



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



In the matter of: )  
 )  
 --- ) ISCR Case No. 15-02328  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Douglas R. Velvel, Esquire, Department Counsel  
For Applicant: Patrick Korody, Esquire

04/12/2017

**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 November 6, 2012, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.<sup>1</sup> On October 31, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) 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 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

---

<sup>1</sup> GE 1 (e-QIP, dated November 6, 2012).

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.

It is unclear when Applicant received the SOR as there is no receipt in the case file. In a statement, dated and notarized on December 1, 2015, Applicant responded to the SOR allegations and elected to have his case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by the Defense Office of Hearings and Appeals (DOHA) on February 11, 2016, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Guidelines applicable to his case. Applicant received the FORM on February 17, 2016. On March 1, 2016, Applicant retained an attorney who immediately requested that the case be converted to a hearing in lieu of a decision to be made on the written record. The conversion was made, and on March 24, 2016, Department Counsel indicated the Government was prepared to proceed. The case was assigned to me on June 6, 2016. A Notice of Hearing was issued on June 28, 2016. I convened the hearing as scheduled on July 13, 2016.

During the hearing, 4 Government exhibits (GE) 1 through GE 4, and 15 Applicant exhibits and sub-exhibits (AE) A through AE K, were admitted into evidence without objection. Applicant and one other witness testified. The transcript (Tr.) was received on July 21, 2016. I kept the record open to enable Applicant to supplement it. He took advantage of that opportunity and timely submitted additional documents, which were marked and admitted as AE K through AE V, without objection. The record closed on August 10, 2016.

### **Findings of Fact**

In his Answer to the SOR, Applicant specifically denied, with comments, all of the factual allegations pertaining to financial considerations (§ 1.a. through 1.g.) of the SOR. Applicant's comments 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 51-year-old employee of a defense contractor. He has been an assistant facility security officer and an administrative coordinator with the company since September 2009. He graduated from high school in 1983. He received an associate's degree in 2009; a bachelor's degree in 2010; and a master's degree in 2014. Applicant enlisted in the U.S. Navy in September 1989, and he served honorably until he retired as an E-6 in September 2009. He has held a secret security clearance since approximately 1990. Applicant was married in 1993. He has two children (a daughter born in 1994 and a son born in 1996).

## **Military Awards and Decorations**

During his military career, Applicant was awarded the Navy and Marine Corps Commendation Medal; the Navy and Marine Corps Achievement Medal (4 awards); the Sea Service Deployment Ribbon (4 awards); the National Defense Service Medal (2 awards); the Navy and Marine Corps Overseas Service Ribbon (6 awards); the Good Conduct Medal (5 awards); the Navy Unit Commendation (2 awards); the Southwest Asia Service Medal; the NATO Medal; the Global War on Terrorism Service Medal; the Global War on Terrorism Expeditionary Medal; the Navy Pistol Marksman Ribbon; Navy Marksman Ribbon; and Enlisted Aviation Warfare Specialist.

## **Financial Considerations<sup>2</sup>**

There was nothing unusual about Applicant's finances until he mandatorily retired from the U.S. Navy in September 2009. He had expected a promotion that would enable him to continue his military career for a few more years, but the promotion failed to materialize. The retirement left him ill prepared for the loss of income and benefits. In addition, his wife had been unemployed from some point in 2008 until January 2010, and again from November 2011 until November 2012. His current job paid him less than what he had been earning while on active duty. Applicant's wife operated a home day care center under the auspices of the U.S. Navy, but when the military altered its program, Applicant's wife was no longer eligible to operate such a center. The loss of income due to the variety of factors led to an inability to maintain his accounts in a current status. Various accounts, as well as his home mortgage, became delinquent. When his homeowners association (HOA) failed to repair a streetlight near his residence, Applicant withheld his \$182 annual HOA dues. The HOA sued him and obtained a \$1,738 judgment against him in September 2011.<sup>3</sup>

In 2011, Applicant contacted his creditors and collection agents in an effort to resolve his delinquent accounts. In 2012, he obtained a loan modification and reached out to address his other delinquent accounts. During the loan modification process in October 2012, Applicant received credit counseling, including guidance on establishing a bill paying system to pay off debts; establishing a flexible, yet realistic, budget; establishing a savings plan; increasing income; reducing expenses; recording daily spending; attending a financial event sponsored by his mortgage lender; and bringing his mortgage current.<sup>4</sup>

---

<sup>2</sup> General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1, *supra* note 1; GE 2 (Combined Experian, TransUnion, and Equifax Credit Report, dated December 12, 2012); GE 3 (Equifax Credit Report, dated February 12, 2015); GE 4 (Personal Subject Interview, dated December 31, 2012); Applicant's Answer to the SOR, dated December 1, 2015. More recent information can be found in the exhibits furnished and individually identified.

