



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 23-01548

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel

For Applicant: *Pro se*

05/15/2025

Decision

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On March 10, 2023, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On November 3, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine

whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline F. (HE 2) On November 10, 2023, Applicant provided his response to the SOR. On February 22, 2024, Department Counsel was ready to proceed. On November 7, 2024, the case was assigned to another administrative judge. On February 10, 2025, the case was transferred to me for administrative reasons.

On December 30, 2024, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on January 9, 2025. On January 8, 2025, the DOHA issued a notice rescheduling the hearing on February 12, 2025. (HE 1) The hearing was held as scheduled on February 12, 2025, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered four exhibits into evidence, and Applicant offered two exhibits into evidence. (Tr. 13, 19-28; GE 1-GE 4; Applicant Exhibit (AE) A; AE B) On February 24, 2025, DOHA received a copy of the transcript. Applicant provided two exhibits after the hearing. (AE C; AE D) There were no objections, and all proffered exhibits were admitted into evidence. The record closed on April 21, 2025. (AE D)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a-1.g, 1.i, 1.j, 1.l, 1.n, and 1.r. (HE 3) He denied the allegations in SOR ¶¶ 1.h, 1.k, 1.m., 1.o, 1.p, and 1.q. He also provided mitigating information. His admissions are accepted as findings of fact.

Applicant is a 59-year-old aircraft mechanic who has worked for a government contractor since September 2022. (Tr. 6, 10) In 1984, he graduated from high school, and he did not attend college. (Tr. 6) He served in the Army from 1984 to 1991, and then in 2021, he rejoined the Army. (Tr. 7-8) Later in 2021, he left the Army for medical reasons. (Tr. 8) He received an honorable discharge. (Tr. 9)

Applicant did not receive disability from the Department of Veterans Affairs (VA). (Tr. 8) From July to November 2024, he was placed on short-term disability. (Tr. 9) He went back on disability on an unspecified date, and at the time of his hearing, he was scheduled to return to work at the end of March 2025. (Tr. 9) He received 80 percent of his pay (about \$4,000 monthly) while he was on disability. (Tr. 47) His gross monthly income is \$4,800. (Tr. 43)

Applicant has been married seven times. (Tr. 29-30) He is currently married. (Tr. 29) His spouse does not work outside their home. (Tr. 43) She is looking for work. (Tr. 43) He has three adult children who are financially independent. (Tr. 46) He provides some financial support to an elderly aunt. (Tr. 46)

Financial Considerations

Applicant's November 3, 2024 SOR alleges and his March 15, 2023, March 1, 2024, and February 4, 2025 credit bureau reports (CBRs) state he has 18 delinquent debts totaling \$30,348. His SOR debts arose several years ago. He did not make any payments to his SOR creditors until 2023. (Tr. 33) Some of his debts became delinquent as early as 2010. The status of the SOR debts is as follows:

SOR ¶¶ 1.a, 1.b, 1.c, 1.e, 1.f, 1.h, 1.j, 1.l, and 1.n-1.r, allege 13 charged-off debts totaling \$24,761 as follows: \$9,865; \$6,085; \$3,087; \$1,356; \$1,269; \$916; \$696; \$645; \$280; \$238; \$184; \$106; and \$34, respectively.

SOR ¶¶ 1.d, 1.g, 1.i, 1.k, and 1.m allege five debts placed for collection totaling \$5,587 as follows: \$2,499; \$1,143; \$877; \$666; and \$402, respectively.

Applicant was in Iraq working for a contractor, and his fifth wife was spending beyond their means. (Tr. 31) He was divorced in 2012 from his fifth wife, after he learned that she was abusing drugs and spending excessively. (Tr. 30) Some of his debt related to medical care his fifth spouse received. (Tr. 29-30) His spouses opened several credit card and loan accounts without his knowledge. (Tr. 34-40) He was unable to afford minimal payments on several accounts. (Tr. 36) He was unsure about specifics concerning how individual debts originated or when they became delinquent. (Tr. 38-40) In his divorce settlements, Applicant received responsibility for the debts, and his former spouses received the marital assets. (Tr. 39-40)

