DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
----------	)	ISCR Case No. 17-03083
	)	
Applicant for Security Clearance	)	

Appearances

For Government:
Andrea Corrales, Esq., Department Counsel
For Applicant: *Pro se*
10/29/2019

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Decision

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KATAUSKAS, Philip J., Administrative Judge:

Applicant contests the Defense Department's intent to revoke his eligibility for access to classified information. He presented sufficient evidence to explain, extenuate, and mitigate the security concern stemming from his personal conduct and financial considerations. Accordingly, this case is decided for Applicant.

Statement of the Case

On December 21, 2017, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) sent Applicant a Statement of Reasons (SOR) alleging that his circumstances raised security concerns under Guideline E, personal conduct, and under Guideline F, financial considerations. This action was taken under Executive Order (E.O.) 10865, Safeguarding Classified Information within Industry (February 20, 1960), as amended, as well as Department of Defense Directive 5220.6, Defense Industrial Personnel Security Clearance Review Program (January 2, 1992), as amended (Directive). In addition, the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (AG), effective within the Defense Department on June 8, 2017,

apply here. Applicant answered the SOR on January 16, 2018, and requested a hearing to establish his eligibility for continued access to classified information.

I was assigned the case on July 20, 2018. On September 20, 2018, a date mutually agreed to by the parties, a hearing was held. Applicant testified at the hearing. The Government offered four exhibits, which were marked for identification as GE 1 through 4, and which were admitted without objection. Applicant offered four exhibits (AE), which were marked for identification as AE A through D, and were admitted without objection. The record was left open until October 4, 2018. Applicant timely submitted one additional exhibit, which was marked for identification as AE E and was admitted without objection. Department Counsel's February 22, 2018 discovery letter to Applicant was marked as Hearing Exhibit (HE) 1. The transcript of the hearing (Tr.) was received on September 28, 2018.

Findings of Fact

Applicant is 54 years old, thrice married and divorced, with two daughters, ages 30 and 10. He is a high school graduate currently working on obtaining his bachelor's degree. Applicant served in the U.S. Marine Corps from December 1983 until he was honorably discharged in January 2004. Since December 2016, Applicant has been employed as a security manager for a federal military installation. From May 2011 until December 2015, he was employed as a facility security officer (FSO) by the company that is the subject of the Guideline E allegation. (GE 1; GE 2, PSI p. 2; Tr. 15-16.)

Under Guideline E, the December 21, 2017 SOR alleged that Applicant's employment with a defense contractor was terminated in December 2015 "because [Applicant] gave the company false and/or misleading information to obtain and continue leave under the Family Medical Leave Act (FMLA)." (SOR ¶ 1.a.) Applicant denied that allegation with a lengthy explanation in his Answer to the SOR. In late 2014 or early 2015, one of the doctors treating Applicant's mother for cancer advised Applicant that combating the illness could require him to take extended time off from work (his mother had lived with Applicant since she was diagnosed in 2013). The doctor suggested that Applicant look into his employer's FMLA policy. In January 2015, Applicant requested his employer's FMLA policy. He was told that the company did not have a FMLA policy yet and that the policy was being developed and would be disseminated once it was finalized. In August 2015, Applicant's mother's doctors told him that she probably would not survive to the end of the year. Therefore, Applicant again asked his employer for an update on the FMLA policy. He was told that the policy was still being developed. (Answer, pp. 1-2.)

As a result, Applicant did some research on FMLA procedures and found that such procedures could vary depending on the company. Some allowed employees to work part-time, to telework, to use up all personal leave first, or to take off time as needed. The only uniform requirement was a form to be completed by a doctor verifying the need for FMLA. In September 2015, Applicant submitted a request to his employer requesting personal leave, bereavement leave, and FMLA leave for the October to December 2015 timeframe to cover whatever situation might arise with his mother. His employer told

Applicant he would need to use up his accrued leave (personal paid time-off or PTO) first before FMLA would take effect. Applicant responded that that was fine since he had ample carry-over PTO and holiday time. He asked again about the status of the FMLA policy and was told it was still being developed. (Answer, p. 2.) Applicant elaborated on his Answer at the hearing.

