



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
-----) ISCR Case No. 08-07585
SSN: -----)
)
Applicant for Security Clearance)

Appearances

For Government: Richard A. Stevens, Esquire, Department Counsel
For Applicant: *Pro se*

July 23, 2009

Decision

MARSHALL, Jr., Arthur E., Administrative Judge:

Applicant completed a Questionnaire for Sensitive Position (SF-86) dated March 7, 2008. On November 26, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations), Guideline J (Criminal Conduct), Guideline G (Alcohol Consumption), and Guideline H (Drug Involvement). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended, and 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.

On January 23, 2009, Applicant responded to the allegations raised and requested a hearing before a DOHA Administrative Judge. I was assigned the case on March 4, 2009. Department Counsel and Applicant proposed an April 1, 2009, hearing, and a Notice of Hearing was issued to that effect on March 16, 2009.

The hearing took place as scheduled. Applicant gave testimony and offered 14 documents, which I accepted into the record without objection as Exhibits (Exs.) A-N. Also accepted into the record without objection were 10 documents from Department Counsel, marked as Exs. 1-10. Applicant was given leave to supplement the record after the close of the hearing. A deadline of April 16, 2009, was given. A post-hearing package of submissions, dated April 13, 2009, was forwarded to Department Counsel. On April 15, 2009, I received a copy of that submission and a statement from Department Counsel that he had no objection to its contents. Those documents were accepted into the record as Exs. O-T and the record was closed on April 15, 2009, the same day the transcript (Tr.) of the proceeding was received. Based upon a review of the case file, exhibits, and testimony, security clearance is granted.

Findings of Fact

Applicant is a 43-year-old physicist who has worked for the same defense contractor since December 2007. He earned a bachelor's degree in physics after serving approximately 12 years in the United States military. Divorced, Applicant has no children.

Inspired by his grandfather, a veteran of World War II, Applicant joined the military after high school. Initially enlisted as a reservist, he started experimenting with alcohol and was charged with Illegal Possession of Alcohol in 1986. The following year, he was charged with Indecent Exposure, Failure to Appear, and Noncompliance with Pretrial Diversion Program. In 1989, he was charged with Public Intoxication. At this point, he started using alcohol in moderation. In 1990, he was assigned to active duty and married his girlfriend.

Applicant was aware that he and his wife were unprepared for marriage, but it was his intent to adhere to his vows.¹ While stationed abroad, he found that she was unfaithful. One evening in 1992, an argument during dinner turned into a food fight. The police were called and Applicant was charged with Assault. As a consequence, he and his wife went to counseling. Another Assault charge followed in 1993, for which he was reprimanded by his superiors. His wife eventually left Applicant and returned to the United States. Initially despondent, he turned his attentions to a young local woman. Through her, he experimented with marijuana. That use led to his November 1994 non-judicial punishment for Wrongful Possession and Use of Marijuana, for which he was reduced in rank from E4 to E3 and forfeited \$500 for one month. He was assigned to a special project shortly thereafter, which led to his returning to his former rank.

When it came time to reenlist, however, Applicant chose to return home, rejoin his estranged wife, work on his marriage, and attend college. Around this time, Applicant began suffering from a series of medical issues, including significant weight gain, high blood pressure, heart arrhythmia, severe sleep apnea, and other stress-related problems adversely affected by the use of stimulants such as alcohol. Despite his attempts, the couple was divorced in 1997. Upon graduation from college, he found civilian employment

¹ Tr. 20-21.

with the military. In the interim, in 1998, he was charged with Attempting to Elude/Failure to Comply with Police Officer Signal.

In 2005, Applicant was enjoying his first year of civilian employment with the military, earning about \$52,000. He bought a new truck and a motorcycle, acquired two credit cards, and underwent necessary gastric bypass surgery to address his continuing medical problems. Ready to start a new life as he proceeded to lose over 150 pounds, improve his health, and reduce his propensity for further cardiac-related problems, he discovered his work location was subject to a base closure. Rather than having his contract renewed, he was unemployed by 2006. Consequently, he had no income to pay for his vehicles or those medical bills not covered by health insurance. It cost him nearly \$3,700, applied to his credit cards, to pack his possession and move back to his hometown.