<sup>3</sup> GE 4, *supra* note 2, at 3-6; Tr. at 15.

<sup>4</sup> AE A (Client Action Plan, dated October 31, 2012); AE M (Financial Counseling/Class Client Information, dated October 31, 2012); Tr. at 44-45.

The SOR identified seven purportedly delinquent accounts that had been placed for collection or gone to judgment, as reflected by the December 2012 credit reports<sup>5</sup> or the February 2015 credit report.<sup>6</sup> Those debts, totaling approximately \$13,543, and their respective current status, according to the credit reports, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below:

(SOR ¶ 1.a.): This is a home mortgage with a high credit of \$221,154 and a remaining balance of \$217,601, of which \$9,271 was reported as past due and in foreclosure as of November 2012.<sup>7</sup> The February 2015 credit report reported a different scenario, reflecting a remaining balance of \$224,286, of which \$3,422 was reported as past due.<sup>8</sup> In fact, commencing in 2012, working with the lender and a lender subsidiary, Applicant started the mortgage modification process, making the required monthly payments.<sup>9</sup> The mortgage was eventually brought into a current status. Applicant's April 2016 loan account statement reflects no delinquency. His July 2016 credit report reports the account is current, and has been for the past seven months.<sup>10</sup> The account has been resolved.

(SOR ¶ 1.b.): This is a dental account with an unpaid co-pay balance of \$19 that was placed for collection in 2012.<sup>11</sup> Applicant's wife was unaware that there was a delinquent co-pay, and she was under the impression that her dental insurance had covered the charges. She did not recall receiving any notices. When she first learned of the delinquency "a few years ago," she paid it.<sup>12</sup> The collection agent reported that the creditor had closed the account.<sup>13</sup> The account is not reported in his July 2016 credit report. The account has been resolved.

(SOR ¶ 1.c.): This is the HOA account from which Applicant withheld his \$182 annual HOA dues. The HOA sued him and obtained a \$1,738 judgment against him in September 2011.<sup>14</sup> Applicant paid the judgment through a garnishment of his wages on

---

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

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

<sup>7</sup> GE 2, *supra* note 2, at 6.

<sup>8</sup> GE 3, *supra* note 2, at 1.

<sup>9</sup> AE B (Loan Modification Documents, various dates).

<sup>10</sup> AE G (Experian Credit Report, dated July 8, 2016), at 8, 14.

<sup>11</sup> GE 2, *supra* note 2, at 10; GE 3, *supra* note 2.

<sup>12</sup> AE C-2 (Statement, dated July 8, 2016); AE R (Letter, dated July 13, 2016).

<sup>13</sup> AE C-1 (Letter, dated March 7, 2016).

<sup>14</sup> GE 2, *supra* note 2, at 5; GE 4, *supra* note 2, at 3-6; Tr. at 15.

June 12, 2012, nearly three and one-half years before the SOR was issued.<sup>15</sup> The account has been resolved.

(SOR ¶ 1.d.): This is a bank credit card account with \$2,000 credit limit and unpaid and past-due balance of \$4,546 that was placed for collection in 2012.<sup>16</sup> Applicant learned about the account during his loan modification process, and he was initially under the impression that it was his account so he reported it in his e-QIP. He subsequently determined that the account belonged to his father who had passed away in 2011. Applicant and his father had the same names with different suffixes and a different spelling of their first names.<sup>17</sup> Using an address listed in his credit report, Applicant initially sought to validate the account with a collection agent, but his correspondence was returned to him as not deliverable. He subsequently contacted the creditor to dispute the account and furnished certain requested information. Based on the information provided, the creditor researched the account and determined that the information in Applicant's credit report was incorrect. The creditor removed the account from Applicant's credit report.<sup>18</sup> The account has been resolved.

(SOR ¶ 1.e.): This is a bank-issued warehouse club charge card account with a \$500 credit limit and unspecified unpaid and past-due balances that was placed for collection and sold to a debt purchaser.<sup>19</sup> The debt purchaser, referring to itself as a factoring company, reported that the high credit was \$797 and the unpaid and past-due balance was \$1,520.<sup>20</sup> Using an address listed in his credit report, Applicant sought to validate the account with the debt purchaser, but his correspondence was returned to him as not deliverable.<sup>21</sup> Applicant is unable to confirm that the account belonged to him and not to his father, and he had no further way to address the account in an effort to resolve it.<sup>22</sup> However, he was eventually able to track the account through one collection agent to another collection agent, and in July 2016, the account was settled for the reduced amount of \$600. Applicant made the first \$300 payment on July 25, 2016, and the second and final \$300 payment on August 1, 2016.<sup>23</sup> The account has been resolved.