Under Guideline F, the December 21, 2017 SOR alleged two delinquent accounts totaling $20,463. Applicant admitted those delinquencies but explained that they were caused by his termination of employment that is the subject the Guideline E allegation. He also answered that those debts have been enrolled in a debt relief and consolidation program to which he pays $1,200 per month and that those two debts have been resolved. (Answer, pp. 3-4.)

At the hearing Applicant testified on the subject of the FMLA. He confirmed that his mother's health was failing in the fall of 2015, and that as her sole caretaker, he needed to make leave arrangements to care for her. Applicant submitted FMLA paperwork to his human resources person on October 15, 2015, which included the medical verification form. Those documents informed Applicant that he was eligible for FMLA but did not state any periods of FMLA or other periods of leave. (Tr. 33-34; GE 2, pp. 12-17.) The Out of Office Request submitted by Applicant on October 14, 2015, however, approved by Applicant's direct supervisor and by Applicant's human resources manager on October 15, 2015, approved three types of leave for the period November 2, 2015 through January 4, 2016: PTO, Bereavement, and FMLA, in that order. (GE 2, p. 11.) On more than one occasion, Applicant was told by his supervisors, who knew of his mother's condition, to take "as much time as he needed." (Tr. 43-45, 48, 75-77.)

On October 22, 2015, Applicant was home with his mother and a hospice caregiver preparing to take his mother to a full-time hospice. During transit, his mother expired. Applicant emailed his supervisors that he was in the emergency room and did not know how long he would be there. Applicant did not return to work that day, but he returned on the next day, October 23, 2015. (Tr. 34-35; 82.) He did not tell anyone at work that his mother had passed away, and nobody asked. Applicant did not start his leave until November 2, 2015 (the starting date that was approved on October 15, 2015). He delayed taking his leave, because he was getting the company ready for a security inspection in January 2016. (Tr. 35, 45; Answer, p. 2.)

Before he started his leave on November 2, 2015, his human resource manager asked Applicant on October 26, 2015, to submit a FMLA form for completion. He did so the next day, submitting his previous FMLA form. (Tr. 36; GE 2, p. 6-7.) On the form, Applicant certified that he applied for FMLA to care for his mother's serious health condition. (GE 2, pp. 12-17.) That form dated October 29, 2015 indicated that Applicant's FMLA request was approved for the period November 2, 2015 to January 4, 2016 (for 96.33 hours of PTO with the remainder being LWOP (Leave Without Pay)). One condition was that "We are requiring you to substitute or use paid leave during your FMLA leave." (GE 2, p. 7.) This was consistent with what Applicant was told by his supervisor in September 2015 when he inquired about FMLA. (Answer, p. 2.) Applicant testified that

he was not troubled by what he was told in September 2015, because even without FMLA he had more than enough accrued hours of PTO (205 hrs.) to cover the 96.33 hours that was approved for leave, and he was willing to go to LWOP, if needed. He was in a use-it-or-lose it status. (Tr. 40-42, 68-69, 73.) As noted below, however, while on leave Applicant never received any communication from his employer that his FMLA had been approved. (Tr. 36.)

While he was on leave, Applicant's human resources manager sent him an email on November 3, 2015, on the company email system along with an October 29, 2015 FMLA approval restating that his FMLA leave was approved but that he had to take PTO concurrently with his FMLA leave. Applicant testified, however, that he never received that email. Applicant took his work laptop with him on leave, which he customarily did. When he first checked his work email on November 3, 2016, he could not access it. So, Applicant called his IT department and was told that IT had been directed to disconnect his work email because he was going to be on leave for an extended period and did not need access. Applicant testified that "that [disconnecting an employee's email while on leave] was just never done." (Tr. 47-48, 70.) Applicant testified that he did not receive that November 3, 2015 email or the October 29, 2015 FMLA approval until he received Department Counsel's February 22, 2018 discovery letter. (Tr. 36; HE 1.)

