



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



In the matter of:	)	
	)	
	)	ADP Case No. 07-13041
SSN:	)	
	)	
Applicant for Public Trust Position	)	

**Appearances**

For Government: Gina Marine, Esquire, Department Counsel  
For Applicant: Pro Se

May 12, 2008

**Decision**

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HENRY, Mary E., Administrative Judge:

Based upon a review of the case file, pleadings, exhibits, and testimony, I conclude that Applicant's eligibility for access to sensitive information is granted.

Applicant submitted his Questionnaires for Public Trust Position (SF 85P), on April 29, 2004 and re-signed it on March 14, 2005. On January 3, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the trustworthiness concerns under Guidelines F and E for Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program*, dated Jan. 1987, as amended (Regulation), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on January 10, 2008. He answered the SOR in writing on January 31, 2008, and requested a hearing before an administrative judge. DOHA received the request on February 5, 2008. Department Counsel was prepared to proceed on February 27, 2008. The case was assigned to another administrative judge on February 28, 2008, who transferred the case to me because of workload adjustments on March 4, 2008. DOHA issued a notice of hearing on March 19, 2008, and I convened the hearing as scheduled on April 9, 2008. The government offered Exhibits (Ex.) 1 through 5, which were admitted without objection. Applicant testified on his own behalf and submitted Exhibits A through F, which were admitted without objection. DOHA received the transcript of the hearing (Tr.) on April 17, 2008. I held the record open until April 30, 2008, for Applicant to submit additional matters. He timely submitted Exhibits G and H. The Department Counsel responded with no objections on May 8, 2008. The record closed on May 8, 2008.

### **Procedural and Evidentiary Rulings**

#### **Notice**

At the hearing, Applicant indicated he received the hearing notice more than 15 days before the hearing (The notice needed to be received prior to March 25, 2008.) (Tr. at 9.)

#### **Motion to Amend SOR**

Department Counsel moved to amend the SOR ¶ 1.a to reflect the correct state to which the debt is owed, ¶ 1.c. by changing the amount owed from \$17,095 to \$7,095, and ¶ 1.i to reflect the correct name of the debtor. Applicant agreed to the amendments. (Tr. at 9-12.) At the close of the hearing, Department Counsel moved to again amend the SOR to add two additional allegations based on the hearing testimony:

1.l, "You are indebted to the State of [ ] for child support in the approximate amount of \$6,000. As of April 9, 2007, this debt has not been satisfied."

and

1.m, "You are indebted to the Internal Revenue Service for federal taxes for the tax year 2003 in the approximate amount of \$330. As of April 9, 2007 this debt has not been paid."

Applicant did not object to the amendment and I granted it. (Tr. at 108-109.)

## Findings of Fact

In his Answer to the SOR, dated January 31, 2008, Applicant admitted the factual allegations in ¶¶ 1.a-1.c, and 1.e-1.k of the SOR. He denied the factual allegations in ¶¶ 1.d and 2.a of the SOR.<sup>1</sup> His discussions regarding allegations 1.l and 1.m at the hearing are treated as admissions of the debts. (Tr. 26-27.)

Applicant, a 44-year-old man seeking a position of public trust, works as a patient care advocate for a Department of Defense contractor. He began this employment four years ago. He completed his SF-85P in April 2004, and re-signed the application in March 2005.<sup>2</sup>

Applicant married twice and divorced twice. He currently lives with his niece and her family, where he shares a room, because he cannot afford to live on his own. He has a son, age 24, and a daughter, age 21, from his first marriage. He also has a daughter, age 21, from a relationship. He graduated from high school and attended college periodically, but did not graduate.<sup>3</sup>

When his first marriage ended, the court determined, in June 1986, he should pay his former wife child support for both children, in the amount of \$35 a month per child. When school ended in 1988, this amount increased to \$125 a month per child until age 18. In addition, the court in another state also determined that he should pay child support for his other daughter, amount unknown. Because of limited income and sporadic work while a student and later, he fell into arrears on his child support. For his two children from his marriage, his arrearage reached about \$30,000. His arrearage for his other daughter totaled more than \$12,000.<sup>4</sup>

In 1997, during his second marriage, he and his wife purchased a used car (a Dodge Neon) for her use and a 1995 Chevrolet Cavalier for his use. Both signed the car notes. When they separated and divorced in 1998, his wife stopped making her car payment. He called the note holder to find out what he could do, as he could not pay two car payments. The note holder suggested a voluntary repossession, indicating that it would sell the car. He believed that his outstanding debt would be resolved with the sale. The note holder did not tell him he would still owe money on the loan after the car was sold. Had he been told this, he would have developed a different plan for selling the car.<sup>5</sup>

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<sup>1</sup>Response to SOR, dated January 31, 2008.

