

DATE: March 21, 2001

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 00-0104

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Peregrine D. Russell-Hunter, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

Administrative Judge Darlene Lokey Anderson issued a decision, dated October 27, 2000, in which she concluded it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Applicant appealed. For the reasons set forth below, the Board affirms the Administrative Judge's decision.

This Board has jurisdiction on appeal under Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, as amended.

Applicant's appeal presents the following issues: (1) whether the Administrative Judge erred by concluding Applicant's financial situation posed a security risk; and (2) whether the Administrative Judge failed to comply with pertinent provisions of the Directive.

Procedural History

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR) dated May 31, 2000 to Applicant. The SOR was based on Guideline F (Financial Considerations). A hearing was held on September 15, 2000. The Administrative Judge issued a written decision, dated October 27, 2000, in which she concluded it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. The case is before the Board on Applicant's appeal from the Judge's adverse decision.

Appeal Issues

1. Whether the Administrative Judge erred by concluding Applicant's financial situation posed a security risk. Applicant contends the Administrative Judge erred by concluding the facts and circumstances of Applicant's financial situation pose a security risk. In support of this contention, Applicant argues: (a) some of the Judge's factual findings are inaccurate; (b) the Judge erred by referring to criminal conduct in her decision; (c) the record evidence does not support the Judge's conclusion that Department Counsel met its initial burden of proving Applicant experienced excessive financial indebtedness; (d) Department Counsel failed to establish any risk that Applicant has engaged in or is at risk of engaging in illegal acts because of his financial situation; (e) the Judge erred by concluding Applicant failed to present persuasive evidence in rebuttal, explanation, or mitigation because Department Counsel failed to prove any case that

required Applicant to rebut, explain, or mitigate; and (f) even if Department Counsel met its initial burden, Applicant presented evidence that rebutted, explained, and mitigated the government's case against him.

(a) Administrative Judge's factual findings. The Administrative Judge made factual findings about the facts and circumstances surrounding Applicant's financial difficulties, Applicant's efforts to deal with them, and Applicant's current financial situation (which includes approximately \$180,000 of still unsatisfied debts). On appeal, Applicant indicates he "does not dispute any major aspect of the Findings of Fact portion of the Decision at pages 2-4, as far as they go." However, Applicant challenges the following findings by the Judge: (i) Applicant owes the debt alleged in SOR paragraph 1.a.; (ii) Applicant has not satisfied the debt covered by SOR paragraph 1.b.; and (iii) Applicant has not satisfied the debt covered by SOR paragraph 1.e. [\(1\)](#)

The Administrative Judge's finding about SOR paragraph 1.a. reflects a plausible interpretation of the record evidence. Given the particular facts of this case, it was not arbitrary or capricious for the Judge to conclude Applicant is responsible for this debt.

Applicant's challenge to the Administrative Judge's finding about SOR paragraph 1.b. is based on his assertion that, since the hearing, he has paid that debt. Applicant's assertion constitutes new evidence, which the Board cannot consider. *See* Directive, Additional Procedural Guidance, Item E3.1.29. As of the close of the record below, Applicant had not satisfied the debt covered by SOR paragraph 1.b. Accordingly, the Judge's finding about that debt is well-founded and sustainable on appeal.

Applicant's challenge to the Administrative Judge's finding about SOR paragraph 1.e. is based on his contention that: (i) he testified that one part of the \$18,000 debt had been paid; (ii) he testified that another part of the debt has been subject to good faith efforts to pay; and (iii) since the hearing he has made a payment toward the debt. As indicated in the preceding paragraph, the Board cannot consider new evidence on appeal. Furthermore, the Judge was not required to accept Applicant's testimony about this debt at face value. *See, e.g.*, ISCR Case No. 99-0519 (February 23, 2001) at p. 12. The absence of documentation to corroborate claims of satisfying debts is relevant in deciding whether such claims should be accepted. *Cf.* ISCR Case No. 98-0419 (April 30, 1999) at p. 4 (in concluding Administrative Judge failed to take into account an applicant's failure to provide documentation to support his general statements about his financial interests, the Board noted an applicant reasonably can be expected to have or be able to get documentation concerning his financial interests such as income, checking and savings accounts, business assets, and accrued retirement funds).