Applicant and his employer maintained email contact while Applicant was on leave (albeit now using Applicant's personal email account). On November 24, 2015, his human resources manager asked if Applicant was on track to return to work on January 4, 2016. On November 27, 2015, Applicant replied that he would return to work on January 4, 2016, and likely sooner. On December 17, 2015, his human resources manager asked if Applicant had identified a date for his return. Applicant replied that he would return on the morning of the 23rd (December 23, 2015). (GE 2, p. 9.)

Applicant also received emails from his direct supervisor, who was the chief legal officer and general counsel. On December 10, 2015, Applicant's direct supervisor emailed him on the subject of "Checking in and Security Team Update." In that email the supervisor told Applicant about changes to the security team. Applicant was informed that he would fill the position of "Personnel Security Officer" at the "same level, pay and benefits…." The email closes with: "We can talk more about it when you come back, but I did not want you to be shell-shocked by all these changes upon your return." (AE C, p. 6.)

On December 14, 2015, Applicant's direct supervisor emailed him as follows: "Please see attached Holiday Bonus Letter given in appreciation of your work and contributions this year. Please keep this information confidential. Because this is a discretionary program, not all employees receive a Holiday bonus." (AE C, p. 9.) On December 21, 2015, Applicant emailed his supervisor and asked: "Has my work location changed and if so, where should I set up shop?" The direct supervisor replied the same day: "Hope you are doing well. Your office is in the same place as you left it…[Your] office may change/shift in the future, but nothing definitive right now." (AE C, p. 8.)

In roughly the same timeframe that Applicant's direct supervisor was updating Applicant on his bonus, his new employment position, and office location, on December 21, 2015, (at 3:08 p.m.) the human resources manager emailed Applicant that his direct supervisor wanted to meet with Applicant when he returned to work on December 23, 2015. (AE C, p. 2.) Later that same afternoon, (at 5:25 p.m.) the human resources manager emailed Applicant that instead of meeting with the direct supervisor on the 23rd, the supervisor instead wanted Applicant to call him on his direct line at 10:00 a.m. on the 22nd. (AE C, p. 1.)

On the morning of December 22, 2015, Applicant and his direct supervisor and human resources manager had a telephone conversation at about 10:00 a.m. The essence of that conversation is set forth in an email of the same date to Applicant. The direct supervisor terminated Applicant effective that day. The grounds for separation were: "The bases for your separation today include, without limitation, obtaining and continuing FMLA leave under false and misleading pretenses and an overall failure to maintain accountability to the company." That email was sent at 11:09 a.m. and attached a separation agreement. (AE C, p. 12.)

Applicant testified about the bases for his separation. He reiterated that while he was on leave he did not receive any notification from his employer that his FMLA had been approved. Applicant was always under the impression that he would be required to take annual (PTO) leave before FMLA "would kick in." Applicant never received a company FMLA policy, has never seen one, does not know if it exists, and still does not know. During his December 22, 2015 telephone conversation with his supervisor and human resources manager, Applicant explained that he was on leave taking care of matters relating to his mother's death, debts, closing out items, and responding to emails. None of his leave was submitted to bookkeeping as FMLA because the company did not have an FMLA code; it was all submitted as annual (PTO) leave. Applicant was not intentionally "trying to mislead anybody." (T. 36-37, 45-46, 59, 72-73, 77.)

Applicant testified that during the December 22, 2015 telephone call, he "[didn't] understand" why the company's first response was to terminate him, with no warnings or any reprimands at all. Applicant had worked for the company for four and a half years and had never received any "derogatory counseling or performance evaluations." Now he was told that he could resign and take his severance or be fired. Applicant consulted an employment attorney, who told him that since the applicable state law made employment at-will, Applicant's chances of success were not very good. So, Applicant elected the separation agreement with severance pay. (Tr. 38-39; AE D, p. 6; GE 1. (*See also* Answer, p. 3 (Applicant "never received an negative counseling or reprimand of any kind prior to that incident.").)