When he returned home in early 2006, Applicant eventually found work, but his wages were approximately half of what they were previously. The stress of returning home and dealing with his bills was intense. He could not make the minimum payments on his credit cards despite the fact he cut his expenses to the minimum. With his physical condition improving, he tried supplementing his income by working construction. Jobs, however, were sparse. He also tried to reach settlements on his credit card debt, but he was unsuccessful. By June 2006, despite his better judgment, he had turned to alcohol because he felt increasingly humiliated for having to reach out to family and friends for financial help.² In 2007, he was found guilty of Public Intoxication, sentenced to four days in prison, fined, and put on one year of probation. Related charges alleging he possessed the marijuana found at the scene were dropped, but were pursued against his companion. Later that year, he was also found guilty of Operating a Vehicle Blood Alcohol of .08 or More, sentenced to six months probation, fined, ordered to attend an Alcohol Education class, had his license suspended for 90 days, and ordered to serve two of 60 days sentenced in jail.

Applicant's mother, a recovering alcoholic who has stayed alcohol-free for three decades, was concerned. Through her care and influence, he quit drinking alcohol, joined Alcoholics Anonymous (A.A.), and focused on his health.³ He continues to be active with that organization to date, both as an attendee and as an active volunteer in its outreach. Also, he supports various other related organizations. In 2008, he was examined and assessed by the director of a county alcohol and drug program. That program is state-certified to provide assessments and referrals. It was concluded that despite past situational crises, Applicant does not currently show signs of alcohol or drug dependence.⁴ Applicant was offered a job with his current employer in December 2007 and started work with that organization in January 2008.

² Tr. 33.

³ Tr. 38, 44-45.

⁴ Response to the SOR, attachment.

At issue in the SOR are 16 allegations, each representing a delinquent debt noted in credit reports from October 22, 2008, March 8, 2008, or January 19, 2006. Allegations ¶¶ 1.b, 1.e, and 1.l are duplicates referencing the same debt. Allegations ¶¶ 1.m and 1.o are duplicates of each other, as are ¶¶ 1.a and 1.k.⁵ The allegations reflecting the delinquent debts at issue are:

1.a (same as 1.k) – **Medical Debt** (\$115) – This surgery-related balance is PAID.⁶

1.b (same as 1.e and 1.l) – **Medical Debt** (\$268) – This surgery-related balance is PAID.⁷

1.c – **Telecommunications Debt** (\$471) – Applicant negotiated a settlement on this account, but provided no evidence the settlement was paid.⁸ UNPAID.

1.d – **Medical Debt** (\$706) – Applicant disputes this account, claiming it should have been paid by his insurer.⁹ UNPAID.

1.e – See 1.b, above.

1.f – **Delinquent Debt** (\$12,313) – Applicant attempted to negotiate a loan or secure a credit line to address this debt, but was not successful.¹⁰ UNPAID.

1.g – **Delinquent Debt** (\$2,710) – Applicant tried to negotiate a settlement on this computer purchase related debt, but was unsuccessful. UNPAID.¹¹

1.h – **Telecommunications Debt** (\$518) – This account is PAID.¹²

1.i – **Delinquent Debt** (\$7,131) – Applicant unsuccessfully attempted to negotiate a loan or secure a credit line to address this debt, which was mostly incurred when he lost his job and had to move back to his hometown.¹³ UNPAID.

⁵ Tr. 47-50.

⁶ Ex. O (Letter, dated Apr. 13, 2009) and Ex. R (Letter, dated Apr. 9, 2009).

⁷ Ex. O, *supra*, note 6.

⁸ Ex. O, *supra*, note 6; *contrast* Ex. S (Settlement Offer, dated Apr. 9, 2009). Applicant stated he submitted “a copy of the faxed receipt. . . indicating [he] had paid,” but the document submitted only sets forth the settlement terms.

⁹ Tr. 53.

¹⁰ Ex. O, *supra*, note 6.

¹¹ Tr. 53.

¹² Ex. O, *supra*, note 6 and Ex. T (Bank Statements).

¹³ Ex. O, *supra*, note 6.

1.j – **Telecommunications Debt** (\$261) – This account is PAID.¹⁴

1.k – See 1.a, above.

1.l – See 1.b, above.

1.m – **Delinquent Debt** (\$188) – This account is PAID.¹⁵

1.n – **Medical Debt** (\$1,424) – Applicant is disputing this account, claiming it should have been paid by his health insurer.¹⁶ Disputed.