Applicant also makes arguments that essentially concede the Administrative Judge's findings of fact concerning the debts covered by SOR paragraphs 1.d., 1.g., 1.h., but which seek to present a favorable interpretation of those debts. Our resolution of Applicant's arguments on these points is subsumed in the Board's discussion below of Applicant's contention that he presented evidence that rebutted, explained, and mitigated Department Counsel's case against him.

Applicant also challenges the Administrative Judge's formal finding against him with respect to SOR paragraph 1.i., arguing that the adverse formal finding is not justified in light of the Judge's specific factual findings about his current income and monthly expenses. Applicant's argument has merit. Given the Judge's factual findings on this aspect of the case, it was arbitrary and capricious for the Judge to enter a formal finding against Applicant with respect to SOR paragraph 1.i. However, the error was harmless because, upon consideration of the whole record, there is not a significant chance that, but for this error, the Judge would have reached a different result. *See, e.g.*, ISCR Case No. 98-0657 (November 16, 1999) at p. 3.

(b) Administrative Judge's reference to criminal conduct. Applicant points to the following passage in the Administrative Judge's decision: "The Government is therefore appropriately concerned where available information indicates that an Applicant for clearance may be involved in criminal conduct, which demonstrates poor judgment, untrustworthiness or unreliability." Applicant argues the Judge erred because there is no record evidence that he ever engaged in criminal conduct or any conduct that indicates poor judgment, untrustworthiness or unreliability. Applicant asks the Board to reverse the Judge's decision to the extent the cited passage is erroneous.

The Board does not review isolated sentences in an Administrative Judge's decision; rather, the Board will read the Judge's decision in its entirety to determine what the findings the Judge made and what conclusions the Judge reached.

See, e.g., ISCR Case No. 00-0311 (March 8, 2001) at p. 2. Reading the Judge's decision in its entirety, the Board concludes the passage cited by Applicant is an unexplained anomaly, not an integral part of the Judge's analysis of Applicant's history of financial difficulties. Under the particular facts of this case, the anomaly constitutes harmless error that does not warrant remand or reversal because there is not a significant chance that, but for this error, the Judge would have reached a different result.

(c) Department Counsel's burden of proof. Applicant contends the Administrative Judge erred by concluding Department Counsel met its initial burden of proof under Guideline F because the record evidence does not support the Judge's conclusion that Applicant's history of financial difficulties indicates "poor judgment, unreliability and untrustworthiness on the part of the Applicant." Applicant's argument fails to demonstrate harmful error by the Judge.

Applicant's appeal brief sets forth arguments for why the facts and circumstances of his history of financial difficulties are not indicative of poor judgment, unreliability, or untrustworthiness on his part. However, Applicant's arguments fail to demonstrate harmful error because they essentially aim to rebut two sentences in the Judge's decision. As discussed earlier in this decision, the Board does not review isolated sentences in a Judge's decision. The Judge's use of the phrase "poor judgment, unreliability and untrustworthiness" is difficult to reconcile with her conclusions that Applicant became indebted due to circumstances reasonably outside of his control and that Applicant is making some progress toward reducing his indebtedness. Thus, the Judge's use of the phrase constituted error. Such error is harmless, however, since the use of the phrase does not undercut the Judge's basic analysis of the case. Since there is not a significant chance that, but for this error, the Judge would have reached a different result, the error is harmless. Additionally, such error does not change the fact that Department Counsel met its initial burden of proof in this case by establishing that Applicant has a history of financial difficulties that is still not resolved.