<sup>2</sup>GE 1 (Application for Position of Public Trust (SF-85P)); Tr. 21-22.

<sup>3</sup>GE 1, *supra* note 2, at 2, 8; Tr. 33-34.

<sup>4</sup>Tr. 67-70.

<sup>5</sup>*Id.* 28-32, 73-80.

In 1999, even though he was current on his loan payment, he decided it was cheaper for him to use public transportation than to continue operating his car. He spoke with the note holder on his car about a voluntary repossession. He received the same information as previously told. He did not obtain a copy of his credit report before voluntarily returning his car to the note holder; thus, he did not know about the unpaid debt from the voluntary repossession of his wife's car. He did not learn of this debt until he started receiving letters from the creditors much later. He did not have any money to pay the loans.<sup>6</sup>

Applicant currently earns \$12.82 an hour. His monthly income also includes some pay differential hours, pay for performance awards, some overtime, and \$900 bonus. His gross income for 2007 totaled slightly over \$38,000 and his net income for the year totaled \$18,750. His total gross income through April 18, 2008 total \$11,257, including another \$900 bonus. His net income through April 18, totaled \$5,454. His monthly net income averages \$1,050. His monthly expenses include \$400 for rent, \$301 for a car payment, \$97 for car insurance, \$120 for gas and \$100 for food and miscellaneous items. He can not afford much else, and does not have a healthy diet.<sup>7</sup>

For many years, Applicant's salary has been garnished for child support arrearage. He currently has three garnishments against his salary, which total \$627 a month. Applicant's girlfriend obtained a judgment for more than \$12,000 for unpaid child support in 2001. He paid this judgment in full in August 2007. (SOR ¶ 1.d.) He received a \$1,263 payment refund.<sup>8</sup>

In November 2007, his received notice of additional garnishments for payment of child support arrearage. He owed his former wife \$2,329 and \$3,536 respectively. In 2007, he paid \$776 on the first garnishment and in 2008, he has paid \$1250 (through May 15), leaving a current balance of \$303. This debt will be paid by the end of June 2008. Regarding the second garnishment for child support, he paid \$554 in 2007 and \$2,246 through May 15, 2008, leaving a current balance of \$1,290. This debt will be paid by September 2008.<sup>9</sup>

In 2003, Applicant earned additional income from his then employer by performing extra work outside work hours for which his employer issued a 1099 and did not withhold any taxes. He timely filed his 2003 tax return, but did not have any funds to pay the additional taxes he owed for these earnings. He estimates he owed between \$2,000 and \$3,000. He entered into a voluntary garnishment with the Internal Revenue Service (IRS) to pay his outstanding taxes. As of the hearing date, he still owed IRS

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<sup>6</sup>*Id.*

<sup>7</sup>GE 2 (Interrogatories and answers with attachments) at 11; AE B (Copy of pay stub); Tr. 22, 25-27, 41.

<sup>8</sup>GE 2, *supra* note 7, at 7-9; GE 4 (Credit report, dated April 6, 2007); Tr. 24-25.

<sup>9</sup>GE 2, *supra* note 7 at 3, 7-10; AE B, *supra* note 7; AE H (Earnings statements) at 1-3.

