.<sup>35</sup> According to a March 2011 credit report, one account had a high credit of \$13,472, and it was past due \$12,738; another had a high credit of \$81,766, and it was past due \$80,413; and the third had a high credit of \$26,647, and it was past due \$25,794.<sup>36</sup> However, commencing in about November 2010, Applicant made monthly payments to the collection agent of the lender bank in the amount of \$150 per month.<sup>37</sup> By December 2010, the total amount owed for the combined student loans was \$119,216.50, including interest.<sup>38</sup> In October 2011, Applicant increased his monthly payments to \$200.<sup>39</sup> By February 2012, the total amount owed for the combined student loans was \$117,175.36, including \$525.73 in interest.<sup>40</sup>

In March 2012, the accounts were returned to the lender bank, and Applicant was entered into the bank's recovery payment processing program.<sup>41</sup> The program required Applicant to commence making monthly \$100 payments for each of the three loans, and Applicant has done so.<sup>42</sup> Applicant also explored other payment options. In May 2013, Applicant engaged the professional services of a company to assist him with a government-sponsored debt consolidation and refinance plan to resolve his student loan problems and start repaying his debts through a structured repayment plan.<sup>43</sup>

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<sup>31</sup> GE 2 (Personal Subject Interview), *supra* note 3, at 4.

<sup>32</sup> Tr. at 64-65.

<sup>33</sup> Tr. at 65-66.

<sup>34</sup> GE 1, *supra* note 1, at 19.

<sup>35</sup> GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated March 4, 2011), at 5-6.

<sup>36</sup> GE 3, *supra* note 34, at 5-6.

<sup>37</sup> GE 2 (Notice of Intent to Deposit, dated December 7, 2010), attached to Applicant's Answers to Interrogatories; GE 2 (Statement, undated), attached to Applicant's Answers to Interrogatories.

<sup>38</sup> GE 2 (Notice of Intent to Deposit), *supra* note 36.

<sup>39</sup> GE 2 (Notice of Intent to Deposit, dated September 27, 2011), attached to Applicant's Answers to Interrogatories.

<sup>40</sup> GE 2 (Notice of Intent to Deposit, dated February 27, 2012), attached to Applicant's Answers to Interrogatories.

<sup>41</sup> GE 2 (Letter, dated March 1, 2012), attached to Applicant's Answers to Interrogatories.

<sup>42</sup> GE 2 (Billing Statements, various dates), attached to Applicant's Answers to Interrogatories; GE 2 (Check Copies, various dates), attached to Applicant's Answers to Interrogatories.

<sup>43</sup> AE C (Letter, dated July 30, 2013); Tr. at 60, 68.

Under that program, he made various monthly payments totaling \$1,899. The first payment was made in May 2013 and the last ones were made in September 2013.<sup>44</sup> Unfortunately for Applicant, he was unable to obtain documentation from the company that any efforts were made by them to either consolidate the student loans or reduce their balances, and the company has refused to respond to telephone calls. As a result, Applicant cancelled the program and requested a refund.<sup>45</sup>

Applicant and the lender bank also discussed an alternative repayment plan, and on October 1, 2013, Applicant secured a short-term \$5,000 loan to settle the smallest of his three outstanding student loans. He also agreed to increase his monthly payments pertaining to the remaining student loans.<sup>46</sup> He settled the smallest student loan, made his first \$501 payment on the largest loan (which, as of October 8, 2013, had a balance of \$92,198.35), and made his first \$500 payment on the middle loan (which, as of October 8, 2013, had a balance of \$27,752.50).<sup>47</sup> SOR ¶ 1.a. has been resolved, and SOR ¶¶ 1.b. and 1.c. are in the process of being resolved.

In response to the DOD interrogatories, in January 2013, Applicant provided a personal financial statement reflecting a monthly net family salary of \$6,484.05; monthly household, utility, transportation, and food expenses of \$3,229.60; and monthly debt repayments of \$1,055.50; leaving a monthly remainder of \$2,198.95 available for discretionary savings or expenditures.<sup>48</sup> During the hearing, Applicant generally confirmed those figures, noting that the child support payments were now eliminated.<sup>49</sup>

There is no evidence that Applicant has any other delinquent accounts. Applicant has not received any financial counseling in the last five years.<sup>50</sup>

### **Character References and Work Performance**

Two of Applicant's colleagues have known him since he joined his current employer and they regard him as a responsible, and trustworthy team player.<sup>51</sup> A university classmate who has known Applicant for over 30 years, considers Applicant to have great character and moral fiber, and believes Applicant has shown himself to be trustworthy.<sup>52</sup> Two other friends have been close to Applicant since they all played high

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<sup>44</sup> AE I (Schedule of Payments, undated).