(d) Department Counsel's failure to prove risk. Applicant contends Department Counsel failed to establish there is any risk that he has engaged in or is at risk of engaging in illegal acts because of his financial situation. Applicant is correct in arguing that Department Counsel has not proven he has engaged in any illegal acts because of his financial situation. While proof of such illegal acts would be relevant under Guideline F, it is not necessary to warrant an adverse security clearance decision under Guideline F.

The federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. *Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980). Security clearance decisions are not an exact science, but rather are predictive judgments about a person's security suitability in light of that person's past conduct and present circumstances. *Department of Navy v. Egan*, 484 U.S. 518, 528-29 (1988). The federal government need not wait until an applicant mishandles or fails to properly handle or safeguard classified information before it can deny or revoke access to such information. *Adams v. Laird*, 420 F.2d 230, 238-39 (D.C. Cir. 1969), *cert. denied*, 397 U.S. 1039 (1970). Direct or objective evidence of nexus is not required before the government can deny or revoke access to classified information. *Gayer v. Schlesinger*, 490 F.2d 740, 750 (D.C. Cir. 1973). All that is required is proof of facts and circumstances that indicate an applicant is at risk for mishandling classified information, or that an applicant does not demonstrate the high degree of judgment, reliability, or trustworthiness required of persons handling classified information. *See, e.g.*, ISCR Case No. 99-0296 (April 18, 2000) at p. 5.

Under Guideline F, the security eligibility of an applicant is placed into question when that applicant is shown to have a history of excessive indebtedness or recurring financial difficulties. *See* ISCR Case No. 96-0454 (February 7, 1997) at p. 2. "Furthermore, [f]inancial difficulties, financial irresponsibility and greed have proven to be significant motivating forces for espionage or attempted espionage. It is clear that the United States must consider whether individuals granted access to classified information are, through financial irresponsibility, greed *or financial misfortune*, in a position where they may be more susceptible to mishandling or compromising classified information or material for financial gain." ISCR Case No. 95-0611 (May 2, 1996) at pp. 2-3 (quoting earlier Board decision)(italics added). *Accord* ISCR Case No. 99-0296 (April 18, 2000) at p. 6.

Department Counsel does not have to prove that an applicant poses a "clear and present danger" to national security, *Smith v. Schlesinger*, 513 F.2d 462, 476 n.48 (D.C. Cir. 1975), or that an applicant poses an imminent threat of engaging in criminal acts. Under Guideline F, it is sufficient that the evidence shows an applicant has a history of unresolved financial difficulties that places the applicant in a situation where he or she is more vulnerable or susceptible to bribery

or financial pressures. *See* DISCR Case No. 87-1800 (February 14, 1989) at p. 4 n. 3 (citing espionage cases where financial difficulties were a motivating factor). In areas not involving national security concerns, the government has a legitimate interest in protecting against bribery attempts aimed at its officers, employees, or agents. *See Marshall v. District of Columbia Government*, 559 F.2d 726, 729-730 (D.C. Cir. 1977). *Accord Waide v. United States*, 229 Ct. Cl. 833, 835 (1982). Given the legitimate governmental interest in avoiding or reducing the risk that law enforcement officers may be vulnerable to bribery or other financial misconduct due to personal financial difficulties, it follows that the federal government has a greater interest in avoiding or reducing the risk that persons granted access to classified information might mishandle or fail to properly safeguard classified information because their unresolved financial difficulties make them vulnerable or susceptible to bribery or other undue financial pressures. *Cf. Gayer v. Schlesinger*, 490 F.2d 740, 750 (D.C. Cir. 1973)(government may act on basis of lesser degree of risk to national security than it may on basis of risk to efficiency of civil service).

Even in the absence of any illegal acts, Applicant's financial misfortune left him with financial difficulties that were unresolved as of the close of record in his case. Department Counsel was not required to prove more to warrant the Administrative Judge's conclusion that Applicant's history of financial difficulties raised security concerns under Guideline F.

