



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



In the matter of: )  
 )  
----- ) ISCR Case No. 07-15804  
SSN: ----- )  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Kathryn D. MacKinnon, Esquire, Department Counsel  
For Applicant: *Pro Se*

October 8, 2008

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**Decision**  
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HARVEY, Mark W., Administrative Judge:

Applicant did not mitigate financial considerations security concerns. He did not provide sufficient evidence of his efforts to resolve six of his 14 delinquent debts, totaling about \$22,000. Clearance is denied.

**Statement of the Case**

On February 6, 2008, Applicant submitted an Electronic Questionnaires for Investigation Processing (e-QIP) or Security Clearance Application (SF 86) (Government Exhibit (GE) 1). On April 22, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him,<sup>1</sup> pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, modified and revised. The SOR alleges security concerns under

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<sup>1</sup>Government Exhibit (GE) 7 (Statement of Reasons (SOR), dated April 22, 2008). GE 7 is the source for the facts in the remainder of this paragraph unless stated otherwise.

Guideline F (Financial Considerations). The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.<sup>2</sup>

On June 20, 2008, Applicant responded to the SOR allegations, and requested a hearing (GE 8). On July 25, 2008, the case was assigned to me. At the hearing held on August 21, 2008, Department Counsel offered five exhibits (GEs 1-5) (Transcript (Tr.) 26-27), and Applicant offered Applicant's Exhibits (AE A-B) (Tr. 29-30, 74). There were no objections, and I admitted GE 1-5 and AE A-H (Tr. 27, 30, 74). Additionally, I admitted the Hearing Notice (GE 6), SOR (GE 7), and Applicant's response to the SOR (GE 8). I received the transcript on September 8, 2008. I received additional documentation on September 23 and 24, 2008, and on October 6 and 8, 2008. I closed the record on October 8, 2008.

### **Findings of Fact<sup>3</sup>**

Applicant admitted responsibility for the debts in SOR ¶¶ 1.a, 1.b, 1.c, 1.d, 1.e, 1.f, 1.i, 1.j and 1.l, with explanations (GE 8). He denied the debts in SOR ¶¶ 1.g, 1.h, 1.k, 1.m and 1.n (GE 8). His admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following findings of fact.<sup>4</sup>

Applicant is 43 years old (Tr. 5).<sup>5</sup> In 1990, he received a bachelor of science degree from a service academy (Tr. 6). He currently holds an interim secret clearance (Tr. 6). In 1994, he left active duty as a captain (Tr. 19). He wanted to become an entrepreneur (Tr. 19). After leaving active service he went into the Individual Ready Reserve (IRR) (Tr. 19). He maintained his readiness to be recalled should the country need him in a conflict (Tr. 19). Immediately after the attack on September 11, 2001, he volunteered to return to active duty (Tr. 20-21). While Applicant was in the IRR, the

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<sup>2</sup>On Aug. 30, 2006, the Under Secretary of Defense (Intelligence) published a memorandum directing application of revised Adjudicative Guideline to all adjudications and other determinations made under the Directive and Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program* (Regulation), dated Jan. 1987, as amended, in which the SOR was issued on or after Sep. 1, 2006. The revised Adjudicative Guidelines are applicable to Applicant's case.

<sup>3</sup>Some details have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits. GE 8 (Response to SOR) is the source for the facts in this section unless stated otherwise.

<sup>4</sup>There was no objection, and I approved admission of Applicant's opening statement as substantive evidence (Tr. 20).

<sup>5</sup>GE 1 (2008 security clearance application) is the source for the facts in this paragraph, unless stated otherwise. I accepted Applicant's opening statement as substantive evidence (Tr. 30).

Army sent his personnel record before a promotion board to major (Tr. 22). He was passed over for promotion to major because he was not educationally qualified (he evidently had not completed his Captain's Career Course)(Tr. 22, AE A at 3-4). Because he was passed over for promotion, the Army declined to accept him on active duty as a volunteer in 2001-2002 (Tr. 22-23). Applicant was honorably discharged from the IRR in 2003 (Tr. 22).