1.o – See 1.m, above.

1.p – **Delinquent Debt** (\$139) – Applicant does not recognize this creditor and has disputed its inclusion on his credit report. Disputed.

Applicant consulted a credit counselor, but was told he was better off handling his debts himself.¹⁷ He has worked on his debts since receiving the SOR in December 2008. He knows the methods for negotiating settlements and repayment plans. Through one such plan, he has made the progress noted above.¹⁸ His debt will be increased when about \$66,000 in student loans become ripe for repayment.¹⁹ He has approximately \$4,000 in savings to use as a “negotiation tactic” when he pursues settlements.²⁰

Currently, Applicant earns about \$72,500 per year. He pays about \$1,400 for rent, about \$485 for utilities, \$200 for miscellaneous, \$1,000 toward automobile balances, and \$500 for groceries. He claims a net remainder at the end of the month of approximately \$1,000.²¹ Applicant has been reserving his monthly net surplus and savings because he is concerned what will happen to him financially if he loses his job.²²

¹⁴ Ex. O, *supra*, note 6 and Ex. T (Bank Statements).

¹⁵ Ex. O, *supra*, note 6 and Ex. Q (Statement, dated Feb. 26, 2009).

¹⁶ Tr. 55.

¹⁷ Tr. 65.

¹⁸ Tr. 66-67.

¹⁹ Tr. 61-62. Ultimately, these will entail about \$555 a month in payments.

²⁰ Tr. 62.

²¹ Tr. 66.

²² Tr. 67.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. An administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. Under AG ¶ 2(c), this 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. The Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." ²³ The burden of proof is something less than a preponderance of evidence. ²⁴ The ultimate burden of persuasion to obtain a favorable clearance decision is on the applicant. ²⁵

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). "The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." ²⁶ Any reasonable

²³ See *also* ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

²⁴ *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

²⁵ ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

²⁶ *Id.*

doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.²⁷ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.²⁸ It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Based upon consideration of the evidence, I find the following adjudicative guidelines are the most pertinent to the evaluation of the facts in this case:

Guideline F - Financial Considerations. *The Concern:* Failure or an 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.²⁹

Guideline J - Criminal Conduct. *The Concern:* Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.³⁰

Guideline G - Alcohol Consumption. *The Concern:* Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.³¹

Guideline H - Drug Involvement. *The Concern:* Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. "Drugs" are defined as mood and behavior altering substances, and include drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended, (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens) and inhalants and other substances. "Drug abuse" is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.³²

Conditions pertaining to these adjudicative guidelines that could raise a security concern and may be disqualifying, as well as those that would mitigate security concerns, are set forth and discussed in the conclusions below.

²⁷ *Id.*

²⁸ Executive Order 10865 § 7.

²⁹ Revised Adjudicative Guideline (AG) ¶ 18.

³⁰ AG ¶ 30.

³¹ AG ¶ 21.

³² AG ¶ 24.

Analysis

GUIDELINE F

Applicant incurred a number of debts over the years, paid some debts, disputed some debts, and some debts remain unaddressed. Consequently, Financial Considerations Disqualifying Condition (FC DC) AG ¶ 19(a) (*inability or unwillingness to satisfy debts*) and FC DC AG ¶ 19(c) (*a history of not meeting financial obligations*) apply. With such conditions raised, the burden is placed on Applicant to overcome the case against him and mitigate security concerns.

A majority of the delinquent debts at issue are the result of a protracted period of unemployment, a long and lengthy relocation, and immediate care for serious medical conditions. Financial Considerations Mitigating Condition (FC MC) AG ¶ 20(b) (*the conditions that resulted in the behavior 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*) applies.

Applicant commenced a year long period of unemployment a little over three and a half years ago, during which he diligently tried to find secure employment. Since then, he has found employment, including what is currently a steady and reliable position. Although closures, whether of a military base or a business, happen routinely, the declining economy has recently shown signs of improvement. While there are no safeguards guaranteeing him permanent employment, his current prospects are improved for continued employment in light of his education and experience. To that extent, Financial Considerations Mitigating Condition (FC MC) AG ¶ 20(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*) is due some consideration.

Subtracting duplicates, there are 12 delinquent debts at issue. Applicant has paid 5 balances, disputed 2 account entries, and initiated some effort on most of the remaining 6 debts at issue. Although the largest debts remain unresolved, FC MC AG ¶ 20(d) (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) applies.

GUIDELINE J

Applicant admits he was charged with or convicted of several criminal acts between 1986 and 2007. Criminal Conduct Disqualifying Conditions (CC DC) AG ¶ 31(a) (“a single serious crime or multiple lesser offenses”) and CC DC AG ¶ 31(c) (“allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted, or convicted”) apply.

Applicant's past criminal activity was mainly related to marital stress, drugs, and alcohol. The strife from his marriage ended over a dozen years ago with his divorce from

an unfaithful spouse. Since 1998, only one drug offense was charged against Applicant. That marijuana possession charge was dropped, however, when the possessor appeared to be Applicant's companion. There are no facts otherwise establishing he was under the influence of drugs at the time. Consequently, only two incidents have occurred in over a decade, those which involved alcohol abuse. Those two incidents, however, are sufficient to obviate the applicability of Criminal Conduct Mitigating Condition (CC MC) AG ¶ 32(a) ("so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment") and AG ¶ 32(c) ("evidence the person did not commit the act").

Nearly a decade passed between the 2007 alcohol-related incidents and Applicant's past criminal conduct. Less than three years have lapsed since those two alcohol-related incidents in 2007, thus making the underlying issue in their regard more amenable to scrutiny under Guideline G than under Guideline J. Regardless, for the 2007 incidents, he admits embarrassment and remorse. He also showed career success he attained in the intervening years. Additionally, he has since quit using alcohol and become a regular member of A.A. He has become an active advocate against alcohol abuse within his community. He was determined to be alcohol-free and not alcohol dependent by a director of a certified drug and alcohol treatment facility, who also concluded his past instances of alcohol abuse were attributable to adverse circumstances. Aside from these lapses and that period of adverse circumstance, there has been no other cited criminal incident in over a dozen years and Applicant's behavioral modifications and intervening maturity should preclude recurrence. Moreover, while many applicants demonstrate familial or professional pressure or support as a safeguard from their future alcohol use or abuse, Applicant has presented more compelling facts, potentially life-threatening cardiac conditions for which stimulants such as alcohol are specifically contraindicated. CC MC AG ¶ 32(d) ("there is evidence of successful rehabilitation, including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement") applies.

GUIDELINE G

Issues regarding one's reliability and trustworthiness can arise from unbridled alcohol consumption because it can lead to uncontrolled impulses and questionable judgment. Applicant admits he was charged or arrested for alcohol-related incidents in his past, during the 1986-1998 time-frame. He also admits to two incidents in 2007, when he was significantly worried and blue over his protracted period of unemployment. Consequently, Alcohol Consumption (AC) Disqualifying Condition (DC) AG ¶ 22(a) (*alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent*) applies. With a disqualifying condition thus established, the burden shifts to Applicant to mitigate related security concerns.

As noted in the preceding section, Applicant is remorseful over his past alcohol abuse and resolved to continue his sobriety. He has also matured. Accepting his mother's

guidance and advice, and with the support of his family, he became an active member of A.A. and is now a community advocate against alcohol abuse. Applicant now focuses on his work and adult responsibilities. Within the past year, the director of a certified drug and alcohol treatment center rendered a favorable prognosis, attributing Applicant's 2007 alcohol-related incidents to being situation-related. Finally, and most importantly, he now appreciates the self-destructive nature of continuing alcohol abuse in the face of his serious physical health problems. Therefore, AC Mitigating Condition (MC) AG ¶ 23(a) (*so much time has passed, or the behavior was infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment*) and AC MC AG ¶ 23(b) (*the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser)*) apply. It is unclear, however, whether AC MC AG ¶ 23(d) (*the individual has completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment plan*) technically applies, as there is insufficient information in the record regarding the treatment center's director's qualifications and/or state licensure.

GUIDELINE H

Applicant admits he was directly or indirectly involved with illegal drugs, albeit in the past. Consequently, Drug Involvement (DI) Disqualifying Condition (DC) AG ¶ 25(a) (*any drug abuse*) applies. With a disqualifying condition thus established, the burden shifts to Applicant to mitigate security concerns.

Applicant was initially charged with possession of marijuana in 2007, but the charge was dropped when prosecutors apparently decided marijuana found at the scene belonged to his companion. Applicant denies having possessed drugs at the time. Therefore, the last established incident of drug use was about 15 years ago. There is no evidence of either subsequent illegal drug use or abuse or that Applicant maintains any interest in illegal drugs. He denies recent drug abuse and he was favorably examined by the director of a certified alcohol and drug center. Under such facts, DI Mitigating Condition (MC) AG ¶ 26(a) (*the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment*) applies.

Whole Person Concept

Under the whole person concept, an administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of an applicant's conduct and all the circumstances. An 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 public trust position 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, as well as the "whole person" factors noted above. Applicant is a credible and focused man who openly acknowledges his past behavior. In particular, he acknowledges and is remorseful of his past criminal conduct, drug use, and alcohol abuse. With the exception of his two most recent alcohol-related incidents, this behavior was exhibited when he was in his 20s and early 30s. The two most recent incidents occurred during a time when he was in transition, enduring a period of protracted unemployment and healing his body's significant physical ills. Maternal intervention set him on the right course, focusing on his physical well-being over the self-indulgence of alcohol abuse. Through A.A. and self-motivation, he has quit using alcohol, made related lifestyle modifications, and now seeks to help others with substance dependency problems. He lost 150 pounds through surgery and self-discipline, making more lifestyle adaptations where necessary in order to sustain his improved health. He is focused on his health and his work in the specialty of physics. He understands and appreciates the detrimental effect stimulants can have on his health. There is no indication that Applicant, who now reflects a level of maturity befitting his age and profession, will return to criminal activity or substance abuse.

What is troublesome, however, is Applicant's reluctance to commit his savings and monthly net income toward resolution of his debt. Having found himself abruptly unemployed without sufficient cash reserves at an earlier point in his life, he now feels compelled to hoard his monetary savings as a form of rainy day cushion in the event he is denied a security clearance and, consequently, loses his job. Applicant is seemingly unaware that the rainy day arrived with the SOR. While it is arguable that superior decision-making might have been demonstrated had Applicant expended all available resources toward the resolution of his debt in the hopes of mitigating financial considerations security concerns, his reluctance to take such a gamble is not entirely irrational.

To his credit, the facts mitigate the creation of the delinquent debt. With regard to their resolution, Applicant has made some tangible progress on the debts at issue. He paid five of the 12 delinquent debts at issue and formally disputed two medical debts, which he credibly believes should have been paid by his health insurer. He attempted to settle, work out a repayment plan, or secure a loan to satisfy his three largest debts. He is still attempting to seek their resolution despite placing what appears to be a temporary moratorium on expenditures until this process is resolved.

Under Guideline F, an unwillingness to pay one's delinquent debts may indicate poor self-control, lack of judgment, or unwillingness to abide by rules. There is no evidence that

Applicant's current financial situation reflects a lack of self-control. He lives modestly and is mindful of his income. Nor is there any evidence he is presently unwilling to abide by rules, laws, or regulations. Under this guideline and these unique circumstances, questions regarding his judgment have less to do with his personal ability to comply with rules and regulations and more to do with his ability to live within his means and his willingness to meet his obligations. Here, Applicant has the commitment and sufficient reserve funds to pay a significant portion, but not all, of his remaining undisputed debt. This is his calculated approach to preparing himself for unemployment should he not receive a security clearance. Given his past experience, he cannot be blamed for choosing this course, but he does so at his risk. What he has shown is that he is presently living within his means and is eager to honor his remaining delinquent debts, albeit at a cautious pace. He demonstrated progress by paying nearly half of his delinquent accounts, genuinely disputing two medical accounts, and attempting to resolve his largest debts in an alternative fashion. Such efforts show definite, good-faith progress as well as the willingness to pay his debts that underscore the guideline. Clearance is granted.

Formal Findings

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

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

Subparagraph 2.d:	For Applicant
Subparagraph 2.e:	For Applicant
Subparagraph 2.f:	For Applicant
Subparagraph 2.g:	For Applicant
Subparagraph 2.h:	For Applicant
Subparagraph 2.i:	For Applicant
Paragraph 3, Guideline G:	FOR APPLICANT
Subparagraph 3.a:	For Applicant
Paragraph 4, Guideline H:	FOR APPLICANT
Subparagraph 4.a:	For Applicant

Conclusion

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

ARTHUR E. MARSHALL, JR.
Administrative Judge