(e/f) Applicant's burden of explanation, extenuation or mitigation. Applicant contends the Administrative Judge erred by concluding Applicant failed to present persuasive evidence in rebuttal, explanation, or mitigation because Department Counsel failed to prove any case that required Applicant to rebut, explain, or mitigate. As discussed earlier in this decision, the record evidence of Applicant's history of financial difficulties raised security concerns. Accordingly, Applicant had the burden of presenting evidence to rebut, explain, extenuate or mitigate his history of financial difficulties. Directive, Additional Procedural Guidance, Item E3.1.15. Applicant's argument that he had no burden in this case is simply untenable.

Applicant contends, in the alternative, that even if Department Counsel met its initial burden, he presented evidence that rebutted, explained, and mitigated the government's case against him. In support of this contention, Applicant argues: (i) the Administrative Judge failed to evaluate his case under the whole person requirement of Directive, Item E2.2.3; and (ii) if the Judge had properly evaluated his case under the nine factors enumerated under Directive, Item E2.2.1 a favorable security clearance decision would have resulted. Applicant's arguments are not persuasive.

Reading the Administrative Judge's decision in its entirety, the Board concludes the Judge complied with the requirements of Directive, Item E2.2.3 by considering the facts and circumstances surrounding Applicant's financial difficulties, including their origin and his efforts at addressing and resolving them. Applicant's strong disagreement with the Judge's analysis falls far short of demonstrating the Judge did not comply with the requirements of Directive, Item E2.2.3.

The Administrative Judge specifically cited the factors enumerated under Directive, Item E2.2.1. Furthermore, a reading of the Judge's decision shows the Judge did more than merely cite those factors. Apart from the harmless errors discussed above, the Judge's decision reflects a reasonable consideration of Applicant's case in light of the various Item E2.2.1 factors. The Judge had the responsibility of weighing the favorable and unfavorable evidence and deciding whether the favorable evidence outweighed the unfavorable evidence or *vice versa*. Applicant's ability to argue for a more favorable weighing of the record evidence is not sufficient to demonstrate the Judge weighed the record evidence in a manner that is arbitrary, capricious, or contrary to law.

The Administrative Judge concluded Applicant's efforts at addressing and reducing his financial problems were insufficient to resolve the security concerns raised by Applicant's remaining unsatisfied debts (excluding his mortgage) of approximately \$180,000. That conclusion has a rational basis in the record evidence, and the Judge properly resolved her doubts in favor of the national security. *See* Directive, Item E2.2.2 ("Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security.").

2. Whether the Administrative Judge failed to comply with pertinent provisions of the Directive. Applicant contends the Administrative Judge erred by not complying with various provisions of the Directive. In support of this contention, Applicant argues: (a) the Judge did not consider the factors enumerated by Directive, Section 6.3; (b) the Judge did not

evaluate Applicant's case under each of the 13 Guidelines listed by Directive, Item E2.2.3; (c) the Judge made no finding under Directive, Item E2.2.4 that would permit her to make an adverse decision based only on Guideline F; (d) the Judge did not consider the factors listed under Directive, Item E2.2.5; and (e) the Judge failed to consider all the Financial Considerations Mitigating Conditions.

(a) Directive, Section 6.3. Section 6.3 requires each security clearance decision to be a fair and impartial common sense decision based on consideration of all the relevant information, including consideration of the six factors enumerated in Section 6.3. On page 5 of the decision, the Administrative Judge listed the nine factors enumerated by Directive, Item E.2.2.1. Those nine factors essentially duplicate the six factors enumerated in Section 6.3. Furthermore, a reading of the decision below shows the Judge discussed the nature, seriousness and circumstances surrounding Applicant's conduct (Section 6.3.1), the frequency and recency of Applicant's conduct (Section 6.3.2), Applicant's age (Section 6.3.3), Applicant's motivation and state of mind (Section 6.3.4), the absence or presence of evidence of financial rehabilitation by Applicant (Section 6.3.5), and the likelihood that Applicant's financial difficulties would continue (Section 6.3.6). In view of the foregoing, the absence of a specific listing of each of the Section 6.3 factors in the Judge's decision does not demonstrate the Judge failed to consider them in Applicant's case.