\$190, including penalties. Based on the record evidence, this debt would be paid in full as of April 30, 2008. Finally, Applicant paid the back state tax bill in 1998.<sup>10</sup>

Applicant's remaining debts listed in the SOR have not been paid. The two largest debts relate to two car repossessions, which are over nine years old and barred from collection under the State Statute of Limitations. His next largest debt is for education loans, which he will not be able to pay until he completes his child support payments. The remaining debts relate to unpaid state taxes, rent, utilities, a jay walking ticket, and a book club. In his answers to interrogatories, Applicant stated he would pay the book club debt at the end of November after paying his bills. He did not because he had to buy a new tire for his car. He has no credit cards.<sup>11</sup>

When Applicant completed his public trust questionnaire, he answered "yes" to the following question:<sup>12</sup>

Question 22. Your Financial Record b.

Are you now over 180 days delinquent on any loan or financial obligation? (Include loans or obligations funded or guaranteed by the Federal Government)

Applicant listed his student loan debt, but not his car repossessions and child support arrearage. His SF-85P shows an arrow pointing left and a circle next to the answer, but does not contain any additional information or attachments. He did not list his child support because he had been paying this debt through garnishment for 12 to 13 years and did not think of it as a loan or financial obligation. He could not explain why he did not list the car repossessions, noting that he did not obtain a copy of his credit report before completing his questionnaire. He explains his failure to list all his debts as a simple misunderstanding of the information on his part.<sup>13</sup>

Applicant enjoys his job, which he describes as the best job he has had. His income is also the best he has earned. His job requires him to work on the telephone much of the day. He is able to perform his duties, despite a hearing loss. He cannot afford to live on his own and will not be able to do so for some time. He recently received two performance awards and commentary about his excellent performance.

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<sup>10</sup>AE B, *supra* note 7; AE F (IRS monthly statement, dated March 19, 2008); AE G (Copy of state tax release, dated June 4, 1998); Tr. 27, 50-53.

<sup>11</sup>GE 3 (Credit report, dated March 23, 2005); GE 4, *supra* note 8; GE 5 (Credit report, dated December 7, 2007).

<sup>12</sup>GE 1, *supra* note 2, at 1, 11.

<sup>13</sup>GE 1, *supra* note 2, at 1, 11; Tr. 42-46.

He and friends are forming a charity and he serves on the Board of Directors. He recently took a trip to Florida related to this charity. His friends helped pay his costs.<sup>14</sup>

## Policies

Positions designated as ADP I and ADP II are classified as “sensitive positions.” (See Regulation ¶¶ C3.1.2.1.1.7 and C3.1.2.1.2.3.) “The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person’s loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security.” (See Regulation ¶ C6.1.1.1.) The Deputy Under Secretary of Defense (Counterintelligence and Security) Memorandum, dated November 19, 2004, indicates trustworthiness adjudications will apply to cases forwarded to DOHA by the Defense Security Service and Office of Personnel Management. Department of Defense contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made. (See Regulation ¶ C8.2.1.)

When evaluating an Applicant’s suitability for a public trust position, the administrative judge must consider the disqualifying and mitigating conditions in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s over-arching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to [sensitive] information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The Applicant has the ultimate burden of persuasion as to obtaining a favorable trustworthiness decision.

A person who seeks access to sensitive information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it

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<sup>14</sup>AE D (Performance record); Tr. 47, 93-96.

grants access to sensitive information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information.

Section 7 of Executive Order (EO) 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

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

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

The guideline notes several conditions that could raise trustworthiness concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly under AG ¶ 19(c), “a history of not meeting financial obligations” may raise security concerns. Applicant accumulated significant delinquent debt over the last 15 years. He has been unable to pay some obligations for a long period of time. The evidence is sufficient to raise these potentially disqualifying conditions, requiring a closer examination.

The guideline also includes examples of conditions that could mitigate trustworthiness concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where “the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment.” Applicant’s financial worries have been an ongoing problem for many years, primarily due to low income. This mitigating condition does not apply.

Under AG ¶ 20(b), it may be mitigating where “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances.” Two of Applicant’s major debts are for unpaid car loans after voluntary repossession. He and his second wife

obtained the loans during their marriage. When the marriage ended, she refused to pay her car loan and he could not afford to pay two car loans on his income alone. He made a decision to return the car to the note holder after being advised that it would sell the car for him. The note holder did not tell him that he would have an unpaid balance for which he would be responsible. The end of this marriage also made it difficult for him to pay for housing on his own, which caused other unpaid debt. I find this potentially mitigating condition is applies to partially mitigate security concerns.

