



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



In the matter of:)
)
) ISCR Case No. 07-16841
SSN:)
)
Applicant for Security Clearance)

Appearances

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

September 12, 2008

Decision

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 classified information is granted.

Applicant submitted his Security Clearance Application (SF 86), on November 3, 2006. On March 7, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the security concerns under Guidelines F, E and J 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), 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 March 10, 2008 . He answered the SOR in writing on March 12, 2008, and requested a hearing before an

administrative judge. DOHA received the request on March 17, 2008. Department Counsel was prepared to proceed on April 17, 2008, and I received the case assignment on April 21, 2008. DOHA issued a notice of hearing on May 19, 2008, and I convened the hearing as scheduled on June 3, 2008. The government offered four exhibits (GE) 1 through 4, which were received and admitted into evidence without objection. Applicant and two witness testified on his behalf. He submitted five exhibits (AE) A through E, which were received and admitted into evidence without objection. DOHA received the transcript of the hearing (Tr.) on June 13, 2008. I held the record open until July 2, 2008, for Applicant to submit additional matters.¹ Applicant timely submitted 17 additional documents, which are marked as AE F through V. All are admitted into evidence.² The record closed on July 2, 2008.

Procedural and Evidentiary Rulings

Notice

Since the hearing notice was mailed 15 days before the hearing, Applicant did not receive the notice as required under the Directive. I advised Applicant of his right under ¶ E3.1.8 of the Directive to receive the hearing notice 15 days before the hearing. Applicant affirmatively waived his right to the 15 days notice. (Tr. 8.)

Motion to Amend SOR

Department Counsel moved to amend the SOR by adding ¶ 1.bb, alleging Applicant owes \$20,000 to his former attorneys since mid-2007, which has not been paid. (Tr. 170.) Applicant objected to the motion, arguing that this creditor has not sought payment because of his current financial problems. I granted the government's motion. (*Id.*)

Evidentiary rulings

The government objects to the admission of AE S on the grounds it is undated, unsigned, and incomplete. Applicant has not responded. The government's concerns are valid. I, however, will admit this document and accord it less weight because of

¹On June 24, 2008, Applicant shipped additional evidence. The shipper delivered the materials, but for some reason returned the documents to Applicant. Applicant resent the documents to Department Counsel on July 7, 2008. See AE F (Documents verifying shipping issues). Department Counsel compiled the documentation, then reviewed it. The Department Counsel prepared a response, including objections to certain submissions. I received all documentation on July 25, 2008.

²AE F, *supra* note 1; AE G (Opinion memorandum from Attorney, dated May 11, 2006 and Letter dated May 12, 2006); AE H (1099 forms); AE I through AE N (Letters to various mortgage holders on the rental properties, dated May 22, 2006 and June 9, 2006); AE O (Three complaint letters to State agencies, dated November 15, 2006); AE P (Letter to credit bureau, dated June 20, 2008); AE Q (Credit report, dated June 7, 2008); AE R (memo Applicant); AE S (unsigned stipulation); AE T (Letter on utility bill); AE U (Last five months current credit card statements on a joint account); AE V (Federal and state tax returns for 2005, 2006, and 2007).

these deficiencies The government also objects to AE U (Referenced by government counsel as APHS Z through EE) on the grounds the document is incomplete because it is missing pages. Applicant has not responded to the government's objections. Again, the government has raised valid concerns. Given that the most important information in this exhibit is page one of each month's statement, AE U is admitted into evidence.

Late on September 5, 2008, Applicant faxed a letter to me *ex parte*. I received the letter on September 9, 2008 and immediately notified Department Counsel. I instructed Department Counsel to respond to the letter no later than Thursday, September 11, 2008, which has been done. Department Counsel objects to the admission of this letter as character evidence because the record closed on July 2, 2008 and the government has no ability to cross-examine the author of the letter. The government does not object to the letter if it is deemed a request to expedite the decision in this case. Given that the record closed on July 2, 2008, I decline to admit the letter. Applicant's request to expedite the decision is moot.

Findings of Fact

In his Answer to the SOR, dated March 12, 2008, Applicant admitted the factual allegations in ¶¶ 1.z and 1.aa of the SOR, and 1.bb of the amended SOR. His answer to ¶ 1.v does not specifically admit the allegation. He neither admitted or denied the allegation in ¶ 1.w, which will be treated as a denial. He denied the remaining factual allegations in the SOR.³

Applicant, who is 62 years old, owns and operates a company which is a contractor to the Department of Defense. He has held a top secret clearance in the past.⁴

Applicant and his wife married 43 years ago. They have two adult children and five grandchildren. He worked for an engineering firm for five years. He left this company thirty years ago and started his own business, which provides information operations and strategic communications to the Department of Defense.⁵

For many years, Applicant operated his business with credit lines based on his credit rating and work contracts. He had no problem paying his bills.⁶

In 2005, a real estate broker in his office building approached Applicant about purchasing rental property. Initially, Applicant declined. After discussing the matter with

³Response to SOR, dated March 12, 2008.

⁴GE 1 (Applicant's security clearance application, dated November 3, 2006) at 22-23; Tr. 15.

⁵Tr. 15-17.

⁶GE 4 (Credit report, November 17, 2006); Tr. 17-18.

this individual and based on assurances about financing, Applicant agreed to purchase 22 rental properties. The rental properties consisted primarily of single family homes.⁷

As part of the agreement between the real estate broker and Applicant, the real estate broker agreed to sell the property at 10% below current market value. The real estate broker advised that all properties were rented and that Applicant would not have any out-of-pocket expenses for the investment. The real estate broker promised to pay the down payments for the new loans, pay all closing costs, and cover any shortfall between the loan payments and rental receipts on the properties for one year.⁸

The real estate broker obtained an appraisal on each property through an appraiser he knew and financing through a mortgage broker known to him. The mortgage broker secured 100% financing on each property through a primary mortgage and a secondary mortgage. Beginning in February 2006, the sales on these properties proceeded to settlement. During this process, Applicant learned that the properties were titled in the name of the real estate broker's wife. At the final closings, the wife refused to sign the agreement that provided for the real estate broker to pay the difference between the monthly mortgage and the rent received on each property. The real estate broker then declined to sign the agreement. Applicant lacked the financial resources to pay the difference, a fact known to the real estate broker.⁹

Subsequent to the settlement, Applicant's hired an attorney to review all the documents related to this sale. The attorney found serious irregularities in the overall transaction, including inflated purchase prices based on false appraisals, prior sales listing on the properties at a much lower market value, properties without renters, failure to disclose to the lenders total financing package as required, and the bankruptcy filing by the real estate broker. Based on his review, the attorney concluded that the real estate broker, along with his wife, the mortgage broker, and appraiser, "orchestrated an elaborate scheme to relieve himself and/or his wife of poorly performing properties by misleading [Applicant] into buying the properties under false pretenses." Although the record does not provide clear evidence on when Applicant defaulted on these mortgages, the evidence of record is clear Applicant could not meet his mortgage obligations after the final closing.¹⁰

On May 22, 2006 and June 9, 2006, Applicant's attorney wrote to the lenders holding the mortgage. His attorney advised the mortgage lender that the real estate broker and his wife would not fulfill their promises to pay the mortgage differentials. On behalf of Applicant, the attorney informed each mortgage lender that Applicant desired to work out a financial resolution to mitigate the damages caused the mortgage lenders

⁷AE L, *supra* note 2, at 1; AE M, *supra* note 2, at 2; AE N, *supra* note 2, at 1.

⁸*Id.*; Tr. 20-21.

⁹*Id.*

¹⁰AE L, *supra* note 2, at 1; AE M, *supra* note 2, at 2; AE N, *supra* note 2, at 1.

and Applicant by the scheme. Applicant offered to pay the net rents on each mortgage to the lender, to rent the vacant property, to cooperate with selling the properties, and to pursue his claims against the real estate broker, his wife, the mortgage broker, and the appraiser and share any recovery obtained with the mortgage lenders. In exchange, he requested the lenders not to negatively impact his credit rating.¹¹

The lenders chose, instead, to foreclose on all the properties. All the properties have been sold. Three law firms advised Applicant that he would not be liable for any unpaid mortgage debt following the sale of these properties under the state's anti-deficiency statutes because his loans were purchase money mortgages. See State Statutes 33-701 *et seq* and 33-801 *et seq*. Two lenders notified the Internal Revenue Service (IRS) that Applicant had no personal liability on the mortgage debts. The lenders only recourse in this situation is to list the debts on Applicant's credit report.¹²

The November 17, 2006 credit report reflects that Applicant paid all his bills in a timely manner and had done so for a long period of time. This included at least two credit lines of \$500,000 each. The report also shows that Applicant timely paid the mortgages on two other rental properties he owned prior to his involvement in the 22 rental property scheme. The only negative information shown on this report involves the mortgage foreclosures on the 22 rental properties.¹³

His March 2008 credit report reflects a major change in his financial situation related to the mortgages on the rental property and two credit cards. His June 7, 2008 credit report shows a balance due on two corporate credit cards, and 18 mortgages, many of which are second mortgages on the rental properties. His other debts are timely paid and 24 mortgages have a zero balance (some of these mortgages are related to his own home). On June 20, 2008, he filed a challenge to all the debts listed on his credit report related to the mortgages and unpaid corporate credit cards. Applicant pays one personal credit card on a monthly basis and has reduced his debt on this card significantly.¹⁴

Applicant owes a significant amount of money on two credit cards he used in business.¹⁵ For both cards, he has started negotiations to resolve this debt. Because

¹¹AE I, *supra* note 1; AE J - AE N, *supra* note 2; Tr. 22.

¹²AE E (Law firm tracking sheet on properties); AE G (Memorandum, dated May 11, 2006); Response to SOR; AE H (1099 forms); Tr. 52, 57, 63. Two documents which comprise AE B are included in AE H.

¹³GE 4, *supra* note 6.

¹⁴GE 3 (Credit report, dated March 4, 2008); AE P (Challenges to credit report); AE Q (Credit report, dated June 7, 2008).

¹⁵The three credit reports of record contain conflicting account numbers and information about these credit card debts. See GE 3, *supra* note 3; GE 4, *supra* note 6; AE Q, *supra* note 2. The account number in GE 4 and AE Q are the same, thus, these two documents reflect the most accurate information on these debts. The account numbers in GE 3 are completely different from the account numbers in GE 4 and AE Q.

there are problems with fraudulent charges on the larger debt, the negotiations are not complete. He has not provided evidence which shows that he has either paid the debts or started a monthly payment plan. He provided a stipulation that indicates his negotiation efforts on his largest credit card debt, but since the stipulation is not signed, it is insufficient to show he has resolved this debt. He has developed a payment plan for the unpaid utility bill. He also owes a law firm \$20,000. The law firm considers him a good credit risk and is working with him on the debt.¹⁶

In November 2006, Applicant and his wife filed complaints with the State Board of Appraisal, Department of Real Estate, and Department of Financial Institutions alleging misconduct and fraud against the appraiser, real estate broker and his company, and the mortgage broker and his company. The complaints are still active with the state agencies. Although Applicant indicated he would pursue legal action against the individuals and their companies involved in the fraud, he lacks the financial resources to proceed with legal action.¹⁷

Applicant earns a good income from his business. In 2006, his gross monthly income totaled \$25,000, his net monthly income totaled \$18,750 and his expenses totaled \$16,300. His company paid \$3,500 of his expenses. His current monthly income is between \$13,000 and \$15,000 depending upon his business. His monthly expenses remain the same. As President of his company, he takes no salary until he pays his employees. Because of his current financial issues, his salary varies each month. He continues to pay his personal expenses. He no longer operates his business on a line of credit as the banks have withdrawn the lines of credit.¹⁸

Applicant discussed his liability for the mortgage loan debts with his attorneys. Each told him he had no liability for any deficiency balances on the mortgages after foreclosure. Applicant did not specifically ask his attorneys how he should answer questions on his security clearance application (e-QIP). He asked a more general question about what he should say if the issue comes up. When he completed his e-QIP on November 3, 2006, he answered "no" to question 28 about financial delinquencies because he understood from counsel that he did not owe this money. He knew that the rental properties had been foreclosed at the time he answered this question.¹⁹

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

¹⁶AE D (Undated letter); AE S (Draft stipulation); Tr. 42, 60-61.

¹⁷AE O (Complaint letters); Tr. 60-71, 143, 151.

¹⁸GE 2, (Interrogatories and answers) at 7; AE V (Tax returns); Tr. 35-35, 64-65, 125-127, 142.

¹⁹Tr. 57, 62-64, 96-99.

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©, 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.

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 security decision.

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* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security 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 classified 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 security 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 when the banks foreclosed on mortgage loans for rental properties he innocently acquired in a fraud scheme. He has been unable to repay the balance on the mortgage loans and credit card debts for a 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 security 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 arose because of a fraudulent real estate scheme. There is little likelihood he will venture into this type of real estate investment in the future. I find the real estate investment in rental properties occurred under such unusual circumstances that it is unlikely to recur, and it does not raise concerns about his current reliability, trustworthiness, or good judgment. This mitigating condition fully applies to the mortgage debts.

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." As noted above, Applicant's financial problems arose from a fraudulent real estate scheme. When he realized he had problems with his investment, he immediately hired legal counsel. Through his attorney, he sought to invalidate the investment deal and tried to work out a resolution with the mortgagors. He also filed complaints against the perpetrators of the fraud. These actions indicate he acted reasonably under the circumstances. This mitigating condition is applicable to his rental properties and the mortgages for those properties.

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). 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 has not received financial counseling, thus, this part of mitigating condition AG ¶ 20(c) is not applicable. Applicant, however, made a

good faith effort in 2006 to resolve the mortgage issues when he asked his attorneys to make an offer on his behalf to work out the mortgage payment problems. The banks refused to work with him, a factor he cannot control. There are also clear indications that his mortgage debt problem is resolved or under control. He is trying to negotiate a payment plan on his two remaining business credit card debts. While this debt is large, in comparison to the total debts raised in the SOR, this unpaid debt is 10 % of the debts alleged and Applicant has the financial resources to resolve the debts upon completion of the negotiations. I conclude these potentially mitigating conditions have some applicability.

Finally, AG ¶ 20 (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” applies. Applicant challenged the listing of the unpaid mortgage debts on his credit report. Given his attorneys advise that he does not owe these debts under state law, he has a legitimate basis to challenge the debts. This mitigating condition applies to the mortgage debts listed on his credit report.

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.

AG ¶ 16(a) describes conditions that could raise a security concern and may be disqualifying:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or 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-86 when he answered “no” to Question 28 a and b about his financial delinquencies. 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.²⁰ For DC ¶ 16 (a) to apply, the government must establish that Applicant's omission, concealment or falsification in his answer was deliberate.

At the time he completed his SF-86, Applicant knew the rental properties he purchased earlier in 2006 had gone to foreclosure. Because he knew this information would be relevant to his security clearance, he asked his attorneys about his liability on these loans. His attorneys advised him that he did not owe any money on these mortgage debts and had no personal liability on these debts. Thus, when he answered Question 28 a and b, he did not believe he was delinquent in any debts related to the mortgages on the foreclosed property. Based on the advice he received from his attorneys, he was firmly convinced he had a valid defense to the debt payment and owed no money as a result of the foreclosure. His other debts were all current when he completed his e-QIP. The government has not established that Applicant intentionally falsified his e-QIP. Guideline E is found in favor of Applicant.

Guideline J, Personal Conduct

Since I found that Applicant did not intentionally falsify his e-QIP, I find in favor of Applicant on this Guideline.

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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common sense 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. Thirty years ago, Applicant started

²⁰See 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)).

his own communications business. Since that time, he built and successfully operated his communications company. As his business grew, he hired staff, including financial persons. When necessary, he retained legal counsel to handle his business affairs. As his business grew, he managed the daily cash flow through line of credit from banks. He always paid his bills on time. He had an excellent credit rating.

In 2005, a real estate broker in his office building raised the possibility of investing in the real estate market. Although he initially declined, Applicant eventually agreed to buy 22 rental properties. He negotiated terms of the purchase with the real estate broker, but did not reduce the negotiations to writing as he trusted the real estate broker. Because he trusted the real estate broker, he did not carefully investigate the properties involved in this deal. The real estate broker obtained the mortgage financing and the property appraisals through his friends. Until the closing on the properties, Applicant did not know that the property he purchased had been titled in the name of the wife of the real estate broker. When the final closing occurred, the real estate broker and his wife reneged on a major part of the financing for the properties.

Applicant sought legal counsel on the financing issues with the property. His attorneys uncovered a well-orchestrated scheme to unload poorly performing rental property at inflated real estate values. Due diligence would have uncovered the unrented properties, but not the problems with the appraisal values and improper mortgage financing. Applicant, however, bears some responsibility for not investigating the real estate arrangement more aggressively. The perpetrators of this fraudulent scheme absconded with the profits from the sale of properties with inflated appraisals and left Applicant with excessive mortgage debt on the low value properties. This fraudulent scheme seriously impacted Applicant's business and personal finances. The banks withdrew the lines of credit he used to operate his business, forcing him to work strictly on a cash flow basis. His personal income from the business also declined sharply since he changed how his business operates. He has paid his personal debts in a timely manner.

Under state law, the mortgage lenders cannot seek reimbursement of any financial losses from the foreclosure procedures instituted when Applicant defaulted on the loan payments. He owes nothing on these loans, which comprise 90% of the debts listed in the SOR. Except for his unintentional involvement in this fraudulent scheme, Applicant always maintained excellent finances. He always paid his bills on time. He is a successful businessman who has provided needed services to the government. In the field of communications, his speciality, he has developed business and professional expertise. He ventured into the real estate investment market with little real estate knowledge and experience. He failed in his real estate enterprise. There is little likelihood he will venture into other areas of investment without learning as much as he can about the market. Applicant has learned a hard lesson about investment ventures.

Applicant relied on his attorneys' representations about his personal liability for the unpaid mortgage debt. In doing so, he answered the financial questions on the security based on his explanation for the foreclosures. Applicant is working to resolve

the remaining credit card debts, which are business credit cards. His company normally pays these bills. His attorney does not consider him a credit risk and is not demanding immediate repayment of his \$20,000 in attorney fees. His business income is sufficient to pay these debts and there is little likelihood he will not pay these debts, given his past payment records. These debts, as well as his attorney fee debt, cannot be a source of improper pressure or duress. 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 security clearance. While some debts remain unpaid, they are insufficient to raise security concerns. (See AG ¶ 2(a)(1).)

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from his financial considerations and personal conduct.

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-1.bb:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 1.a-1.b:	For Applicant
Paragraph 3, Guideline J:	FOR APPLICANT
Subparagraph 1.a:	For Applicant

Conclusion

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

MARY E. HENRY
Administrative Judge