In his Answer, Applicant explained what he believed was his company's motive to separate him:

> [T]he company CEO (at the time) and myself had bumped heads several times over proper security protocols the company had violated, which I was

> obligated to report. I faced many challenges working with the CEO when he was my direct supervisor, but they did not affect my ability to perform my duties as required. Although the company informed me that I was being asked to leave due to the incorrect use of FMLA, I believe this situation provided the opportunity for the CEO to get me out of the company. Had I not been instructed to put the FMLA comment under the annual leave code the situation would not have existed. (Answer, p. 3.)

Applicant also explained why he did not tell anyone at work that his mother had passed away. He said that when he returned to work on October 23, 2015, nobody asked about his mother. Applicant did not think about notifying anyone. The only other person who knew she passed was the hospice caregiver who was there at the time. That person would inform other persons who needed to know. Applicant did not think it was pertinent to FMLA, because he was taking PTO leave anyway, without regard to FMLA, relying on the times that his employer told him to "take as much as you need." In addition, his mother's death was the third family death in a year and a half. Applicant "just [found] it hard to discuss. People to this day don't know my mom passed." (Tr. 35, 44-47.)

There is nothing in the record showing that FMLA imposes notification obligations on an employee on FMLA leave if the qualifying serious health conditions result in the death of the afflicted family member. There may be such obligations under FMLA, but none are in the record here. (GE 2, pp. 7, 12-17.)

Applicant testified about the Guideline F allegations. He explained that SOR ¶ 1.a (a collection account) is for a car lease that was repossessed and left a deficiency balance of $5,400. SOR ¶ 1.b (a charge-off) was for a second vehicle he bought in 2015. This second vehicle was used for Applicant's commute. His first vehicle was used to take his mother to and from cancer treatments. He no longer has this second vehicle. When Applicant was separated from his employment as discussed above in December 2015, he was able to make the payments on these two accounts until December 2016. Instead of falling behind at that time, Applicant enrolled those debts in a debt counseling and consolidation program. Since May 2017, Applicant has made payments of $1,200 per month in that program and has never missed a payment. SOR ¶ 1.a and SOR ¶ 1.b have been resolved and documented as such in that program. (Tr. 21-26; AE A; AE B, p. 3; AE C.) He also attended a financial counseling program at a nearby military installation. (Tr. 32-33.)

There are two other accounts enrolled in that program being paid off, one to WFF for funeral expenses and one to WFFNA, a home improvement loan. They are not alleged in the SOR. Applicant is current on his child support payments ($1,300 per month) and his home mortgage. He is current on his state and federal taxes and has no delinquent debts other that those about which he testified. Applicant has been employed in his current job since December 2016. He makes about $68,000 per year. Applicant's monthly take-home pay is about $3,400. His military pension is $1,600 per month, and he has no other sources of income. Applicant's checking account balance is about $1,400 and his savings account is about $4,000. His 401(k) account has a balance of about $3,000 to

$4,000. Applicant's monthly net remainder is about $400 per month, which covers school and transportation expenses. He has not taken any vacations and keeps an automated budget. (Tr. 30-33.)

Law and Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). Individuals are eligible for access to classified information "only upon a finding that it is clearly consistent with the national interest" to authorize such access. E.O. 10865 § 2; SEAD-4, ¶ E.4.

When evaluating an applicant's eligibility for a security clearance, an administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations, the guidelines list potentially disqualifying and mitigating conditions. The guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies the guidelines in a commonsense manner, considering all available and reliable information, in arriving at a fair and impartial decision. SEAD-4, Appendix A, ¶¶ 2(c), 2(d).