Evidence that “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control” is potentially mitigating under AG ¶ 20(c). Applicant has not received any financial counseling. Much of his debt problem remains outstanding. However, there are clear indications that his finances are improving. I conclude this mitigating conditions does not fully apply.

Similarly, AG ¶ 20(d) applies where the evidence shows “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.” Applicant’s child support arrearage has been a long standing and substantial debt, totaling more than \$42,000. For the last approximately 13 years, he has paid monthly on this debt. At this time, his unpaid debt totals less than \$2,000. He took the initiative with the IRS to pay the additional taxes he owed for 2003 by developing a voluntary garnishment of his salary.<sup>15</sup> This debt is paid as is the 1996 state tax lien.

He also receives some credit in the whole person analysis, *infra*, for the application of the State’s 6-year statute of limitations, which applies to the two unpaid debts following the voluntary repossession of two cars in 1998 and 1999 and listed in as SOR debts 1.c. and 1.d, the creditors were time barred from collecting these debts See State Code. Ann. §44-501.<sup>16</sup> Elimination of these two delinquent debts through the statute of limitations has ended his potential vulnerability to improper financial inducements related to these debts as he no longer has any legal responsibility for these debts. The fact that this debt is very old and not collectible under state law is a

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<sup>15</sup>See ISCR Case No. 04-07360 at 2 (App. Bd. Sept. 26, 2006) (stating partial credit was available under FCMC 6 for debts being resolved through garnishment).

<sup>16</sup>A State Court of Appeals succinctly explained the societal and judicial value of application of the statute of limitations:

Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence and promote repose by giving security and stability to human affairs. The cornerstone policy consideration underlying statutes of limitations is the laudable goal of law to promote and achieve finality in litigation. Significantly, statutes of limitations provide potential defendants with certainty that after a set period of time, they will not be ha[le]d into court to defend time-barred claims. Moreover, limitations periods discourage plaintiffs from sitting on their rights. Statutes of limitations are, indeed, fundamental to our judicial system.

*Carolina Marine Handling, Inc. v. Lasch*, 609 S.E.2d 548, 552 (Ct. App. 2005) (internal quotation marks and citations omitted).



factor I must consider. In addition, Applicant did not fail to make his monthly car payment on the Cavalier or his wife's car. Rather, when his second wife refused to pay her car loan, he contacted the car loan note holder about returning the car, a reasonable action by him. He reasonably relied upon the advice given to him by the note holder and reasonably believed that his remaining debt would be resolved with the sale of the car. Because he received no notice of deficiency from the note holder, he had no basis to know that the first voluntary repossession had left him with unpaid debt. Thus, in 1998, he determined that he could not afford to operate his car and decided to follow the note holder's advice about voluntary repossession a second time. He acted reasonably under the circumstances. Had he known he would still owe money on the cars, he would have developed a different plan to eliminate the debt. Given his income of \$20,000 a year or less at this time, he acted rationally in managing his finances. This mitigating condition applies.<sup>17</sup>

### **Guideline E, Personal Conduct**

AG ¶ 15 expresses the security concern pertaining to personal conduct:

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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

Although the following conduct will normally result in an unfavorable clearance action or administrative termination of further processing for clearance eligibility, this conduct is not at issue in this case:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, and cooperation with medical or psychological evaluation; and,

(b) refusal to provide full, frank and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

AG ¶ 16 describes conditions that could raise a security concern and the following condition may be disqualifying in this case:<sup>18</sup>

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or

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<sup>17</sup>Mitigating conditions in AG ¶¶ 20(e) and 20(f) are not applicable in this case.

<sup>18</sup>The remaining disqualifying conditions, AG ¶¶ 16(b)-16(g) are not raised in this case.

similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

The government established that Applicant omitted material facts from his SF-85P when he failed to provide a complete listing of his outstanding debts. This information is material to the evaluation of Applicant's trustworthiness to hold a security clearance and to his honesty. For this guideline to apply, Applicant's omission must be deliberate. He denies, however, that he deliberately falsified his answer to these questions. When a falsification allegation is controverted, the government has the burden of proving it. Proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred. An administrative judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning an applicant's intent or state of mind at the time the omission occurred.<sup>19</sup> For DC ¶ 16 (a) to apply, the government must establish that Applicant's omission, concealment or falsification in his answer was deliberate.

