



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



In the matter of:)
)
-----) ISCR Case No. 08-06539
SSN: -----)
)
Applicant for Security Clearance)

Appearances

For Government: Braden M. Murphy, Esquire, Department Counsel
For Applicant: *Pro Se*

September 22, 2009

Decision

HARVEY, Mark, Administrative Judge:

Applicant's statement of reasons (SOR) lists 11 debts totaling about \$36,519. Eight SOR debts, totaling about \$35,000, were not adequately addressed or resolved. Applicant failed to mitigate financial considerations security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On January 21, 2008, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) or Security Clearance Application (SF-86) (Government Exhibit (GE) 1). On April 16, 2009, the Defense Office of Hearings and Appeals (DOHA) issued an SOR to Applicant (GE 7), 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 and modified. 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 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 Applicant, and recommended referral to an administrative judge to determine whether Applicant's clearance should be granted, continued, denied, or revoked.

On May 22, 2009, Applicant responded to the SOR (GE 8). On June 30, 2009, Department Counsel was prepared to proceed. On July 1, 2009, the case was assigned to me. On July 2, 2009, DOHA issued a hearing notice setting the hearing for July 23, 2009 (GE 6). Department Counsel offered five exhibits (Tr. 20; GE 1-5), and Applicant offered two exhibits (Tr. 22-23; AE A, B). Applicant did not object to my consideration of GE 1-5, and I admitted GE 1-5 into evidence (Tr. 20-21). Department Counsel did not object to my consideration of AE A-B, and I admitted AE A-B (Tr. 23). Additionally, I admitted the Notice of Hearing, SOR, and response to the SOR (GE 6-8). I held the record open after the hearing for Appellant to submit additional documentary evidence. On July 30, 2009, I received the transcript.

On August 17, 2009, Applicant submitted AE C-J to Department Counsel. On August 20, 2009, Department Counsel objected to the admission of two pages from a credit report asserting that the whole credit report should be admitted or none of it (AE F). Aside from this objection, Department Counsel did not object to admission of AE C-J. I admitted AE C-J; however, AE F will only be considered for the limited purpose of showing the two debts noted in the credit report (AE F) are not a duplication of each other, as discussed in Applicant's cover letter (AE C). On August 20, 2009, I closed the record.

Findings of Fact¹

Applicant is a 38-year-old employee of a government contractor (Tr. 6, 28, 31; GE 1). In 1989, he graduated from high school (Tr. 6). He served from 1993 to 1997 in the U.S. Marine Corps (Tr. 8, 29; GE 1). He received the Good Conduct Medal, National Defense Service Medal, Armed Forces Service Medal, Navy Unit Commendation, Sea Service Deployment Ribbon, NATO Medal, and two letters of appreciation (Tr. 8-9, 29; AE D (DD Form 214)). He received an honorable discharge from the Marines (Tr. 8, 29; AE D). He held a Secret clearance while in the Marines (Tr. 30). In 2001, he received an associate's degree in engineering (Tr. 7, 29). Applicant was married from 1994 to 2004 and is now divorced (Tr. 33-34). His two children were born in 1995 and 2001 (Tr. 34). His former wife has custody of their two children and lives in another state (Tr. 35).

Applicant lives with a woman who has three children (Tr. 35-36). Applicant is not the father of any of her children (Tr. 36). She does not receive child support from the

¹Some details have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

children's father (Tr. 38). She is owed about \$18,000 in back child support (Tr. 38). Her annual income is about \$30,000 (Tr. 36).

Financial Considerations

On December 16, 2004, Applicant's divorce was final (GE 4 at 7-51). At first, he paid his former spouse \$2,400 monthly (Tr. 19, 20). After his divorce was final, his monthly child support payments were reduced to \$900 (Tr. 35; AE J). He fell behind on his child support payments (he was unemployed from December 2006 to April 2007 (Tr. 25, 41; AE J).² The state garnished his pay, and his child support payments are now current (Tr. 25, 26, 35; AE J).