Department Counsel must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.14. Applicants are responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven . . . and has the ultimate burden of persuasion as to obtaining a favorable clearance decision." Directive ¶ E3.1.15.

Administrative Judges are responsible for ensuring that an applicant receives fair notice of the issues raised, has a reasonable opportunity to litigate those issues, and is not subjected to unfair surprise. ISCR Case No. 12-01266 at 3 (App. Bd. Apr. 4, 2014). In resolving the ultimate question regarding an applicant's eligibility, "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." SEAD-4, Appendix A, ¶ 2(b). *See also* SEAD-4, ¶ E.4. Moreover, the Supreme Court has held that officials making "security clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

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. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Discussion

Guideline E, Personal Conduct

AG ¶ 15 sets forth the general concern based on personal conduct that is relevant in this case:

> Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility.

AG ¶ 16(b) provides the specific disqualifying condition that is potentially applicable in this case:

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer….

In this case, the SOR alleged that Applicant gave his employer false information to obtain and continue FMLA leave. A statement is false or dishonest when it is made deliberately (knowingly and willfully). An omission of relevant and material information is not deliberate if, for example, the person genuinely forgot about it, inadvertently overlooked it, misunderstood the question, reasonably did not know the information, or genuinely thought the information did not need to be reported. In assessing an allegation of deliberate falsification, I consider not only the allegation and Applicant's answer but all relevant circumstances, with particular scrutiny of Applicant's state of mind or intent. (AG ¶¶ 2(a) and (d)(1)-(9) (explaining the "whole-person" concept and factors).)

The material facts are undisputed. From May 2011 until December 2015, Applicant was employed as an FSO at a company that is the subject of the Guideline E allegation. Since 2013 Applicant was the sole caretaker of his mother, who lived with him. She was suffering from cancer. In late 2014 or early 2015, one of her doctors told Applicant that combating her cancer could require Applicant to take extended time off and recommended that he look into his employer's FMLA policy. In January 2015, Applicant asked his employer for its FMLA policy. He was told that the FMLA policy was being developed.

In August 2015, Applicant's mother's doctor advised that she would probably not survive through the year. Therefore, Applicant asked his employer for its FMLA policy and was told again that it was still being developed. As a result, Applicant did research on FMLA and learned only that FMLA procedures were not uniform and depended on each company's policy. Applicant did, however, find a FMLA form that had to be verified by the

treating doctor and submitted to the employer. In September 2015, he submitted a request to his employer asking for PTO, bereavement leave, and FMLA leave for the October to December 2015 timeframe. Applicant was told that he would need to use up his PTO before FMLA would take effect. Applicant agreed, because he had ample PTO banked. He was told again that the FMLA policy was still being developed.

By later in the fall of 2015, Applicant's mother was failing, so he needed to make leave arrangements to care for her. On October 14, 2015, he submitted an Out of Office Request. On October 15, 2015, that request was approved by Applicant's direct supervisor and human resources manager, approving three types of leave from November 2, 2015 until January 4, 2016 -- PTO, Bereavement, and FMLA. On more than one occasion, Applicant was told by his direct supervisor, who knew of his mother's condition, to take "as much time as he needed."

On October 22, 2015, Applicant's mother passed away while he was in the process of taking her to a full-time hospice. Applicant notified his employer that day that he was in the emergency room and might not return that day. Applicant returned on October 23, 2015 but did not tell anyone at work; nobody asked, and he had suffered three family deaths in just over three years and found it hard to discuss his mother's passing. He returned to work on the 23d to get the company ready for a security inspection in January 2016.

Before starting his leave on November 2, 2015, his human resources manager asked him on October 26, 2015, to submit a FMLA form, so he did so by submitting the FMLA form he had submitted earlier. That form was ultimately approved by Applicant's employer on October 29, 2015, authorizing leave from November 2, 2015, until January 4, 2016 for 96.33 hours of PTO **being used first** and any remainder being LWOP. Applicant, however, **never received** that approval until he received Department Counsel's discovery letter on February 28, 2018.