Applicant did not list his back due child support payments because in his view, he was paying these regularly and had been for years. He reasonably concluded that his child support payments were not past due. Because he listed his education loans, which are a federal loan, his statement that he missed read the question is credible. His answer reflects that he read the question as asking for any outstanding federal loans, not all outstanding loans. When he read the question at the hearing, he recognized that it was clear in its request. He, however, could not provide further explanation for his failure to list his other debts. His failure to provide an explanation for his answer is not enough to establish that he deliberately falsified his SF-85P despite his apparent knowledge of some other unpaid debts. Guideline E is found in favor of Applicant.

### **Whole Person Concept**

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

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) 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.

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<sup>19</sup>See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004)(explaining holding in ISCR Case No. 02-23133 at 5 (App. Bd. Jun. 9, 2004)).

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant has significant and longstanding overdue debts. (See AG ¶ 2(a)(1).) His problems first began as a young man, still in college and recently divorced. (See AG ¶ 2(a)(4).) He accumulated debt because he worked at low income jobs, leaving him with an inability to meet his normal living expenses and pay his child support and education costs. (See AG ¶ 2(a)(2).) When he married a second time, Applicant's income combined with his wife's income provided sufficient income to pay housing and two car payments. When the marriage ended, he lacked funds to pay two car payments and eventually lacked income to pay even low housing costs. He made a decision twice to return cars to the note holder for sale and payment of his debt. Under his financial circumstances, his decision to return the cars for sale to pay off his loans was reasonable. He made this decision without realizing that he would still owe a substantial debt on cars he no longer possessed. He did not purposely incur this unpaid debt. Rather, he relied upon advice from the note holder to his detriment. (See AG ¶ 2(a)(6).)

Applicant has assumed responsibility for his overdue child support. Despite his low income, he has paid almost \$40,000 of this debt and his nearly \$3,000 tax debt. He still owes his education loans and other small debts, which he will be able to begin paying in the future. I recognize a promise to pay in the future does not establish resolution. But such a promise does show he accepts his moral and legal responsibility to pay his creditors. I found his promise credible. His track record of paying his other debts provides some corroborating evidence of his good intentions. Under the facts of this case, Applicant cannot resolve these debts until his current garnishments end, which will be shortly. He has acted responsibly to his primary debts, particularly given his very limited income. (See AG ¶ 2(a)(8).) His unpaid debts are not be a source of improper pressure or duress because he is a responsible individual and a man who lives very simply. Of course, the issue is not simply whether all his debts are paid –it is whether his financial circumstances raise concerns about his fitness to hold a position of public trust. While some debts remain unpaid, they are insufficient to raise trustworthiness concerns. Over the years, he has made adjustments in his life because he lacked the resources to pay his usual and customary bills. He returned two cars erroneously believing this step would eliminate his debt. He now lives with family members because he does not have sufficient income to pay the rent for his own apartment. He has made what changes he can in his lifestyle, which has resulted in payment of some of his debts. His income prevents him from making any more payments on his debts. During the last years he has acted responsibly in the management of his finances given his very limited income. (See AG ¶ 2(a)(1).)

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a public trust position. He is a good employee, who has earned several awards. The majority of his debt problems occurred more than 10 years ago. Over the years, he has diligently paid his overdue child support, despite

limited income. He has not accumulated significant unpaid debt in recent years and actively developed a repayment plan with the IRS. His current income leaves little money to repay additional debt. However, because his garnishments will end shortly, he will have additional resources to comply with his promise to pay the debts he owes. For all these reasons, I conclude Applicant mitigated the trustworthiness concerns arising from his financial considerations.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	For Applicant
Subparagraph 1.k:	For Applicant
Subparagraph 1.l:	For Applicant
Subparagraph 1.m:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for a public trust position. Eligibility for access to sensitive information is granted.

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MARY E. HENRY  
Administrative Judge