---

<sup>15</sup> AE D (Satisfaction of Judgment and Release of Lien, dated June 12, 2012); Tr. at 63.

<sup>16</sup> GE 2, *supra* note 2, at 6.

<sup>17</sup> Tr. at 51-56, 58.

<sup>18</sup> AE E (Account Credit File, various dates).

<sup>19</sup> GE 2, *supra* note 2, at 8.

<sup>20</sup> GE 2, *supra* note 2, at 6.

<sup>21</sup> AE F-1 (Validation Request File, dated March 2, 2016); AE F-2 (Validation Request File, dated March 2, 2016); AE F-3 ((Validation Request File, dated March 2, 2016).

<sup>22</sup> Tr. at 56-57.

<sup>23</sup> AE S (Collection Correspondence, various dates).

(SOR ¶ 1.f.): This is a bank-issued home improvement store charge card account with a \$300 credit limit and unspecified unpaid and past-due balances that was placed for collection and sold to the same debt purchaser as above.<sup>24</sup> The debt purchaser, again referring to itself as a factoring company, reported that the high credit was \$533 and the unpaid and past-due balance was \$1,017.<sup>25</sup> Using an address listed in his credit report, Applicant sought to validate the account with the debt purchaser, but his correspondence was returned to him as not deliverable.<sup>26</sup> Applicant is unable to confirm that the account belonged to him and not to his father, and he had no further way to address the account in an effort to resolve it.<sup>27</sup> However, he was eventually able to track the account to another collection agent. He disputed the account and furnished certain requested information. Based on the information provided, the collection agent researched the account and determined that the information in Applicant's credit report was incorrect. The collection agent removed the account from Applicant's credit report.<sup>28</sup> The account has been resolved.

(SOR ¶ 1.g.): This is an unspecified type of bank account with an unpaid balance of \$1,282 that was placed for collection and sold to a debt purchaser.<sup>29</sup> Applicant wrote the collection agent seeking validation of the account. In August 2016, the account was settled for the reduced amount of \$720. Applicant made that payment on August 2, 2016.<sup>30</sup> The account has been resolved.

In 2009, while on active duty, Applicant's monthly income, including basic pay and allowances, totaled \$5,090.77.<sup>31</sup> In August 2016, Applicant submitted a monthly budget reflecting a net monthly income, including his primary income, military pension, disability income, and wife's income, of \$6,166; monthly expenses of \$4,639; and a monthly remainder of \$1,527 available for discretionary saving or spending.<sup>32</sup> In July 2016, Applicant estimated that he had \$1,000 in savings, \$200 plus in checking, and approximately \$14,000 in his 401(k) retirement account.<sup>33</sup> He has no delinquent debts,

---

<sup>24</sup> GE 2, *supra* note 2, at 7.

<sup>25</sup> GE 2, *supra* note 2, at 7.

<sup>26</sup> AE F-1, *supra* note 21; File, dated March 2, 2016); AE F-2 (Validation Request File, dated March 2, 2016); AE F-3 ((Validation Request File, dated March 2, 2016).

<sup>27</sup> Tr. at 56-57.

<sup>28</sup> AE E (Account Credit File, various dates); AE S, *supra* note 23.

<sup>29</sup> GE 2, *supra* note 2, at 10.

<sup>30</sup> AE T (Collection Correspondence, various dates).

<sup>31</sup> AE U (Pay Chart, with notes, dated January 1, 2009).

<sup>32</sup> AE N (Family Monthly Budget, dated August 2016); AE Q (Retiree Account Statement, dated July 21, 2016); AE P (Earning Statement, various dates); AE O (Wife's Earnings Statement, dated May 13, 2016).

<sup>33</sup> Tr. at 70-71.

and his modest credit union loans were established only in an effort to improve his credit history.<sup>34</sup>

## **Work Performance and Character References**

The facility security officer, who is also Applicant's immediate supervisor at Applicant's employer, is a retired U.S. Navy E-9 with 30 years' service, and he has known Applicant since Applicant was hired in 2009. They have daily contact, eight hours per day, four or five days per week. He characterized Applicant in positive terms, using characterizations such as sensible, conscientious, reliable, and trustworthy.<sup>35</sup> Applicant's Annual Evaluations and Expectation Setting Forms from 2012 through 2016 reflect that Applicant's compliance with the company core values were primarily "often exhibited," with some items "always exhibited" or simply "exhibited." His overall ratings over the period were generally "meets expectations," although his most recent rating was "exceeds expectations."<sup>36</sup> Two former Navy colleagues, one of whom worked as a peer before being commissioned, have known and worked with Applicant for many years. They are both effusive in praise of Applicant's character. One noted that Applicant was also active in the community and he has committed himself to developing young men and women.<sup>37</sup> Applicant's sister handled their late father's estate. She noted that their father had many debts when he died. She alerted Applicant to the possibility of a credit confusion regarding their father's delinquent accounts being included in Applicant's financial record. She characterized Applicant as reliable, trustworthy, and honest.<sup>38</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>39</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>40</sup>

---

<sup>34</sup> Tr. at 72-73.

<sup>35</sup> Tr. at 27-35.

<sup>36</sup> AE H (Annual Evaluation and Expectation Setting Form, various dates).

<sup>37</sup> AE K (Character References, various dates).

<sup>38</sup> AE K (Character Reference, dated June 22, 2016).

<sup>39</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>40</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

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>41</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>42</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>43</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>44</sup> Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in

---

<sup>41</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>42</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>43</sup> *Egan*, 484 U.S. at 531.

<sup>44</sup> See Exec. Or. 10865 § 7.

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's financial problems arose in 2009, and increased during the following few years. Several accounts became delinquent. One judgment was filed. 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." In addition, 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>45</sup> In addition, AG ¶ 20(e) may apply where "the individual has a reasonable basis

---

<sup>45</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."

to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.”

AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) all apply. Applicant’s financial problems were not caused by his personal frivolous or irresponsible spending. In addition, it does not appear that he spent beyond his means. Instead, his financial problems arose during a period when the family income dropped significantly because of his retirement from the U.S. Navy and his wife’s business was terminated when the U.S. Navy altered the program under which she was operating. Accounts became delinquent only because of his insufficient income. To his credit, Applicant did not ignore his delinquent accounts, but instead, as early as 2011, he reached out to his creditors. The HOA issue arose when he withheld his annual \$182 HOA fee in protest because they failed to repair a streetlight near his residence. Instead of resolving the street light issue, the HOA took the hard line and sued Applicant. The judgment the HOA obtained was eventually paid off by garnishment in June 2012, nearly three and one-half years before the SOR was issued, but because of inaccuracies in his credit report, that fact was never reported.

Applicant’s major financial issue arose when his mortgage loan became past-due. In 2012, Applicant received credit counseling, and he obtained a mortgage modification. Following through on the modification process, he brought the mortgage current. Although there was an unsupported reference to the house being in foreclosure, that characterization proved to be false. The mortgage has been current for at least seven months. Two delinquent accounts were alleged to be Applicant’s accounts, but upon his disputes, it was determined that they were not, in fact, Applicant’s accounts. Applicant took repeated efforts to resolve other delinquent accounts, and his perseverance resulted in eventual resolutions.

Applicant’s wife has returned to the workforce and their financial status has improved significantly. He now has a monthly remainder of \$1,527 available for discretionary saving or spending. He has no other delinquent debts. Applicant’s financial problems are under control. His perseverance and successful efforts reflect that he acted prudently and responsibly. Applicant’s actions, under the circumstances confronting him, no longer cast doubt on his current reliability, trustworthiness, and good judgment.<sup>46</sup>

---

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)).

<sup>46</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

## 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):

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>47</sup>

There is some evidence against mitigating Applicant's conduct. His retirement from the U.S. Navy, and the loss of monetary benefits, occurred before he had adequately prepared financially for retirement. He failed to maintain his normal monthly payments regarding a number of accounts. A judgment was filed against him by the HOA. He fell behind in paying his home mortgage.

The mitigating evidence under the whole-person concept is more substantial. There is no evidence of misuse of information technology systems, mishandling protected information, or substance abuse. Applicant is a well-respected employee and member of the community. His financial problems commenced when his anticipated promotion failed to materialize, and he was faced with a mandatory retirement. The retirement left him ill prepared for the loss of income and benefits. In addition, his wife's income took a major blow when a home day care center she had operated under the auspices of the U.S. Navy was forced to close. Applicant chose not to ignore his delinquent debts. Instead, even before the SOR was issued, he extended himself to resolve the debts that existed. Applicant did not simply promise to address his debts, he actually did so.<sup>48</sup> Applicant's efforts have been successful, for all of the alleged delinquent accounts have either been

---

<sup>47</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>48</sup> The Appeal Board has indicated that promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. ISCR Case No. 07-13041 at 4 (App. Bd. Sept. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)).

paid off or successfully disputed as not being his accounts. Applicant's financial status has improved significantly, and he has no other delinquent accounts.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

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.<sup>49</sup>

Applicant has demonstrated a "meaningful track record" of debt reduction and elimination efforts. He keeps track of his expenses and maintains a budget. Overall, the evidence leaves me without questions or doubts as to Applicant's security worthiness. 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
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant

---

<sup>49</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

### **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