(b) Directive, Item E2.2.3. Applicant correctly notes that Item E2.2.3 lists the thirteen Guidelines (A through M) under which the security eligibility of an applicant is evaluated. However, Applicant's argument relies on an interpretation of Item E2.2.3 that would lead to the absurd result that every single applicant would have his or her case evaluated under all 13 guidelines regardless of the specific allegations set forth in the SOR issued to the applicant. The Board will not construe or interpret provisions of the Directive in a manner that leads to foolish or absurd results. *See, e.g., ISCR Case No. 99-0452 (March 21, 2000) at pp. 5-6. Cf. arques v. Fitzgerald, 99 F.3d 1, 5 (1st Cir. 1996)*("[A] statute may not be construed in a manner that results in absurdities or defeats its underlying purpose."); *Yerdon v. Henry, 91 F.3d 370, 376 (2d Cir. 1996)* (courts should reject party's interpretation of statute that would lead to absurd or futile results that are at plain variance with the policy of the statute as a whole).

Applicant's argument also is based on a flawed premise. The mere fact Department Counsel has not alleged or proven that Applicant has engaged in conduct which falls under Guidelines A through E or Guidelines G through M does not mean that Applicant's conduct and circumstances do not raise security concerns under Guideline F. Furthermore, a favorable security clearance decision is not mandated merely because an applicant's conduct is not as serious as it possibly could be. *See, e.g., ISCR Case No. 99-0532 (February 27, 2001) at p. 8.*

(c) Directive, Item E2.2.4. [\(2\)](#)

Applicant argues: (i) Directive, Item E2.2.4 precludes an adverse security clearance decision based on a single Guideline unless there has been a finding that an applicant has demonstrated a recent or recurring pattern of questionable judgment, irresponsibility or emotionally unstable behavior; (ii) the Judge made no such finding in his case; therefore, (iii) the Judge's adverse decision must be reversed. Applicant's argument lacks merit.

Applicant's argument seeks to: (i) interpret and apply Directive, Item E2.2.4 in isolation from the rest of the Directive; (ii) turn the word "may" into "can"; and (iii) read Directive, Item E2.2.4 in a narrow, idiosyncratic manner that would lead to absurd results that are inconsistent with the basic purposes of the industrial security program. Provisions of the Directive should not be interpreted and construed in isolation from other pertinent provisions of the Directive. *See ISCR Case No. 99-0447 (July 25, 2000) at p. 5.* Furthermore, provisions of the Directive must be interpreted and construed in a reasonable manner that furthers the purposes of the industrial security program. *See ISCR Case No. 98-0395 (June 24, 1999) at p. 4 n.2; ISCR Case No. 97-0783 (August 7, 1998) at p. 4.* Moreover, provisions of the Directive should not be interpreted and construed in a manner that will result in anomalous or absurd results. *See ISCR Case No. 99-0452 (March 21, 2000) at pp. 5-6. Cf. Marques v. Fitzgerald, 99 F.3d 1, 5 (1st Cir. 1996)*("[A] statute may not be construed in a manner that results in absurdities or defeats its underlying purpose."); *Yerdon v. Henry, 91 F.3d 370, 376 (2d Cir. 1996)* (courts should reject party's interpretation of statute that would lead to absurd or futile results that are at plain variance with the policy of the statute as a whole).

Directive, Item E2.2.4 does not preclude adverse security clearance decisions based on a single Guideline. All Directive, Item E2.2.4 does is provide guidance for security adjudicators on how to deal with cases where the adverse information

may be deemed not sufficient to justify an unfavorable security clearance decision under any single Guideline. If an adjudicator reasonably concludes that the adverse information in a case is sufficient to warrant an unfavorable decision under a single Guideline, then the adjudicator does not need to consider or apply Directive, Item E2.2.4. In this case, the Administrative Judge concluded the record evidence in this case warranted an adverse security clearance decision under Guideline F. Accordingly, the Judge had no obligation to consider or apply Directive, Item E2.2.4.