Applicant assumed when he left active duty that he would be able to obtain a Small Business Administration (SBA) loan (Tr. 32). He thought he could rely on his veteran's preference (Tr. 32). He learned he needed a positive cash flow for five years to qualify for an SBA loan (Tr. 32-33).

Applicant ran a corporation from about 1996 to 2000 (Tr. 31). He was the sole shareholder of his corporation (Tr. 39). The corporation at one point had two employees (Tr. 66). The corporate product involved installation of back-up or standby power systems (Tr. 31, AE A at 2). Most of his delinquent SOR debt was related to this business (Tr. 31). He was proud of his business accomplishments, which did show some success (Tr. 21). He did not consider his business endeavor to be reckless or ill-conceived (Tr. 33).

Applicant placed his corporate records into a storage unit; however, he was unable to pay the rent for his storage (Tr. 35). The storage company disposed of his records (Tr. 35, 66). He did not have corporate tax records or filings (Tr. 66). He said the landlord/creditor listed in SOR ¶ 1.d, who was seeking payment of rent was fully aware the debt was corporate (Tr. 37). Applicant explained:

. . . they're fully aware that this was a corporate debt, but because they know my name and they know how to put something on my credit report, they put it on the credit report. I don't think it should legitimately be there. But—you know—that's a battle I haven't fought.

(Tr. 37). When the corporation failed, he made no effort to pay his debts, he just "walked away from the business" (Tr. 40). He did not take action to officially disband the business (Tr. 40). Up to the time of his hearing, he had not contacted the creditors to obtain information linking the debt to his prior corporation (Tr. 38-39). He did not contact the creditors to protest the debts (Tr. 38). He did research the landlord's debt (SOR ¶ 1.d), but was unable to locate any record about the current existence of the creditor (Tr. 38). Applicant has not declared bankruptcy, and his corporation did not declare bankruptcy (Tr. 39).

In 2000, Applicant obtained employment with a contractor, providing support to the Army (Tr. 20). His initial salary was about \$80,000 per year (Tr. 41). His gross salary is now about \$120,000 per year (Tr. 42). He has developed substantial expertise and acquired specialized, institutional knowledge (Tr. 25). The military personnel frequently turnover and he has worked loyally to help the Army in his area of specialization (Tr. 26). His work on behalf of the Army is valuable (Tr. 25).

Applicant married twice and has four children and one step-child (Tr. 42). He is paying child support for five children (Tr. 43). His children range in age from five to 15 (Tr. 83). His first marriage failed because of financial pressure from his business (Tr. 80). His second marriage failed because his spouse was a violent alcoholic (Tr. 81). Applicant said he worked out a budget but was unable to afford to pay his delinquent debts for his business (Tr. 44). After his hearing he provided the following budget information (Tr. 45; AE E at 15): wages after taxes: \$5,890 and expenses \$5,204 (rent: \$1,000; auto: \$480; child support: \$2,200; food: \$500; clothing: \$100; transportation: \$450; insurance: \$50; telephone: \$29; internet: \$50; debt payments: \$300; and storage: \$45). After tax income minus expenses equals \$686.

Although Applicant did not have documentation to establish the existence of his corporation at his hearing (Tr. 34), he subsequently provided documents establishing the corporation's existence (AE E at 4-11).

Applicant's SOR alleged 14 delinquent debts, totaling about \$29,000. Their current status is summarized in the table below:

SOR PARAGRAPH AND TYPE OF DEBT	AMOUNT	STATUS
¶ 1.a Judgment	\$2,446	Filed October 1999 (Tr. 47, GE 5 at 30)
¶ 1.b Judgment	\$11,801	Filed March 2000 (Tr. 48, GE 5 at 34)
¶ 1.c Utilities debt	\$120	To collection in July 2000 (Tr. 48, GE 5 at 41)
¶ 1.d Judgment for rent	\$4,321	Unable to locate creditor. Filed March 2001 (Tr. 48-49, GE 5 at 34 and 35)
¶ 1.e Credit card debt	\$5,597	To collection in April 2001 (Tr. 49, GE 5 at 40)
¶ 1.f Utilities debt	\$225	To collection in January 2002 (Tr. 49-50, GE 5 at 35, 41)
¶ 1.g Medical debt	\$37	Paid (Tr. 53-54, GE 3 at 6, AE E at 31)
¶ 1.h Cable debt	\$94	Disputed (Tr. 54-56, GE 4 and 5) (cable equipment returned)
¶¶ 1.i and 1.j Utilities debts	\$669 & \$153	Creditor waived collection on October 2, 2008 (AE I). Debts went to collection in July 2006 (Tr. 50-51, GE 4, 5 at 35, 40-41)
¶ 1.k Medical debt	\$735	Paid (Tr. 57-59, GE 3 at 6, AE E at 32)
¶ 1.l Vehicle debt	\$2,712	To collection in July 2006 (Tr. 52-53, GE 4)
¶ 1.m Medical debt	\$100	Paid (Tr. 59, GE 3 at 5, AE E at 31)
¶ 1.n Medical debt	\$118	Not established (Tr. 59-61, GE 3 at 5)

Applicant attributed the delinquent debts in SOR ¶¶ 1.a to 1.f and 1.i, 1.j and 1.l to his corporation (Tr. 34, 47-53). I explained to Applicant that he needed to provide records proving the corporation owed the debts rather than Applicant personally or he would lose his clearance (Tr. 67, 69-71, 74-75). I told him to go to the creditors and get copies of the documents showing he owed the debts (Tr. 67-75). He said he understood

what was required, and he agreed to request documentation to establish the corporate responsibility for his debts (Tr. 68-70, 75-79). On September 21, 2008, Applicant wrote letters requesting records from the court that approved the three judgements in SOR ¶¶ 1.a (AE H at 9), 1.b (AE H at 9) and 1.d (AE H at 10). On September 21, 2008, he wrote the creditors in SOR ¶¶ 1.e (AE H at 13), 1.i (AE H at 12) and 1.l (AE H at 11) asking for case documentation. The five letters in AE H 9-13 did not dispute or contest the validity of any of the SOR debts.

In his response to DOHA interrogatories, he said his corporation owed the creditor in SOR ¶ 1.d (GE 3 at 2). For other debts, he said he incurred the debt “for the purpose of operating” his corporation (GE 3 at 2-6). In an email dated October 3, 2008, Applicant elaborated on the issue of whether his remaining unresolved debts were corporate as opposed to personal stating:

In order to be granted unsecured loans/lines of credit and contracts, such as facility and truck leases for [my corporation], it was often necessary for me to provide my SSN as the corporate officer and place my personal credit at risk for the purpose of starting and operating the company. I always tried to secure resources using the corporation first and only resorted to placing my personal credit at risk as a last resort.

[The creditor in SOR ¶ 1.d] certainly did know that I was running a corporation right down the hall in the same building as their business headquarters. Hence, the directory that they placed on their wall [included the name of my corporation].

[The creditor in SOR ¶ 1.l] would not lease [my corporation] a truck unless I, as the corporate officer, also placed my own credit rating at risk. I first tried to use only the corporation, but that request was denied.

Monthly statements for other unsecured loans/lines of credit were addressed to both my name and [my corporation’s name] and sent to [my home address].

Applicant concluded his statement, succinctly explaining why he was not a security risk:

I served my country with distinction while in the Army. I have been working as an Army contractor since August 2000. I have held an Interim Secret Clearance since July 2004. My job performance has been superior and I am providing a high value service to the USA in my current career position. I have never and will never take any action that would place the USA's security at risk. I am willing to die in the service of the USA and that is why I am a confirmed volunteer for the current operation.

## **Recommendations and Character Materials**

Applicant completed airborne, air assault and flight training (AE B at 10, 11 and 15-17). He completed several other military training courses. He volunteered in his community (AE B at 14). He was selected for captain in 1994 (AE B at 21). He received several letters and certificates of training, commendation and appreciation while on active duty (AE B at 11-25). He was awarded the Good Conduct Medal (AE B at 23), and two awards of the Army Commendation Medal (AE B at 24, 25). Applicant's officer evaluation reports contained very positive statements about his leadership, dedication and integrity (AE B at 1-9, AE E at 16-25, 40-41, 43-50).<sup>6</sup> He often received "top block" evaluations in his senior rater's profile (AE E at 16-25).

An Army brigadier general gave Applicant a note lauding him for his hard work on an important Army project (Tr. 24). Applicant did a "super job" making an important presentation about the project for an Army major general and a civilian (Tr. 24). The brigadier general emphasized Applicant's exceptional hard work and diligence (Tr. 24-25). His evaluations as a contractor showed outstanding service and contributions (AE B at 27-28).

## **Policies**

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

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 classified 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.

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<sup>6</sup> Some of the documentation in AE B and E is duplicated.

In the decision-making process, the Government has the initial burden of establishing controverted facts alleged in the SOR by “substantial evidence,”<sup>7</sup> demonstrating, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant’s access to classified information. Once the Government has produced substantial evidence of a disqualifying condition, the burden shifts to Applicant to produce evidence “to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision.” Directive ¶ E3.1.15. 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).<sup>8</sup>

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 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 *also* Executive Order 12968 (Aug. 2, 1995), Section 3.

### **Analysis**

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude one relevant security concern is under Guideline F (Financial Considerations). AG ¶ 18 articulates the security concern relating to financial problems:

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

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<sup>7</sup> See Directive ¶ E3.1.14. “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994).

<sup>8</sup> “The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, evaluate[s] Applicant’s past and current circumstances in light of pertinent provisions of the Directive, and decide[s] whether Applicant ha[s] met his or her burden of persuasion under Directive ¶ E3.1.15.” ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

AG ¶ 19 provides two financial considerations disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts,” and “(c) a history of not meeting financial obligations.” ISCR Case No. 03-20327 at 3 (App. Bd. Oct. 26, 2006) provides, “Applicant’s credit report was sufficient to establish the Government’s prima facie case that Applicant had . . . SOR delinquent debts that are of security concern.” Applicant’s history of delinquent debt is documented in his credit reports (GE 4-5), his response to DOHA interrogatories (GE 3), and his SOR response (GE 8). However, I am satisfied that he paid the debts in SOR ¶¶ 1.g (\$37), 1.k (\$735) and 1.m (\$100). The creditor waived collection of any debt owed in SOR ¶¶ 1.i and 1.j (AE I). The debt in SOR ¶ 1.n (\$118) is not established. The issue of delinquent debt owed to six creditors remains for resolution. The government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c).

Five Financial Considerations Mitigating Conditions under AG ¶¶ 20(a)-(e) are potentially applicable:

(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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) 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;

(d) the individual initiated 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.

Applicant’s conduct does not warrant full application of AG ¶¶ 20(a) or 20(b) because he did not act more aggressively and responsibly to resolve six delinquent SOR debts. Applicant has not shown any significant progress resolving his six delinquent debts totaling about \$22,000. His financial problems are not isolated. The ongoing nature of his delinquent debts is “a continuing course of conduct” under the



Appeal Board's jurisprudence. See ISCR Case No. 07-11814 at 3 (App. Bd. Aug. 29, 2008) (citing ISCR Case No. 01-03695 (App. Bd. Oct. 16, 2002)). He receives partial credit under AG ¶ 20(a) because the debt "occurred under such circumstances that it is unlikely to recur and does not cast doubt on the [his] current reliability, trustworthiness, or good judgment." He has been paying his non-SOR debts. Under AG ¶ 20(b), he receives partial mitigation because his financial situation was damaged through his divorces and he has a heavy child support burden of \$2,400 per month. However, he did not provide sufficient information to establish that he acted responsibly under the circumstances or made sufficient efforts to address his six delinquent debts.<sup>9</sup> He admitted that he has not maintained contact with these six creditors, and made no recent efforts to set up payment plans or otherwise resolve these six debts.