Applicant has 11 SOR debts, totaling about \$36,519: (1) medical debt of \$48 (SOR ¶ 1.a); (2) bank collection debt of \$962 (SOR ¶ 1.b); (3) bank collection debt of \$124 (SOR ¶ 1.c); (4) telecommunications debt of \$1,972 (SOR ¶ 1.d); (5) bank collection debt of \$17,264 (SOR ¶ 1.e); (6) bank collection debt of \$666 (SOR ¶ 1.f); (7) mortgage debt of \$9,478 (SOR ¶ 1.g); (8) telecommunications debt of \$414 (SOR ¶ 1.h); (9) collection debt of \$405 (SOR ¶ 1.j);³ (10) furniture store debt of \$4,663 (SOR ¶ 1.k); and (11) insurance collection debt of \$523 (SOR ¶ 1.l).

He believed the debt in SOR ¶ 1.a (\$48) was a 2006 medical debt related to treatment received from a urologist; however, he did not pay it (Tr. 48-51; GE 4 at 52).

The debt in SOR ¶¶ 1.b (\$962) and 1.c (\$124) were listed as owed to the same creditor. Applicant said the debt was actually about \$6,627 (Tr. 51; GE 2 at 2, 4; GE 3). He thought his wife opened the account in his name (Tr. 52). The account was opened in 2000 (Tr. 52). Applicant was seeking a copy of the contract because he wanted to verify his responsibility for the debt (Tr. 53). The creditor advised Applicant that they were looking for the contract used to open the account (Tr. 53). Applicant is credited with these two SOR debts not being established as his responsibility.

Applicant admitted responsibility for the telecommunications debt in SOR ¶ 1.d (\$1,972) (Tr. 54). He conceded that he had not done anything to resolve it (Tr. 54).

The debt in SOR ¶ 1.f (\$666) was incurred on Applicant's credit card, which was issued for corporate expenses (Tr. 56). The SOR ¶ 1.f debt was incurred while Applicant was traveling on behalf of his former employer (Tr. 55). His former employer alleged Applicant did not file an expense report and declined to pay the bill (Tr. 55). Applicant said he filed the necessary report (Tr. 56). He had a dispute with the human resource manager at his former employer, which eventually led to his termination (Tr. 39-41, 56). Applicant said the debt was settled provided Applicant made two \$250 payments (Tr.

²He provided documentation from the state agency collecting child support, which showed his child support payments from May 1, 2004, to August 1, 2009 (AE J).

³ DOHA omitted SOR ¶ 1.i by mistake (Tr. 15; GE 7).

57-58). On May 12, 2009, he made the first \$250 payment to the creditor (Tr. 57-58; AE G). On July 29, 2009, the creditor wrote that he owed \$416.46 on this debt (AE H).

The SOR ¶ 1.j debt of \$405 related to a rental car he used for corporate business (Tr. 61). He did not pay or otherwise resolve this debt (Tr. 61-62).

The debt in SOR ¶ 1.g of \$9,478 resulted from a time share contract (Tr. 58). The time share was returned to the creditor and sold (Tr. 59). The debt is the remainder owed after the sale (Tr. 59). He has not done anything on the debt because he intended to resolve it using a Chapter 7 bankruptcy (Tr. 59). Applicant intends to pay his cable debt of \$414; however, he did not provide any evidence of payments (SOR ¶ 1.h) (Tr. 60).

The debt in SOR ¶ 1.k of \$4,663 related to the purchase of furniture (Tr. 64). Applicant argued the family court allocated the debt in SOR ¶ 1.k to Applicant's former spouse as part of his divorce (Tr. 18, 20, 84; GE 4 at 37 ¶ W-3). The debt in SOR ¶ 1.k is not specifically listed in the divorce decree. His former spouse discharged her responsibility for this debt using bankruptcy (Tr. 18, 20, 67-69). Applicant was left with responsibility for the debt (Tr. 84). Applicant sent his 2004 divorce decree to the credit reporting agencies and asked for removal of several debts from his credit reports (Tr. 87). One other debt specifically allocated to his former wife was removed from Applicant's credit report (Tr. 87).

The SOR ¶ 1.l debt of \$523 related to vehicle insurance (Tr. 62). He questioned the validity of the debt (Tr. 63). He thought he might have paid it (Tr. 64). He did not provide any documentation showing how he disputed this debt.

In June 2006, he purchased a used Chrysler for \$17,000 (Tr. 45-46). His monthly payments were \$396 (Tr. 46). In August or September 2006, he fell behind on his payments (Tr. 46-47). He voluntarily returned the vehicle to the creditor, leaving a debt of about \$17,264 (Tr. 45; SOR ¶ 1.e). The creditor wanted the entire amount paid and did not want to negotiate a payment plan (Tr. 47). He believed the vehicle was resold; however, he was unaware of the amount from the resale (Tr. 48).

In September 2008, Applicant investigated and then decided not to use a debt counseling and consolidation firm to resolve his delinquent debt (Tr. 24-25, 73; GE 4 at 53-62). At the last moment, the debt consolidation company elected to seek a higher monthly payment, and the higher monthly payment was an unacceptable change for Applicant (Tr. 73).

On August 6, 2009, Applicant and a law firm agreed that the law firm would represent Applicant in a Chapter 7 bankruptcy discharge action (AE A, E). At the time of his hearing, Applicant had not paid the required \$2,600 fee to begin the bankruptcy process (Tr. 74, 77, 83). Paragraph nine of the agreement specifies that Applicant must pay the law firm \$400 plus all fees and costs (AE E at 2). He delayed filing for bankruptcy because he believed he would be unable to get a clearance if he filed for bankruptcy (Tr. 75). Although Applicant does not specifically indicate that he paid the

required \$2,600 fee in his post-hearing submission, for purposes of this decision I will assume that he paid the \$2,600 fee (AE C, E).

Applicant has not received financial counseling (Tr. 74). His personal financial statement contains the following monthly pay, deduction, and expense information: gross salary (\$6,700 plus \$117 disability); deductions (\$1,122), rent for a house (\$2,050), groceries (\$300), clothing (\$100), utilities (\$500), car expenses (\$320); debt payments (\$468 on one \$8,500 non-SOR debt); and net remainder (about \$200) (Tr. 32-33, 77-80; GE 4 at 4). The debt payments are to service a lien on his 2003 Dodge truck (Tr. 81-82). He does not have any credit cards, and he is current on his state and federal taxes (Tr. 82). He has about \$150 in his savings account (Tr. 81).

Applicant provided an employee performance review for October 1, 2007, to September 30, 2008 (AE I). He exceeds expectations in technical areas, customer orientation, and interpersonal responsibilities (AE I). He is fully satisfactory in the other evaluation areas (AE I).

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 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 overarching adjudicative goal is a fair, impartial and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to 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, I conclude the 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 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 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 . . . delinquent [SOR] debts that are of security concern." Applicant's history of delinquent debt is also documented in his response to DOHA interrogatories, his SOR response, his oral statement at his hearing,

and the documentation he submitted. He failed to ensure his creditors were paid as agreed. The government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c). Further inquiry about the applicability of mitigating conditions is required.

Five mitigating conditions under AG ¶ 20 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) because he did not act more aggressively and responsibly to resolve his delinquent debts. His delinquent debts are "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 because his delinquent debts "occurred under such circumstances that [they are] unlikely to recur." Applicant has one debt in a payment plan (SOR ¶ 1.f), and he paid \$250 to the creditor on May 12, 2009 (AE G). He is contesting the debts in SOR ¶¶ 1.b and 1.c. In 2008, he investigated the possibility of using a debt consolidation company; however, he decided not to use their payment plan. He did not describe any other payments on his other eight SOR debts, which total about \$35,000. These eight debts are not adequately addressed. His retention of a bankruptcy attorney in August 2009 is not sufficient. He has not filed for Chapter 7 bankruptcy, and it is premature for me to predict that the bankruptcy court will discharge his delinquent debts. His substantial unresolved debt continues to "cast doubt on [his] current reliability, trustworthiness, or good judgment."

Applicant receives partial credit under AG ¶ 20(b) because his financial problems initially resulted from his 2004 divorce and unemployment from December 2006 to April

2007. Despite these issues, he does not receive full mitigating credit because he did not establish that he acted responsibly under the circumstances.⁴

AG ¶ 20(c) partially applies. Although Applicant did not receive financial counseling, it is clear from his statements that he is intelligent and has an above-average understanding of budgeting and financial issues. He will receive financial counseling as part of the bankruptcy process, which he began in August 2009. However, there are not “clear indications that the problem is being resolved or is under control” because eight SOR debts totaling about \$35,000 remain unresolved. He has also established some, but not full mitigation under AG ¶ 20(d), because he showed some good faith⁵ in the payment of his child support and his \$250 payment on his SOR ¶ 1.f debt.