In August 2023, Applicant contacted a debt consolidation and settlement company (DCSC). (Tr. 32) He is paying DCSC \$490 monthly to address his delinquent accounts. (Tr. 31-32, 43) His payments are made using an automatic deduction from his bank. (Tr. 33) He hopes to increase the amount of his monthly payments in the future. (Tr. 43-44) He said all of the SOR debts are listed in his DCSC plan. DCSC indicates seven SOR debts are in negotiations as follows: 1.a (\$9,865); 1.b (\$6,085); 1.c (\$3,087); 1.g (\$1,143); 1.i (\$877); 1.m (\$402); and 1.n (\$280). (Tr. 54-55; AE A at 5) One debt for an unspecified amount is listed as being in negotiation; however, it is not listed in the SOR. (AE A at 5) It is listed in his February 4, 2025 CBR as being charged off in 2022 for \$5,713. (Tr. 48; GE 4 at 1) The debts in negotiation do not have settlement amounts. (Tr. 55) He did not provide a list of the payments made into the DCSC account.

Applicant's DCSC plan indicates 12 debts are in settlement plans. DCSC addressed six SOR debts and indicated the amount of each settlement, the number of payments made into the plan, and the total number of payments needed to resolve the debt as follows: 1.d (\$2,499—13 of 20 payments); 1.e (\$3,087—7 of 12 payments); 1.f (\$1,269—13 of 26 payments); 1.h (\$916—0 of 0 payments—evidently the creditor agreed to resolve the debt without any payments); 1.j (\$696—6 of 6 payments); and 1.l (\$645—4 of 4 payments). (AE A at 3-4) Six accounts not listed in the SOR are in DCSC settlement plans. Five debts have been paid, and three of the SOR debts are resolved: SOR ¶¶ 1.h, 1.j, and 1.l. (Tr. 55-56; AE A at 3-4)

Applicant's DCSC plan does not list the following five SOR creditors: 1.k (\$666), 1.o (\$238), 1.p (\$184), 1.q (\$106), and 1.r (\$34). (AE A at 3-5) He said the five debts were disputed and no longer appear on his credit report. (AE B at 2) However, the debt in SOR ¶ 1.r (\$34) is on Applicant's most recent CBR of record, which is dated February 4, 2025. (Tr. 56; GE 4 at 6)

On April 21, 2025, Applicant provided a DCSC account update, which indicated the following three SOR debts were resolved: 1.h for \$916 was settled for \$0; 1.j for \$696 was settled for \$369; and 1.l for \$645 was settled for \$290. (AE D) The following four non-SOR debts were resolved: a \$464 debt was settled for \$163; a debt for \$1,135 was settled for \$397; a \$617 debt was settled for \$280; and a debt for \$614 was settled for \$325. (AE D)

Applicant has two new debts relating to purchase of a motor home (monthly payment is \$1,056) and a motorcycle (monthly payment is \$206), and those two debts are current. (Tr. 42-44) He does not have any recent credit cards or personal loans. (Tr. 42) Applicant and his spouse utilize a written budget. (Tr. 45) He has not received any financial counseling for several years. (Tr. 52) His CBRs indicate he has several non-SOR debts in paid, current, or paid as agreed status, and he has an established track record of paying several debts. (GE 2-GE 4)

Character Evidence

Applicant's supervisor, coworkers, and friends provided five statements concerning his good character. (AE B at 5-9) The general sense of their statements is that Applicant is responsible, dependable, diligent, trustworthy, dedicated, professional, and an asset to his company. Their statements support for approval of his security clearance.

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." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An

administrative judge must consider all available, reliable information about the person, past and present, favorable, and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. 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.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes two disqualifying conditions that could raise a security concern and may be disqualifying in this case, "(a) inability to satisfy debts"; and "(c) a history of not meeting financial obligations."

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c). Additional inquiry about the possible applicability of mitigating conditions is required. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

The financial considerations mitigating conditions under AG ¶ 20, which may be applicable in this case are as follows:

(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;

(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;

(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;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis 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.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

"It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

Applicant's spouses accumulated the SOR debts. In the divorces, he was allocated the marital debts. He has had significant medical problems and has been on disability. These factors are circumstances largely beyond his control, which adversely affected his finances. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007). The DOHA Appeal Board has said:

[A]n applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). What constitutes responsible behavior depends on the facts of a given case and the fact that an applicant's debts will not be paid off for a long time, in and of itself, may be of limited security concern. ISCR Case No. 09-08462 at 4. Relevant to the equation is an assessment as to whether an applicant acted responsibly given [his or] her limited resources See, e.g., ISCR Case No. 08-06567 at 3-4 (App. Bd. Oct 29, 2009).