Although that approval was emailed by Applicant's human resources manager to Applicant on November 3, 2015, it was sent to Applicant's work email. Strangely, his work email had been disconnected by his company's IT upon direction of some supervisor. This was unusual and not the norm. Even if Applicant had received the November 3, 2015 email, its approval was wholly consistent with the approved Out of Office Request, i.e., the leave was approved for the period requested, and PTO must be used first.

In light of the foregoing chronology, the record shows that on numerous occasions, Applicant sought guidance from his employer on its FMLA policy, only to be told each time that it was under development. As his mother was failing, Applicant began making leave plans for her death. All he knew when his mother died on October 22, 2016, was that his Out of Office Request of October 14, 2016, was approved for PTO, Bereavement Leave, and FMLA from November 2, 2016, to January 4, 2016. Applicant also knew that he had to exhaust PTO before FMLA would kick in, which was not a problem because he had 205 hours of PTO banked. Applicant's Out of Office Request was not based on any false or misleading information. Applicant did not receive any FMLA leave, and the Out

of Office Request did not "grant or continue" any FMLA leave. I find that Applicant did not intentionally provide the company with false or misleading information to obtain or continue FMLA leave. In Applicant's mind, he was using PTO. Since I find that Applicant was not using any FMLA leave, I need not reach the question whether he had some obligation under FMLA to report his mother's death. Applicant honestly and reasonably believed that he did not need to disclose his mother's death to his employer in order to use some of his banked PTO.

Guideline F, Financial Considerations

The SOR alleges that Applicant has two delinquent debt raising a concern under Guideline F. The financial considerations security concern is explained at AG ¶ 18, which in pertinent part, states:

> Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence.

Guideline F is not limited to a consideration of whether a person with financial issues might be tempted to compromise classified information or engage in other illegality to pay their debts. It also addresses the extent to which the circumstances giving rise to delinquent debt and other security-significant financial issues cast doubt upon a person's self-control, judgment, and other qualities essential to protecting classified information. (ISCR Case No. 11-05365 at 3 (App. Bd. May. 1, 2012).)

In assessing Applicant's case, I considered the following pertinent disqualifying and mitigating conditions:

> AG ¶ 19(a): inability to satisfy debts;
>
> AG ¶ 20(a): 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;
>
> AG ¶ 20(b): 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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(c): the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

A security clearance adjudication is not a debt-collection process. Rather, an administrative judge examines the way an applicant handles his or her personal financial obligations to assess how they may handle their security obligations. (*See generally* ISCR Case No. ISCR Case No. 12-09719 at 2-3 (App. Bd. Apr. 6, 2016).) Here, Applicant's security clearance eligibility was called into question by his two delinquent debts alleged in the SOR. I conclude that disqualifying condition AG ¶ 19(a) applies. The next inquiry is whether any mitigating conditions apply.

I find that Applicant's termination of employment occurred under unusual circumstances that are unlikely to recur. His loss of employment and the financial problems it caused Applicant were largely beyond his control, and he acted responsibly by seeking counseling and debt consolidation. Applicant made good faith efforts to repay his creditors. Applicant's finances are currently in good order. AG ¶¶ 20(a), (b), (c), and (d) apply.

The record does not raise doubts about Applicant's reliability, trustworthiness, good judgment, and ability to protect classified information. In reaching this conclusion, I weighed the evidence as a whole and considered if the favorable evidence outweighed the unfavorable evidence or *vice versa*. I also gave due consideration to the whole-person concept. (AG ¶ 2(a)(1)-(9).) Accordingly, I conclude that Applicant met his ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant his eligibility for access to classified information.

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 E (Personal Conduct):	For Applicant
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline F (Financial Considerations):	For Applicant
Subparagraphs 2.a-b:	For Applicant

Conclusion

In light of the record as a whole, it is clearly consistent with the national interest to grant Applicant access to classified information.

_____
Philip J. Katauskas
Administrative Judge