(d) Directive, Item E2.2.5. Applicant argues the Administrative Judge's decision does not reflect any consideration of the six factors enumerated by Directive, Item E2.2.5. Applicant's argument fails to demonstrate the Judge committed harmful error.

The failure of the Administrative Judge to specifically cite or list the factors enumerated under Directive, Item E2.2.5 does not automatically constitute error. As discussed in connection with Applicant's argument concerning Directive, Section 6.3, the Board will consider the Judge's decision in its entirety to determine whether the Judge complied with the requirements of Directive, Item E2.2.5.

Nothing in the Administrative Judge's decision indicates the Administrative Judge specifically considered the fact that Applicant reported information about his financial difficulties and responded to questions put to him about them. Accordingly, Applicant's argument is not frivolous with respect to Directive, Item E2.2.5.1⁽³⁾ and Item E2.2.5.2.⁽⁴⁾ However, implicit in the Judge's decision is a favorable credibility determination because the Judge made many findings of fact based on acceptance of Applicant's testimony and documentary evidence. And, in any event, Applicant's candor with the government did not preclude the Judge from considering the security significance of Applicant's history of financial difficulties. *See, e.g.*, ISCR Case No. 99-0519 (February 23, 2001) at p. 14.

There is no record evidence that Applicant sought assistance or professional guidance to deal with his financial difficulties. Accordingly, Applicant cannot claim any benefit from consideration of Directive, Item E2.2.5.3.⁽⁵⁾

The Administrative Judge discussed Applicant's history of financial difficulties, considered Applicant's efforts at dealing with and resolving his outstanding debts, concluded that Applicant had not yet resolved all of his outstanding debts, and explained why she concluded it was too soon to conclude Applicant had resolved the security concerns raised by his history of financial difficulties. Nothing more is required from the Judge by Directive, Item E2.2.5.4.⁽⁶⁾

In discussing Applicant's efforts at dealing with and resolving his outstanding debts, the Administrative Judge recognized that Applicant has made changes in his behavior and employment that helped him address his financial difficulties. Nothing more is required from the Judge by Directive, Item E2.2.5.5.⁽⁷⁾

Applicant is correct in noting the Administrative Judge's decision does not contain any finding that falls under the terms of Directive, Item E2.2.5.6.⁽⁸⁾ However, the Judge's decision does not recommend that Applicant's security clearance decision be suspended. Rather, the Judge's decision is an adjudication on the merits of Applicant's security eligibility. Nothing in the Directive indicates or suggests that an applicant's security clearance case must involve an explicit two-step, bifurcated decision that first addresses whether to suspend the applicant's access temporarily, and then addresses whether to deny or revoke access. And, in any event, Directive, Item E2.2.5.6 is intended for the protection of the national security interests of the United States, not for the benefit of an applicant. Accordingly, even if an adjudicator fails to consider Directive, Item E2.2.5.6, the federal government, not the applicant, is the injured party. Therefore, Applicant's reliance on Directive, Item E2.2.5.6 is misplaced.

(e) Financial Considerations Mitigating Conditions. Applicant contends the Administrative Judge erred by not considering all the Financial Considerations Mitigating Conditions in his case. Applicant also contends that application of Financial Considerations Mitigating Condition 1, Mitigating Condition 2, Mitigating Condition 3 and Mitigating Condition 6 would lead to a favorable decision in his case. Applicant's contentions are not persuasive.

There is no merit to Applicant's argument about Financial Considerations Mitigating Condition 1.⁽⁹⁾ The Administrative Judge specifically found, and the record evidence shows, that Applicant still has unsatisfied debts (exclusive of his mortgage) worth approximately \$180,000. Therefore, the Judge was not required to give Applicant the benefit of

Financial Considerations Mitigating Condition 1.