<sup>45</sup> AE J (Letter, dated October 1, 2013).

<sup>46</sup> AE J, *supra* note 41; AE M (Letter, dated October 4, 2013).

<sup>47</sup> AE K (Billing Statement, dated October 8, 2013); AE L (Billing Statement, dated October 8, 2013).

<sup>48</sup> GE 2 (Personal Financial Statement, undated), attached to Applicant's Answers to Interrogatories.

<sup>49</sup> Tr. at 53-54.

<sup>50</sup> Tr. at 69.

<sup>51</sup> AE E (Character Reference, dated September 22, 2013); AE F (Character Reference, dated September 22, 2013).

<sup>52</sup> AE N (Character Reference, undated).

school and college football together. Applicant was the best man at the wedding of one of them, a retired Chief Petty Officer. Both friends characterized Applicant as reliable, trustworthy, extremely task-oriented, loyal, dedicated to duty, and a man of integrity.<sup>53</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>54</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>55</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>56</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,

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<sup>53</sup> AE G (Character Reference, dated September 28, 2013); AE H (Character Reference, dated September 23, 2013).

<sup>54</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>55</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>56</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).

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>57</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>58</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>59</sup> Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

## **Analysis**

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

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

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

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<sup>57</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>58</sup> *Egan*, 484 U.S. at 531

<sup>59</sup> See Exec. Or. 10865 § 7.



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 1994 or 1995, Applicant started experiencing some financial difficulties, especially when confronted with an unexpected child support arrearage. 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 student loan accounts eventually started becoming delinquent and were placed for collection. 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>60</sup>

AG ¶¶ 20(b), 20(c), and 20(d) apply. AG ¶ 20(a) partially applies. The nature, frequency, and relative recency of Applicant's financial difficulties since 1994 or 1995 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 his control. His former girlfriend gave birth to Applicant's son, but he was not proven to be the boy's biological father until several years later when a DNA analysis proved to be positive. Applicant was assessed child support arrearage commencing with the child's birth. Applicant was unemployed from November 2004 until August 2005. In August 2005, Applicant's residence was partially destroyed by Hurricane

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<sup>60</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].

(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)).

Katrina, and the insurance company refused to cover the damage. With no incoming salary, the situation caused a financial burden and strain on his ability to continue making child support payments. After his graduation from flight school, Applicant was prevented from working as a pilot because he was unable to secure a required passport because of his child support arrearage. Instead, he accepted lower-paying positions.

Applicant acted responsibly by addressing his delinquent child support and student loan accounts. He continued making payments as long as he could do so. He worked out repayment plans with his creditors, and engaged the professional services of a company to assist him with a government-sponsored debt consolidation and refinance plan to resolve his student loan problems and start repaying his debts through a structured repayment plan. That effort seemingly was unsuccessful as the company remains unresponsive although it has been paid by Applicant for its services. Nevertheless, despite that setback, in September 2013, Applicant finally paid off the remaining balance of his child support arrearage. Applicant and the lender bank of his student loans settled the smallest of three student loans when Applicant paid the lender \$5,000. He also agreed to increase his monthly payments pertaining to the remaining student loans, and made his first \$1,001 monthly payment on the two remaining student loans. He has no other delinquent debts. With a monthly remainder of \$2,198.95 available for discretionary savings or expenditures, 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>61</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 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

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<sup>61</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.<sup>62</sup>

There is some evidence against mitigating Applicant's conduct. His handling of his finances permitted three student loan accounts to become delinquent. His handling of his personal affairs resulted in a paternity action by the state which established a child support responsibility. As a result, the student loan accounts were placed for collection, and the child support account was determined to be in arrears. In addition, Applicant seemingly placed his personal ambition to become a commercial pilot ahead of his financial responsibilities as a father.

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. Rather, his problems were largely beyond Applicant's control. Applicant was unexpectedly assessed child support and a child support arrearage; he was unemployed from November 2004 until August 2005; his residence was partially destroyed by Hurricane Katrina; the insurance company refused to cover the damage; and Applicant was prevented from working as a pilot because he was unable to secure a required passport because of his child support arrearage. All of the above created a financial burden and strain on his ability to continue making child support payments. Nevertheless, Applicant did not ignore his creditors. Instead, he embraced his financial responsibilities and accepted lower-paying positions in an effort to address his creditors. The entire situation occurred under such circumstances that it is unlikely to recur and does not cast doubt on Applicant's current reliability, trustworthiness, or good judgment.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>63</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 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

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<sup>62</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>63</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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
Subparagraph 1.d:	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