



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



In the matter of:)
)
-----) ISCR Case No. 12-02678
)
Applicant for Security Clearance)

Appearances

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

11/21/2013

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 December 13, 2011, Applicant applied for a security clearance and submitted an Electronic Questionnaires for Investigations Processing (e-QIP) version of a Security Clearance Application (SF 86).¹ On May 6, 2013, the Department of Defense (DOD) Consolidated Adjudications Facility issued him a set of interrogatories. He responded to the interrogatories on July 3, 2013.² On July 24, 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

¹ GE 1 ((SF 86), dated December 13, 2011).

² GE 2 (Applicant's Answers to Interrogatories, dated July 3, 2013).

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 August 1, 2013. In a sworn statement, dated August 14, 2013, Applicant responded to the SOR allegations and requested a hearing. Department Counsel indicated the Government was prepared to proceed on August 23, 2013. The case was assigned to me on August 27, 2013. A Notice of Hearing was issued on September 11, 2013, and I convened the hearing, as scheduled, on September 25, 2013.

During the hearing, three Government exhibits (GEs 1 through GE 3) and six Applicant exhibits (AEs A through AE F) were admitted into evidence without objection. Applicant and one witness testified. The transcript (Tr.) was received on October 10, 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 (AEs G through AE K) and admitted into evidence without objection. The record closed on October 11, 2013.

Findings of Fact

In his Answer to the SOR, Applicant admitted five of the factual allegations pertaining to financial considerations (¶¶ 1.a., 1.c., 1.d., 1.f., and 1.h.). He denied the remaining allegations. 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 41-year-old employee of a defense contractor who, since September 2011, has served as a student analyst.³ He was on active duty with the U.S. Army from August 1990 until August 2011, when he retired as a sergeant first class.⁴ He was granted a secret security clearance in 1991.⁵ Applicant attended college briefly in 2008, but did not obtain a degree.⁶ He was married in April 1993, separated in May 2011, and is currently pending a divorce.⁷ Applicant and wife have two daughters.⁸

³ GE 1, *supra* note 1, at 9-10.

⁴ GE 2 (Certificate of Release or Discharge from Active Duty (DD Form 214), dated August 31, 2011), attached to Applicant's Answers to Interrogatories.

⁵ GE 2 (Personal Subject Interview, dated January 2, 2012), at 3, attached to Applicant's Answers to Interrogatories.

⁶ GE 1, *supra* note 1, at 9.

⁷ GE 1, *supra* note 1, at 16-17.

Military Service

Applicant was deployed to Haiti in 1994, to Iraq two times in 2001, and again to Iraq in 2005.⁹ During his military career, Applicant was awarded the Meritorious Service Medal (two awards), the Army Commendation Medal (two awards), the Army Achievement Medal (five awards), the valorous unit award, the Army Good Conduct Medal (six awards), the National Defense Service Medal (with bronze star), the Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, the Iraq Campaign Medal (with campaign star), the non-commissioned officer professional development ribbon (three awards), the senior aircraft crewman badge, the parachutist badge, the air assault badge, and the driver and mechanic badge.¹⁰

Financial Considerations

There was nothing unusual about Applicant's finances until about 2005. Because of his periodic deployments and his frequent temporary duty assignments with a special operations deployment unit, which he estimated to be an average of 200 days per year, Applicant's wife normally handled the family finances.¹¹ Although his income went into an account for her to make the required monthly payments, unbeknownst to him, Applicant's wife spent the money on herself for "stuff that she wants" before paying for what the family needs.¹² He had no idea of the extent or nature of his debts until he and his wife separated in May 2011.¹³ He first learned that he had a financial problem when his wife called him at his office to inform him that the residence they owned at his last military assignment had been foreclosed upon by the bank.¹⁴ She had waited until the very last moment to spring the news on him, and by that time, it was too late for him to take any action to save the residence.¹⁵ Documentation from various creditors was simply "shuffled over into the corner" and never furnished to him by his wife.¹⁶ Only lately, because of his security clearance review and as part of their continuing divorce discussions, has she been furnishing him correspondence from creditors.¹⁷

⁸ GE 1, *supra* note 1, at 19.

⁹ AE G (Statement, undated).

¹⁰ GE 2 (DD Form 214), *supra* note 4.

¹¹ GE 2 (Personal Subject Interview), *supra* note 5, at 3; AE G, *supra* note 9; AE B (Affidavit, dated September 25, 2013).

¹² Tr. at 62-63.

¹³ GE 2 (Personal Subject Interview), *supra* note 5, at 3.

¹⁴ Tr. at 25-26.

¹⁵ Tr. at 25-26.

¹⁶ Tr. at 35-37, 40.

¹⁷ Tr. at 48, 62; GE 2 (Personal Subject Interview), *supra* note 5, at 3.

To complicate matters, Applicant discovered his wife was having a continuing affair with her boss.¹⁸ Applicant cancelled the power of attorney he had given his wife,¹⁹ but he spent a significant period of time attempting to reconcile with his wife and keeping his family together before realizing his efforts were fruitless.²⁰ He then turned his focus on his creditors in an effort to identify them and resolve his delinquent accounts. Applicant eventually identified several credit cards that his wife had opened in his name. He had never carried any credit cards other than his bank debit card and his Government-issued credit card.²¹ Applicant takes full responsibility for not supervising his wife's actions and his finances.²²

In response to the DOD interrogatories, in July 2013, Applicant provided a personal financial statement reflecting a monthly net salary of \$5,021.28, monthly household, utility, transportation, and food expenses of \$2,700.03, and monthly debt repayments of \$1,040, leaving a monthly remainder of \$1,660.03 available for discretionary savings or expenditures.²³ He also reflected \$1,300 in a savings account.²⁴

The SOR identified five delinquent debts totaling \$24,663 that had been charged off, and three delinquent debts totaling \$2,430 that had been placed for collection, as generally reflected by a 2011 credit report.²⁵ Some accounts listed in the credit report have been transferred, reassigned, or sold to other creditors or collection agents. Other accounts are referenced repeatedly in the credit report, in some instances duplicating other accounts listed, either under the same creditor name or under a different creditor name. Several accounts are listed with only partial account numbers. Those debts listed in the SOR, and their respective current status, according to the credit report, evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below.

(SOR ¶ 1.a.) There is a home equity line of credit with a high credit of \$24,450 that was 120 days past due in the amount of \$22,637, and charged off in December 2011.²⁶ The creditor issued Applicant's wife a Form 1099-C, *Cancellation of Debt*, in December 2009.²⁷ I conclude the debt has been resolved.

¹⁸ Tr. at 27.

¹⁹ Tr. at 50, 63.

²⁰ Tr. at 33, 54.

²¹ Tr. at 43.

²² GE 1, *supra* note 1, at 38.

²³ GE 2 (Personal Financial Statement, undated), attached to Applicant's Answers to Interrogatories.

²⁴ GE 2 (Personal Financial Statement), *supra* note 23.

²⁵ See, GE 3 (Combined Experian, TransUnion, and Equifax Credit Report, dated December 19, 2011).

²⁶ GE 3, *supra* note 25, at 8, 12.

²⁷ AE C (Form 1099-C, dated December 4, 2009).

(SOR ¶ 1.b.) There is an overpayment in the amount of \$2,812 with the Defense Finance and Accounting Services (DFAS) that was placed for collection.²⁸ Applicant contended that he filed his travel voucher for retirement travel in June 2011, reflecting a travel advance of \$2,775.50.²⁹ It appears that DFAS never received the travel voucher and simply sought reimbursement of the advance payment. Nevertheless, DFAS increased the balance, first to \$2,797 in July 2012, and eventually to \$2,812.³⁰ The DFAS correspondence was sent to his wife's address, but not forwarded to Applicant. After Applicant learned of the issue, he eventually went to the facility soldier center and refiled his travel voucher.³¹ In addition, \$500 has been garnished from his salary.³² Applicant's travel was authorized by military orders as part of his retirement out-processing,³³ and once the travel voucher is properly processed, the matter should be resolved. I conclude the debt is in the process of being resolved.

(SOR ¶ 1.c.) There is a credit card account with a high credit of \$398 that was 90 days past due in the amount of \$161.³⁴ The unpaid balance was increased to \$506 and charged off.³⁵ The account was acquired by a debt purchaser. Applicant contacted the debt purchaser and they agreed to both a settlement and a repayment plan. Effective September 16, 2013, Applicant agreed to make monthly payments of \$50.69 until \$304.14 is paid, and at that point the account will be considered settled and resolved.³⁶ I conclude the debt is in the process of being resolved.

(SOR ¶ 1.d.) There is a credit card account with a credit limit of \$500 and high credit of \$686 that was 150 days past due in the amount of \$646.³⁷ The unpaid balance was charged off in December 2011.³⁸ Applicant contacted the creditor and they agreed to both a settlement and a repayment plan. Effective September 30, 2013, Applicant agreed to make monthly payments of \$50.69 until \$586.81 is paid, and at that point the

²⁸ GE 2 (Applicant's Answers to Interrogatories), *supra* note 2, at 6, 9; AE F (Equifax Credit Report, dated August 5, 2013), at 34-37.

²⁹ AE J (Travel Voucher or Subvoucher, dated June 10, 2011); Tr. at 35.

³⁰ AE F, *supra* note 28, at 35-37.

³¹ Tr. at 35-36.

³² Tr. at 36.

³³ AE K (Orders, dated December 20, 2010).

³⁴ GE 3, *supra* note 25, at 7.

³⁵ AE F, *supra* note 28, at 32.

³⁶ AE E (Letter, dated September 17, 2013).

³⁷ GE 3, *supra* note 25, at 7; AE F, *supra* note 28, at 33.

³⁸ GE 3, *supra* note 25, at 7.

account will be considered settled and resolved.³⁹ I conclude the debt is in the process of being resolved.

(SOR ¶ 1.e.) There is a credit card account with credit limit of \$1,500 that was placed for collection in 2009, and charged off in the amount of \$685.⁴⁰ The account was acquired by a debt purchaser, and the creditor reported a zero balance.⁴¹ Applicant was not the principal name on the account, but merely an authorized user.⁴² Applicant contacted the debt purchaser and they agreed to a repayment plan. Applicant agreed to make monthly payments of \$50 until the charged-off amount is paid, and at that point the account will be considered resolved.⁴³ I conclude the debt is in the process of being resolved.

(SOR ¶ 1.f.) There is a credit card account with a high credit of \$498 that was placed for collection in 2008, charged off, and sold to a debt purchaser.⁴⁴ The creditor reported a zero balance.⁴⁵ The debt purchaser, claiming to be a factoring company,⁴⁶ reported the high credit to be \$758.⁴⁷ Applicant contacted the debt purchaser and paid off the account.⁴⁸ The account currently reflects that it has been paid and there is a zero balance.⁴⁹ I conclude the debt has been resolved.

(SOR ¶ 1.g.) There is a medical account with an unspecified medical provider with a high credit and balance of \$300 that was placed for collection in 2007.⁵⁰ When interviewed by the Office of Personnel Management (OPM) investigator in January 2012, Applicant indicated he had no idea who the provider was or who received the service.⁵¹ Neither the 2011 credit report nor the SOR identified the provider. Applicant has medical insurance coverage from Blue Cross/Blue Shield and Tricare, and he

³⁹ AE H (Letter, dated October 1, 2013).

⁴⁰ GE 3, *supra* note 25, at 12; AE F, *supra* note 28, at 25.

⁴¹ GE 3, *supra* note 25, at 12; AE F, *supra* note 28, at 25.

⁴² GE 3, *supra* note 25, at 12; AE F, *supra* note 28, at 25.

⁴³ AE G, *supra* note 9, at 1.

⁴⁴ GE 3, *supra* note 25, at 9.

⁴⁵ GE 3, *supra* note 25, at 9.

⁴⁶ It should be noted that "factoring company" is a company that buys "accounts receivable" from a current creditor and then collects on those receivables from the debtor. A factored account is not supposed to be an account that is charged off.

⁴⁷ GE 3, *supra* note 25, at 12; AE F, *supra* note 28, at 25.

⁴⁸ See, AE G, *supra* note 9, at 1.

⁴⁹ GE 3, *supra* note 25, at 5; AE F, *supra* note 28, at 28, 31-32.

⁵⁰ GE 3, *supra* note 25, at 10.

⁵¹ GE 2 (Personal Subject Interview), *supra* note 5, at 5.

inquired about any balances with his children's primary care physician, but was unable to find any unpaid balances.⁵² The account is no longer listed in Applicant's 2013 credit report. Applicant has taken reasonable efforts to identify the creditor to resolve the account, but has been unable to do so in light of the paucity of information about the account in the credit reports and the SOR. Accordingly, although there is no evidence that Applicant has paid the creditor, I conclude the debt has been resolved.

(SOR ¶ 1.h.) There is an account with an insurance company with a high credit of \$214 and past-due balance of \$130 that was placed for collection in 2011, and transferred or sold to a collection agent.⁵³ Although the 2011 credit report listed the account as an individual account in Applicant's name,⁵⁴ the name on the account was that of Applicant's wife.⁵⁵ Applicant contacted the collection agent and paid off the account, and paid an extra convenience fee for doing so.⁵⁶ There is now a zero balance.⁵⁷ I conclude the debt has been resolved.

There is no evidence that Applicant has any other delinquent accounts. Applicant has not received any financial counseling.⁵⁸

Character References and Work Performance

One of Applicant's colleagues, a retired first sergeant, has known Applicant since they were both on active duty over ten years ago. They have been contractors working on the same programs for different employers for up to four years, and he is now Applicant's team leader. Applicant, a person with integrity, has a reputation for being trustworthy, honest, and reliable.⁵⁹ Applicant's project manager considers Applicant to be loyal and honest.⁶⁰

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."⁶¹ As Commander in Chief,

⁵² Tr. at 55-56; AE G, *supra* note 9, at 1.

⁵³ GE 3, *supra* note 25, at 10.

⁵⁴ GE 3, *supra* note 25, at 10.

⁵⁵ AE D (Receipt of Payment, dated September 17, 2013).

⁵⁶ AE D, *supra* note 55.

⁵⁷ AE D, *supra* note 55.

⁵⁸ Tr. at 66.

⁵⁹ Tr. at 72-79.

⁶⁰ AE A (Affidavit, dated September 20, 2013).

⁶¹ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

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.”⁶²

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.”⁶³ 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.⁶⁴

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

⁶² Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

⁶³ “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 (4th Cir. 1994).

⁶⁴ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

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.”⁶⁵

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.”⁶⁶ Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Analysis

Guideline F, Financial Considerations

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

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

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an *inability or unwillingness to satisfy debts* is potentially disqualifying. Similarly, under AG ¶ 19(c), a *history of not meeting financial obligations* may raise security concerns. Applicant had five delinquent debts totaling \$24,663 that had been charged off, and three delinquent debts totaling \$2,430 that had been placed for collection, as generally reflected by a 2011 credit report. He lost one residence to a foreclosure, and then discovered the remaining delinquencies. 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

⁶⁵ *Egan*, 484 U.S. at 531

⁶⁶ See Exec. Or. 10865 § 7.

¶ 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*.⁶⁷

AG ¶¶ 20(a), 20(b), 20(c), and 20(d) apply. Applicant's financial problems were not caused by frivolous or irresponsible spending, and he did not spend beyond his means. Instead, his financial problems were largely beyond his control. Because of his periodic deployments and his frequent temporary duty assignments, Applicant's wife normally handled the family finances. His income went into an account for her to make the required monthly payments, but unbeknownst to him, Applicant's wife spent the money on herself before paying the family bills. He had no idea of the extent or nature of his debts, or about his deteriorated financial situation, until he and his wife separated in May 2011. The documentation from the various creditors was never furnished to him by his wife. When Applicant discovered his wife was having a continuing affair with her boss, he cancelled the power of attorney he had given his wife, and took over responsibility for his finances. The situation occurred under such circumstances that it is unlikely to recur now that he and his wife are separated and about to divorce.

However, rather than immediately addressing his delinquent accounts, he spent a significant period of time attempting to reconcile with his wife and keeping his family together before realizing his efforts were fruitless. He eventually turned his focus on his creditors in an effort to identify them and resolve his delinquent accounts. He identified several credit cards that his wife had opened in his name, but noted that he had never carried any credit cards other than his bank debit card and his Government-issued credit card. Applicant took full responsibility for not supervising his wife's actions and his finances. Applicant acted responsibly by contacting the creditors and collection agents he could identify, by paying off two accounts, entering repayment agreements with three creditors, and resubmitting his travel voucher (after having had \$500 garnished on the account). Although Applicant attempted to locate the one remaining account for which

⁶⁷ 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)).

neither the credit reporting agency nor the SOR had any identity or contact information, it remains unpaid. It is no longer on Applicant's 2013 credit report. Applicant has no other delinquent debts. Despite not having received any financial counseling, with a monthly remainder of \$1,660.03 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.⁶⁸

Whole-Person Concept

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

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.⁶⁹

There is some evidence against mitigating Applicant's conduct. Applicant paid little, if any, attention to the family finances, and his wife's handling of his finances permitted accounts to become delinquent and one residence to be lost to foreclosure. As a result, accounts were placed for collection or charged off. In addition, Applicant initially focused primarily on his deteriorating marriage rather than on his deteriorating finances.

The mitigating evidence under the whole-person concept is more substantial. Applicant's financial problems were not caused by frivolous or irresponsible spending on his part, and he did not spend beyond his means. Rather, his problems were largely beyond Applicant's control. Financial delinquencies were hidden from him by his wife until it was, in some cases, simply too late to rectify. Nevertheless, once he learned the

⁶⁸ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁶⁹ 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).

true extent of his financial situation, Applicant did not ignore his creditors. Instead, he embraced his financial responsibilities and attempted to contact the identified creditors and collection agents. 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:⁷⁰

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 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 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

⁷⁰ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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

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.

ROBERT ROBINSON GALES
Administrative Judge