The Administrative Judge did not apply Financial Considerations Mitigating Condition 2. [\(10\)](#)

Applicant's argument about Financial Considerations Mitigating Condition 2 raises an alternate interpretation of the record evidence, but it is not the only plausible interpretation of the evidence. The Administrative Judge's discussion of the facts and circumstances of Applicant's history of financial difficulties reflects a reasonable, plausible interpretation of the record evidence and provides a rational basis for the Judge to conclude that Financial Considerations Mitigating Condition 2 was not applicable. Accordingly, Applicant has failed to demonstrate the Judge erred. *See* ISCR Case No. 98-0620 (June 22, 1999) at p. 3 ("Applicant's ability to argue for an alternate explanation of the record evidence is not sufficient to demonstrate the Judge erred.").

Applicant offers no argument why the Administrative Judge should have applied Financial Considerations Mitigating Conditions 4 [\(11\)](#) and 5. [\(12\)](#) There is no record evidence that would appear to support application of either of those two mitigating conditions. It would elevate form over substance to require a Judge to discuss mitigating conditions that are not applicable to an applicant's case. It is groundless for Applicant to suggest he was harmed in any way by the fact the Judge did not discuss these two mitigating conditions when there is no record evidence to support their application.

Applicant acknowledges that the Administrative Judge applied Financial Considerations Mitigating Conditions 3 [\(13\)](#) and 6 [\(14\)](#)

to his case. Applicant argues that the Judge should have made a favorable security clearance decision based on application of the Financial Considerations mitigating conditions. Applicant's argument is not persuasive. First, as discussed earlier, Applicant has failed to demonstrate the Judge was required to apply Financial Considerations Mitigating Conditions 1 and 2. Second, Applicant places too much significance on the application of Financial Considerations Mitigating Conditions 3 and 6. In general, the mere presence or absence of Adjudicative Guidelines disqualifying or mitigating conditions is not dispositive of a case. *See, e.g.*, ISCR Case No. 00-0016 (October 23, 2000) at p. 4. The Judge must consider the record as a whole and decide whether the favorable evidence outweighs the unfavorable evidence or *vice versa*. Accordingly, the Judge's application of Financial Considerations Mitigating Conditions 3 and 6 did not preclude the Judge from making an adverse security clearance decision based on her evaluation of Applicant's overall history of financial difficulties and his current financial situation, which includes unsatisfied debts (not including his mortgage) of approximately \$180,000.

Conclusion

Applicant has identified several errors by the Administrative Judge that, individually, are harmless when considered in light of the record evidence as a whole. Just as the Board does not review isolated sentences in a Judge's decision, the Board does not consider a Judge's errors in isolation. This is because it is possible for a series of otherwise individually harmless errors to reach a point that their cumulative effect would preclude a conclusion that the errors are harmless. In this case, Applicant has failed to meet his burden on appeal of demonstrating errors that, when considered individually or cumulatively, warrant remand or reversal in light of the record evidence as a whole. Accordingly, the Board affirms the Administrative Judge's October 27, 2000 decision.

Signed: Emilio Jaksetic

Emilio Jaksetic

Administrative Judge

Chairman, Appeal Board

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Member, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

1. The Administrative Judge's favorable findings about the debts covered by SOR paragraphs 1.c. and 1.f. are not at issue on appeal.

2. Directive, Item E2.2.4 states in relevant part: "Although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility, or emotionally unstable behavior."

3. "[The person] . . . [v]oluntarily reported the information."

4. "[The person] . . . [w]as truthful and complete in responding to questions."

5. "[The person] . . . [s]ought assistance and followed professional guidance, where appropriate."

6. "[The person] . . . [r]esolved or appears likely to favorably resolve the security concern."

7. "[The person] . . . [h]as demonstrated positive changes in behavior and employment."

8. "[The person] . . . [s]hould have his or her access temporarily suspended pending final adjudication of the information."

9. "The behavior was not recent."

10. "It was an isolated incident."

11. "The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control."

12. "The affluence resulted from a legal source."

13. "The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)."

14. "The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts."