



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



In the matter of:)	
)	
-----)	ISCR Case No. 07-17014
SSN: -----)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Francisco Mendez, Esquire, Department Counsel
For Applicant: Pro Se

December 10, 2008

Decision

HARVEY, Mark W., Administrative Judge:

Applicant’s statement of reasons (SOR) alleged three delinquent mortgage debts on real estate properties and a delinquent condominium fee, totaling \$484,137. One debt was paid during the foreclosure process. He now has about \$144,000 in delinquent SOR debt. The allegation that he deliberately falsified his security clearance application is not substantiated. Applicant mitigated personal conduct security concerns; however, he failed to mitigate financial considerations security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On September 18, 2007, Applicant submitted an Electronic Questionnaires for Investigation Processing (e-QIP) or Security Clearance Application (SF 86) (Government Exhibit (GE) 1). On June 23, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him,¹ pursuant to Executive

¹Government Exhibit (GE) 8 (Statement of Reasons (SOR), dated June 23, 2008). GE 8 is the source for the facts in the remainder of this paragraph unless stated otherwise.

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 revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, are effective within the Department of Defense for SORs issued after September 1, 2006. The SOR alleges security concerns under Guidelines F (Financial Considerations) and E (Personal Conduct). 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.

On August 18, 2008, Applicant responded to the SOR allegations, and requested a hearing (GE 10).² On September 16, 2008, DOHA amended the SOR adding an allegation that his condominium fee was delinquent in the amount of \$2,450 (GE 10, SOR ¶ 1.d). On October 21, 2008, Applicant responded to the amended SOR (GE 10). On October 16, 2008, the case was assigned to me. At the hearing held on November 25, 2008, Department Counsel offered seven exhibits (GEs 1-7) (Transcript (Tr.) 18), and after the hearing Applicant offered one exhibit (Applicant's Exhibit (AE A)). There were no objections, and I admitted GE 1-7 (Tr. 18). Additionally, I admitted two Hearing Notices (GE 13, 14), the SOR (GE 8), Applicant's response to the SOR (GE 9), and two documents pertaining to Applicant's potential representation by counsel and waiver of his hearing (GE 11, 12). At the hearing, I agreed to hold the record open until December 5, 2008, to permit Applicant to provide additional documentation (Tr. 53, 60). I received the transcript on December 4, 2008. I received additional documentation from Applicant on December 5, 2008 (AE A).

Findings of Fact³

In his SOR response, Applicant admitted responsibility for the debts in SOR ¶¶ 1.a to 1.c (GE 8, 9) with explanations for how the debts became delinquent. He denied knowingly and deliberately falsifying his September 18, 2007, SF 86 (GE 8, 9). 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.

Applicant is a 23-year-old network engineer for a defense contractor.⁴ He graduated from high school in 2003 and completed one year of college (Tr. 5).

²Applicant's counsel waived Applicant's hearing on November 24, 2008 (AE A); however, Department Counsel then requested a hearing (Tr. 14; AE A).

³Some details have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

⁴GE 1 (2007 security clearance application) and/or GE 9 (SOR response) are the source or sources for the facts in the Statement of Facts section, unless stated otherwise.

Applicant is not married (Tr. 6). He has two children, who are ages five and three (Tr. 6). His third child is due in April 2009 (Tr. 6). He lives with his domestic partner, Ms. B (Tr. 49, GE 1).

Applicant's SOR alleged three delinquent mortgage debts and a delinquent condominium fee, totaling \$484,137. Their current status is summarized in the table below:

SOR PARAGRAPH AND TYPE OF DEBT	AMOUNT	STATUS
¶ 1.a Real Estate Mortgage from H	\$88,824	Admitted responsibility and currently delinquent
¶ 1.b Real Estate Mortgage from A	\$335,000	Admitted responsibility—paid through foreclosure sale (Tr. 38-39, 49)
¶ 1.c Real Estate Mortgage from H	\$57,863	Admitted responsibility and currently delinquent
¶ 1.d Condominium Fee-judgment	\$2,450	Admitted responsibility and currently delinquent

On March 15, 2006, Applicant and Ms. B, purchased a residential property (CR) and took a mortgage with Y, No. 5636XXXX for \$224,000 with \$1,323 monthly payments (GE 7 at 27, 28). The last payment was made in May 2007 (GE 7 at 29-39). In July 2005, they borrowed \$56,000 on CR, Account No. 730364XXXX (GE 7 at 4, 40). The last payment was made in May 2007 (GE 7 at 40-42). The delinquent account for \$224,000 was not listed on the SOR (Tr. 48-49); however, the delinquent 2nd trust for about \$56,000 was listed on the SOR (GE 9). Applicant disclosed both delinquent accounts in response to interrogatories (GE 7 at 1). He thought the lender received about \$170,000 from the auction, leaving about a \$100,000 loss (Tr. 39). Applicant did not contact the creditors after the foreclosure about making payment arrangements (Tr. 46-47).

Applicant's real estate loans relating to CR were in good standing for two years as they used the CR property as their primary residence. Then Applicant and Ms. B moved and rented the CR property. The rent they received was supposed to be sufficient to pay CR's mortgages. Applicant's tenant failed to pay the rent, and Applicant and Ms. B evicted their tenant. Applicant and Ms. B obtained a judgment against the tenant for two months' overdue rent. However, the tenant did not pay the judgment. Applicant's January 27, 2008, credit report showed the past due amount as \$2,540 on the \$57,863 mortgage (GE 3).

Applicant and Ms. B purchased an investment, residential property (FF) because their real estate agent convinced them they could resell the property in a few months and realize a profit (Tr. 35, GE 7 at 8, GE 9 at 1). On September 27, 2006, they borrowed \$335,000 from "A," Acct No. 00336XXXX to finance the property (GE 7 at 4,

44). They made their last payment in May 2007 (GE 7 at 44). Monthly payments were \$2,299 (GE 7 at 44). On November 6, 2007, the lender foreclosed on FF (GE 7 at 4). Applicant believed the sale completely repaid the first mortgage, but did not pay any of the second mortgage (Tr. 38-39, 49).

On January 1, 2007, they borrowed \$83,654 with the FF property⁵ as collateral from H, Account No. 730621XXXX and monthly payments of \$690 (GE 1, GE 7 at 4, 46, GE 9). Applicant's January 27, 2008, credit report showed the past due amount as \$5,191 on the \$88,824 mortgage (GE 3). Applicant has not contacted the creditor after the November 6, 2007, foreclosure about making payment arrangements (Tr. 46-47).

On March 5, 2007, Applicant became unemployed (Tr. 25) and his girlfriend assumed responsibility for payment of their mortgages (GE 7 at 3, GE 9 at 2). He was hired at a real estate firm on May 22, 2007, to assist with information technology (Tr. 25, GE 7 at 3). Ms. B became unemployed in June 2007 (Tr. 26, GE 7 at 3). On August 27, 2007, Ms. B was hired (Tr. 26). In September 2007, Applicant began working for a defense contractor (Tr. 27, GE 7 at 3).

On June 19, 2008, a creditor obtained a judgment for \$2,450 for a condominium fee (GE 5). On September 16, 2008, Applicant said he intended to pay this debt (GE 10 at 2). As of his hearing date on November 25, 2008, he had not contacted the creditor or paid anything towards this debt (Tr. 42-44).

Applicant has two mortgages with C on his present residence, one for \$110,448 with a monthly payment of \$844 and the other for \$443,874 with a monthly payment of \$2,316 (GE 7 at 19-20). As of February 2008, these two mortgages were current (Tr. 24, 36-37, GE 7 at 19-20).

Personal Conduct (Guideline E)

Applicant completed his SF86 on September 18, 2007. He disclosed two types of derogatory information. He admitted that he left two jobs under adverse circumstances (GE 1 at Section 22). He also disclosed that he used marijuana five times from February 2003 to August 2004 (GE 1 at Section 24). In response to Section 28 he answered, "No" on his SF 86 to two questions that are relevant to the issue of whether Applicant falsified his SF 86, "**Your Financial Delinquencies-90 Days** Are you currently over 90 days delinquent on any debt(s)?"

Applicant denied knowing his mortgage accounts were delinquent when he completed his SF 86 (Tr. 20, 22-23). Ms. B was responsible for making sure all debts and accounts were paid and current (Tr. 23). Ms. B worked with the real estate agent who handled the renter and the resale of the FF property (Tr. 30). She was making

⁵ Applicant's SOR response and hearing statement indicates this loan used the CR property as collateral; however, I conclude that the FF property was the collateral for this loan. *Compare* Tr. 29 and GE 9 at 1 *with* GE 7 at 4, 46 (account statement).

\$12,000 to \$15,000 in the mortgage business (Tr. 31). She worked in the mortgage business for seven years and Applicant trusted her judgment and expertise (Tr. 36). Ms. B told him their accounts were fine and all caught up or current (Tr. 21, 31-32). She became angry if he was too inquisitive about the status of their investments (Tr. 32). She is very secretive about the status of their bills (Tr. 34). Ms. B is the primary name on the delinquent accounts (Tr. 21). She maintains a separate account with her funds (Tr. 32-33). There was silence between them about their debts and their relationship became strained (Tr. 50). He first learned about the financial problems in October 2007, when he heard from his mortgage holder on his residence (Tr. 20). Immediately after discovering the accounts were delinquent, he disclosed the delinquency to his employer (Tr. 21-22). However, he could not remember the name of the person he told about his debt problem (Tr. 38). His employer advised him to wait until the Department of Defense contacted him about his debts (Tr. 22). He had a full discussion with Ms. B about the debts when he received the DOHA interrogatories in March 2008 (Tr. 50-51, GE 7)

Ms. B provided a statement indicating when they owned three residences she earned \$10,000 to \$15,000 monthly and Applicant earned about \$2,200 (AE A at 1). Her expertise was in mortgage lending, and she was responsible for paying the mortgages (AE A at 1). When Applicant was out of work in 2007, there was little communication between Ms. B and Applicant because Applicant was depressed and moody (AE A at 1). When he started his new employment, she still did not tell him about the delinquent debts because she did not want to upset him (AE A at 2). She lied to Applicant repeatedly about the status of their debts and always reassured him that their investments were doing fine (AE A at 2). After Applicant was already working for a government contractor she told him about the delinquent mortgages (AE A at 2-3).

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant Applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

Eligibility for a security clearance is predicated upon the Applicant meeting the criteria contained in the revised adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s over-arching adjudicative goal is a fair, impartial and common sense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to 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. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the [A]pplicant concerned.” See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), Section 3. Thus, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

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

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

Analysis

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 the following with respect to the allegations set forth in the SOR:

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 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 potentially 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."

Applicant's three delinquent debts are well documented. Three of the large debts listed in the statement of reasons are not paid or in payment plans. They total approximately \$148,000 and are currently delinquent. They became delinquent in 2007, which is too recent to constitute a lengthy history of delinquent debt and AG ¶ 19(a) does not apply. He has provided insufficient documentation to show progress resolving these three debts. The government established the disqualifying conditions in AG ¶ 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 receives partial credit under AG ¶ 19(b) because three conditions causing financial problems were largely beyond his control. First, his difficult relationship with Ms. B in connection with their finances caused problems. Ms. B's lack of communication about their finances as well as her control of their investments and debt payments made it difficult for Applicant to intervene when their financial problems became worse. Second, both Applicant and his wife were briefly unemployed in 2007. Third, the widespread deflation in residential real estate has caused many investors to lose money and generated substantial delinquent debt. He does not receive full credit because he did not act responsibly under the circumstances. After he and Ms. B's returned to full employment, they had the means to address their delinquent debt. He did not communicate with his creditors, attempt to arrange a payment plan, or file for bankruptcy. All three debts remain as delinquent and unresolved as they were when Applicant was notified of their security significance upon the receipt of the SOR.

Applicant did not provide evidence of financial counseling and he did not dispute the SOR debts. AG ¶¶ 19(c) and 19(e) do not apply.

Applicant did not establish that he made a good faith effort to repay the three delinquent debts, or otherwise attempt to resolve them to a sufficient degree to mitigate them. There is insufficient information to establish that Applicant showed good faith⁶ in the resolution of his delinquent SOR debts because he did not establish that his failure to pay the debts in SOR ¶¶ 1.a, 1.c and 1.d was reasonable and necessary under the circumstances. He did not provide sufficient information to establish that he acted responsibly under the circumstances or made sufficient efforts to address his delinquent debts especially those debts which accrued after being notified they were a security concern when the SOR was delivered to him.⁷

⁶The 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)).

⁷"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)). A component is

Applicant's financial problems are continuing and likely to recur. He should have been more diligent, providing documentation showing greater, more timely efforts to resolve his three delinquent debts. He has not carried his burden of proving his financial responsibility. There are not clear indications his three delinquent debts are being resolved. His overall conduct with these creditors casts doubt on his current reliability, trustworthiness, and good judgment, and I conclude no mitigating conditions fully apply.

Personal Conduct (Guideline E)

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 describes two conditions that could raise a security concern and may be disqualifying in this case:

(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; and

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

Applicant's September 18, 2007, SF 86 asked about Applicant's delinquent debt. He answered, "No," and did not disclose the debts discussed in the previous section. AG ¶¶ 16(a) and 16(b) apply.

AG ¶ 17 provides seven conditions that could mitigate personal conduct security concerns in this case:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

whether he or she maintained contact with his or her creditors and attempted to negotiate partial payments to keep debts current.

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

As indicated previously, Applicant's answers about his delinquent debts were not deliberately false because he was unaware of his delinquent debts. Ms. B concealed the delinquent debts from him and I find his denials of knowledge about these debts to be credible. He disclosed other derogatory information concerning terminations of employment and drug use. The allegations about providing a false answer about his currently delinquent debts are unsubstantiated and therefore mitigated under AG ¶ 17(f).

Whole Person Concept

In all adjudications, the protection of our national security is the paramount concern. The adjudicative process is a careful weighing of a number of variables in considering the "whole person" concept. It recognizes that we should view a person by the totality of his or her acts, omissions, and motivations as well as various other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances and applying sound judgment, mature thinking, and careful analysis. Under the whole person concept, the Administrative Judge should consider the nine adjudicative process factors listed at Directive ¶ E2.2.1:

(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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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 Directive ¶ E2.2.3, “The ultimate determination of whether the granting or continuing of eligibility for a security clearance is clearly consistent with the interests of national security must be an overall common sense determination based upon careful consideration” of the guidelines and the whole person concept.

There is some evidence tending to mitigate Applicant’s conduct under the whole person concept. Applicant is 23 years old and is not sophisticated about his finances. He allowed his domestic partner, Ms. B, to handle their investments and pay their debts. He was unaware of his financial problems until after he signed his SF 86 and the two properties were already repossessed. Like thousands of other investors caught when the real estate bubble burst in 2007, he is not culpable for making what turned out to be in hindsight poor real estate investments. An important positive financial development is his mortgage on his own residence is current, and he is now communicating with his domestic partner about financial issues. His dedication to his work, his family and his country is a very positive indication of his good character and trustworthiness. He is completely loyal to the United States. There is no evidence of any security violation, or criminal activity. His non-SOR debts are current and being paid. These factors show some responsibility, rehabilitation, and mitigation.

The mitigating evidence under the whole person concept and the adjudicative guidelines is not sufficient to warrant access to classified information at this time. He has not made any payments on the three delinquent SOR debts. The overall amount of unresolved delinquent SOR debt is about \$144,000, which is substantial. About \$142,000 of this debt resulted from foreclosures of two properties in 2007. His financial irresponsibility is shown by his failure to contact his creditors after the mortgages were foreclosed about making payment plans. He and Ms. B have the income to enter into payment plans on at least one debt, had ample time to begin payment plans and establish a track record of responsibility on these debts and yet have chosen not to take these steps. In sum, he failed to establish that he acted financially responsibly after he became fully employed and received the SOR with respect to his delinquent debts.

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”⁸ and supporting evidence, my application of the pertinent factors under the Adjudicative

⁸See ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).

Process, all the evidence in this decision and my interpretation of my responsibilities under the Guidelines. 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
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraphs 1.c and 1.d:	Against 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 not clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Mark W. Harvey
Administrative Judge