AG ¶¶ 20(c) and 20(d) have limited application. Applicant did not disclose financial counseling. There are some indications that "that the problem is being resolved or is under control" because the amount of delinquent debt is not that large, and there is no new delinquent debt. There is insufficient information to establish that Applicant showed good faith<sup>10</sup> in the resolution of his delinquent SOR debts.

AG ¶ 20(e) mitigates his debts in SOR ¶¶ 1.d and 1.h. Although he did not provide "documented proof to substantiate the basis of the dispute" with respect to these debts, I will give him credit for mitigating them. The creditor waived collection of any debt owed in SOR ¶¶ 1.i and 1.j (AE I). I found him to be credible concerning these debts. He was unable to locate the creditor in SOR ¶ 1.d, and as such was unable to pay this debt. The Government did not provide a current address for the creditor in SOR ¶ 1.d. Applicant returned the equipment and the debt in SOR ¶ 1.h is minor at \$94. I will find "For Applicant" with respect to SOR ¶¶ 1.d, 1.h, 1.i and 1.j in the decretal paragraph of this decision.

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<sup>9</sup>"Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether 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) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)).

<sup>10</sup>The Appeal Board has previously explained what constitutes a "good faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term 'good-faith.' However, the Board has indicated that the concept of good-faith 'requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.' Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy [or statute of limitations]) in order to claim the benefit of [the "good faith" mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

I conclude Applicant's overall conduct in regard to six delinquent debts casts doubt on his current reliability, trustworthiness, and good judgment. His six remaining delinquent SOR debts total about \$22,000 and likely will remain at that level for the foreseeable future. He is unable to come to terms and accept full responsibility for these debts because of their connection to his defunct corporation. Nevertheless, he is an honest, hard-working employee, a good father, and patriot. He is an honorable former Army officer. I have no doubt that he is loyal and would give his life for the United States. Notwithstanding these positive attributes, he has not established his financial responsibility and that he has the judgment necessary to hold a security clearance. Based on my evaluation of the record evidence as a whole, I conclude no mitigating conditions fully apply.

### **Whole Person Concept**

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

- (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.

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

There is some evidence tending to mitigate Applicant's conduct under the whole person concept. He is not financially sophisticated. He did not seem to understand that he is financially responsible for the debts his corporation incurred because he agreed in contracts that he was personally liable for those debts. His dedication to his children from his previous marriages is a very positive indication of his good character and trustworthiness. He is a patriot and is completely loyal to his country. Applicant's record of good employment, and strong military record weighs in his favor. There is no evidence of any security violation. His non-SOR debts are current and being paid.

The mitigating evidence under the whole person concept and the adjudicative guidelines is not sufficient to warrant a clearance at this time. The overall amount of his delinquent debts at about \$22,000 is substantial. He has been aware of his delinquent debts since 2000. He has done little to address his six still delinquent debts and did not

promise to pay these debts. Applicant learned of the security significance of his delinquent debt when he received the SOR, and did not use the next five months to address his six delinquent SOR debts. He made no real progress in resolving these six delinquent SOR debts. His handling of his six delinquent SOR debts shows lack of responsibility, rehabilitation, and mitigation. After weighing the disqualifying and mitigating conditions, and all the facts and circumstances, in the context of the whole person, I conclude he has not mitigated the financial considerations security concerns.

I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my careful consideration of the whole person factors and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under the Guidelines. Applicant has not mitigated or overcome the government's case. For the reasons stated, I conclude he is not eligible 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 F:	AGAINST APPLICANT
Subparagraphs 1.a to 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraphs 1.e and 1.f:	Against Applicant
Subparagraphs 1.g and 1.h:	For Applicant
Subparagraphs 1.i to 1.k:	For Applicant
Subparagraph 1.l:	Against Applicant
Subparagraphs 1.m and 1.n:	For Applicant

### **Conclusion**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for a security clearance is denied.

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Mark W. Harvey  
Administrative Judge