ADP Case No. 23-00547 at 3 (App. Bd. Apr. 23, 2024).

Applicant did not establish that he acted reasonably under the circumstances. He should have closely monitored his finances and responded more aggressively to ensure his spouses did not abuse his finances. Some of his debts have been delinquent more than 10 years. His actions are insufficient under all of the circumstances to fully establish AG ¶ 20(b).

Applicant's November 3, 2024 SOR alleged Applicant had 18 delinquent debts totaling \$30,348. In August 2023, before he received the November 3, 2023 SOR, Applicant contacted DCSC, and he has been paying DCSC \$490 monthly to address his delinquent accounts. His payments are made using an automatic deduction from his bank. He placed 13 of his SOR debts and several non-SOR debts into the DCSC payment plan, and he has made significant progress resolving those debts. He disputed five SOR debts and four of the five were removed from his CBR. Debts dropped from CBRs do not automatically establish mitigation because legitimate debts can be dropped from CBRs without being paid or resolved in good faith. Debts dropped from a CBR can resurface on a subsequent CBR.

"[U]ntil an applicant has a meaningful financial track record, it cannot be said as a matter of law that he has initiated a good-faith effort to repay overdue creditors or otherwise resolved debts. The phrase 'meaningful track record' necessarily includes evidence of actual debt reduction through payment on debts." ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007)).

A security clearance adjudication is not a debt-collection procedure. It is designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). Applicants are not required "to be debt-free in order to qualify for a security clearance. Rather, all that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017) (denial of security clearance remanded) (citing ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014)). There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant has an established history of paying his debts. He has taken meaningful actions to address his debts. His credit report indicates he has several debts in paid, current, or paid as agreed status, and he has an established track record of paying most of his debts. His history of making payments increases the confidence that he will maintain his financial responsibility.

Applicant has demonstrated a good-faith effort to resolve his debts. His delinquent debts "occurred under such circumstances that [they are] unlikely to recur and [do] not cast doubt on [his] current reliability, trustworthiness, [and] good judgment." There are clear indications that his financial problems are being resolved and under control. His

finances do not cast doubt on his **current** reliability, trustworthiness, and judgment. AG ¶¶ 20(a) and 20(d) are established. Financial considerations security concerns are mitigated.

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(d):

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

Under AG ¶ 2(c), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is a 59-year-old aircraft mechanic who has worked for the government contractor since September 2022. He served in the Army from 1984 to 1991, and then in 2021, he rejoined the Army. Later in 2021, he left the Army for medical reasons. He received an honorable discharge. He served in Iraq as a government contractor.

Applicant's supervisor, coworkers, and friends provided five statements concerning his good character. The general sense of their statements is that Applicant is responsible, dependable, diligent, trustworthy, dedicated, professional, and an asset to his company. Their statements support approval of his security clearance.

The evidence supporting grant of Applicant's security clearance is detailed in the financial considerations analysis section, *supra*, and this evidence is more substantial than the evidence against mitigation. Irresponsible spouses, divorce, and Applicant's medical issues harmed his finances. He acted responsibly under the circumstances from August 2023 to present within his limited means. He resolved or is resolving the majority of his SOR debts and several non-SOR debts.

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

. . . 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 has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has . . . established a plan to resolve his 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 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.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). Applicant has demonstrated a meaningful financial track record of repayment of overdue creditors and otherwise resolved debts.

Approval of Applicant's security clearance now does not permanently end the security review of his finances. The Government has the option of following-up with more questions about Applicant's finances. The Government can re-validate Applicant's financial status at any time through credit reports, investigation, and interrogatories. Approval of a clearance now does not bar the Government from subsequently revoking it, if warranted. "The Government has the right to reconsider the security significance of past conduct or circumstances in light of more recent conduct having negative security significance." ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012). Violation of a promise made in a security context to pay legitimate debts and maintain financial responsibility also raises judgment concerns under Guideline E and may support future revocation of a security clearance. Applicant understands what he needs to do to establish and maintain his financial responsibility. I am confident he will maintain his financial responsibility.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant mitigated financial considerations security concerns.

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

Subparagraphs 1.a through 1.r: For Applicant

Conclusion

I conclude that it is clearly consistent with the interests of national security to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is granted.

Mark Harvey
Administrative Judge