AG ¶ 20(e) applies to the debts in SOR ¶¶ 1.b and 1.c; however, it does not fully apply to any other debts. Applicant contested his responsibility for the four debts in SOR ¶¶ 1.b, 1.c, 1.k, and 1.l. For SOR ¶¶ 1.b and 1.c, he sought a copy of the contract so he could check whether he was legally required to make payments. I have credited Applicant with mitigating these two debts even though he did not provide documentation contesting the validity of these two SOR debts.

Applicant admitted the debt in SOR ¶ 1.k (\$4,663) resulted from family furniture purchased while he was still married. He asserted the family court allocated the debt in SOR ¶ 1.k to his former spouse as part of his divorce; however, it is not specifically listed in his divorce decree. When his spouse discharged her responsibility for her debts using bankruptcy (notwithstanding his argument that the divorce decree allocated the

⁴“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 whether the Applicant maintained contact with his or her creditors and attempted to negotiate partial payments to keep debts current.

⁵The 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)).

debt to her) this debt became Applicant's sole responsibility. Applicant does not have a valid legal basis for disputing this debt.

The SOR ¶ 1.1 debt of \$523 relates to vehicle insurance. He admitted he had a policy with the creditor; however, he questioned the validity of the debt. He thought he might have paid it before changing insurance companies. He did not provide any documentation showing the dispute of the debt in SOR ¶ 1.1.

In sum, Applicant should have been more diligent and made greater efforts sooner to resolve his delinquent debts. In the last year, his efforts have been insufficient in regard to eight delinquent SOR debts, totaling about \$35,000. Filing a Chapter 7 bankruptcy under his circumstances is certainly appropriate; however, he should have filed his Chapter 7 bankruptcy sooner. His personal financial statement indicates he has barely enough income for his expenses and deductions, and he does not have sufficient income to pay his SOR debts. He has not established his financial responsibility on eight of his SOR debts, and he needs some time after his bankruptcy discharges his debts to show he can maintain his currency on his debts.

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 relevant 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). I have incorporated my comments under Guideline F in my whole person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

The whole person factors supporting reinstatement of Applicant's clearance are significant; however, they are insufficient to warrant approval of his security clearance at this time. There is no evidence of any security violation(s). He is a law-abiding citizen. His current financial problems were partially caused by some factors beyond his control: his 2004 divorce and his unemployment from December 2006 to April 2007. He made one \$250 payment to one SOR creditor in May 2009. Two SOR debts are not sufficiently established to be a security concern at this time. Although his child support

was garnished by the state, his child support debt is now current. His state and federal taxes are current. He does not have any credit cards. His truck-lien payment is current. Applicant has achieved some important educational and employment goals, demonstrating his self-discipline, responsibility and dedication. He graduated from high school, and he has an associate's degree. He honorably served for four years in the U.S. Marine Corps. His employment history, the contractor's evaluation, and contributions to a defense contractor speak well for his character. He understands how to budget and what he needs to do to establish his financial responsibility. Applicant has demonstrated his loyalty, patriotism and trustworthiness through his service to the Department of Defense as a contractor and on active duty. These factors, especially his past government service, show substantial responsibility.

The evidence under the whole person concept against mitigating Applicant's financial conduct is more substantial. Applicant's eight unmitigated SOR debts total about \$35,000, and they have been delinquent for a substantial period of time. He did not meet his evidentiary burden of mitigating these eight debts. He has not paid anything to these eight creditors in the past year. Ultimately, he did not establish that he acted with sufficient effort and self-discipline to resolve his delinquent SOR debts and to better document his remedial efforts. All the factors considered together show too much financial irresponsibility and lack of judgment. His history of delinquent debt raises unmitigated security concerns.

Having considered the "whole person" concept, weighing the disqualifying and mitigating conditions, and all the facts and circumstances, in evaluating Applicant's risk and vulnerability in protecting our national interests, I find Applicant has not mitigated the financial considerations concerns at this time. If Applicant can avoid future delinquent debt for six months after his debts are discharged by his Chapter 7 bankruptcy, he should be favorably considered for a clearance.

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 fully 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
Subparagraph 1.a:	Against Applicant
Subparagraphs 1.b and 1.c:	For Applicant
Subparagraphs 1.d and 1.e:	Against Applicant
Subparagraph 1.f:	For Applicant

Subparagraphs 1.g to 1.h:	Against Applicant
Subparagraph 1.i:	For Applicant
Subparagraphs 1.j to 1.l:	Against 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.

MARK HARVEY
Administrative Judge