



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



In the matter of: )  
 )  
----- ) ISCR Case No. 09-02878  
SSN: ----- )  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Fahryn Hoffman, Esquire, Department Counsel  
For Applicant: *Pro se*

September 24, 2010

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant's debts were discharged under Chapter 7 of the Bankruptcy Code in June 1999. His statement of reasons (SOR) listed 13 debts totaling \$22,574. Applicant paid one SOR debt for \$26, and successfully disputed one SOR debt for \$341. He did not make any payments to any of the other 11 creditors. Financial considerations concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On December 23, 2008, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SF 86) (GE 1). On November 23, 2009,<sup>1</sup> the Defense Office of Hearings and Appeals (DOHA) issued an SOR to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review*

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<sup>1</sup>Another copy of the SOR, dated February 26, 2010, was provided to Applicant. (Tr. 18) Applicant explained he did not receive and respond to the November 23, 2009 SOR; however, he did receive the February 26, 2010 SOR. (Tr. 19)

*Program* (Directive), dated January 2, 1992, as amended; and the adjudicative guidelines (AG) promulgated by the President on December 29, 2005.

The SOR alleged security concerns under Guideline F (financial considerations). (Hearing Exhibit (HE) 2) 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. The SOR recommended referral to an administrative judge to determine whether Applicant's clearance should be granted, continued, denied, or revoked (HE 2).

On March 19, 2010, Applicant responded to the SOR and requested a hearing. (HE 3) On April 22, 2010, Department Counsel indicated she was ready to proceed on Applicant's case. On May 3, 2010, DOHA assigned Applicant's case to me. On May 14, 2010, DOHA issued a hearing notice. (HE 1) On June 3, 2010, Applicant's hearing was held. At the hearing, Department Counsel offered five exhibits (GE 1-5) (Tr. 22), and Applicant offered four exhibits. (Tr. 23-25; AE A-D) There were no objections, and I admitted GE 1-5 and AE A-D. (Tr. 22, 25) Additionally, I admitted the hearing notice, SOR, Applicant's response to the SOR, and Department Counsel's post-hearing comments about AE E-J. (HE 1-4) On June 15, 2010, I received the transcript. On July 9, 2010, Applicant offered six exhibits, which were admitted without objection. (AE E-J)

### **Findings of Fact<sup>2</sup>**

Applicant's SOR response admits that debts were discharged in June 1999 by bankruptcy and he is responsible for the three debts in SOR ¶¶ 1.b (\$3,688), 1.d (\$596), and 1.g (\$341). (HE 3) He denied the remaining SOR allegations. His admissions are accepted as factual findings.

Applicant is the 40-year-old employee of a defense contractor working as a human resources specialist. (Tr. 7, 27; AE A and B) His current annual salary is about \$42,000. (Tr. 99) The defense contractor has employed him for 18 months. (Tr. 36) Before being employed by the defense contractor he was employed by a corporation for 16 months and received an annual salary of about \$40,000. (Tr. 99)

Applicant graduated from high school in 1988, and he has three years of college. (Tr. 8) He is majoring in management and human resources. (Tr. 34) He married in 1994, and he was divorced in 2000. (Tr. 7) He married the second time in 2004, and he was divorced in 2006. (Tr. 7) He married his current spouse in 2007. (Tr. 7, 98) He has five children, who are ages 3, 7, 8, 14, and 23. (Tr. 8, 28) He served in the Army from 1988 to 1994 and from 2005 to his medical discharge in 2007. (Tr. 9) When he left the Army, he was a specialist (E-4). (Tr. 9) After his discharge, the Veteran's Administration provided him a 40 percent disability rating for his post traumatic stress disorder (PTSD).

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<sup>2</sup>Some details have been excluded in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

(Tr. 10) Applicant served a tour in Iraq in 2006 to 2007, and during that tour he provided convoy security.<sup>3</sup> (Tr. 11)

Applicant did not disclose any illegal drug use, or alcohol-related offenses on his June 1, 2009, security clearance application. (GE 1) He said he has never held a security clearance. (Tr. 36)

## Financial Considerations

Applicant's SOR lists his bankruptcy in June 1999 and 13 debts totaling \$22,574 as follows: 1.a (June 1999 bankruptcy); 1.b (2008 judgment—\$3,688); 1.c (medical collection debt—\$250); 1.d (collection account—\$596); 1.e (credit card collection account—\$5,734); 1.f (medical collection debt—\$26); 1.g (Defense Finance and Accounting Service debt—\$341); 1.h (state tax lien—\$459); 1.i (judgment for car repair—\$1,246); 1.j (medical debt—\$176); 1.k (insurance debt—\$117); 1.l (utilities collection debt—\$117); 1.m (judgment—\$300); and 1.n (delinquent charge card—\$9,524).

Applicant and his first spouse were having marital difficulties and debts were not being paid. He used Chapter 7 of the Bankruptcy Code to discharge his delinquent debts. (Tr. 46-47)

The creditor for the debt in SOR ¶ 1.b (judgment for \$3,688) contacted Applicant in May 2010 and requested payment in full. (Tr. 48) Applicant offered to make \$100 monthly payments. (Tr. 48) The creditor rejected Applicant's offer and threatened to garnish his pay. (Tr. 48) Applicant had not made any other payments or offers to pay this judgment. (Tr. 48-49)

Applicant had four unpaid medical debts that were listed in SOR ¶¶ 1.c (\$250), 1.d (\$596), 1.j (\$176), and 1.l (\$117). (Tr. 38-45, 65-66; GE 2, GE 5) He attributed these delinquent medical debts to his former spouse, who took his two children to medical treatment facilities for medical care. (Tr. 38-45; GE 2 at 8-9) He said his former spouse listed him on forms as being a responsible party for payment without his consent. His spouse denied any knowledge of the four medical debts. (Tr. 44-45) He contended he was not responsible for these three debts. He did not contact the creditor, or credit reporting company, and he did not make any attempt to correct the record or dispute these debts. (Tr. 38-45, 65-66)

The debt in SOR ¶ 1.e (\$5,734) is for a credit card. (GE 4 at 6) On March 2, 2009, an Office of Personnel Management (OPM) investigator interviewed Applicant concerning this debt. (GE 2 at 5) Applicant believed he went over his \$200 credit limit on the account. (GE 2 at 5) The debt in 2008 was listed at \$1,085. (GE 2 at 5) About six months ago, the creditor offered to settle the debt for a single payment of about \$2,900.

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<sup>3</sup> Applicant's DD Form 214 indicates he served from December 5, 2006 through March 8, 2007. (GE 3 at 26, DD Form 214, Block 18). During his 2006-2007 enlistment, he is credited with three months and four days of foreign service. (GE 3 at 26, DD Form 214, Block 12f)

(Tr. 50) Applicant offered to settle the debt for a lump sum payment of \$1,000. (Tr. 51) Alternatively, the creditor wanted \$500 per month. (Tr. 51) Applicant said he was unable to afford the monthly payments. (Tr. 51)

On June 14, 2010, Applicant paid the \$26 debt in SOR ¶ 1.f, and he provided a copy of the money order used to pay the creditor. (AE F)

Applicant was in the National Guard. He worked his last weekend and received payment of \$341 from the Defense Finance and Accounting Service (DFAS). Then he received his discharge certificate, which was dated before he served his last weekend of duty. DFAS then sought repayment of the \$341. (Tr. 51-53; SOR ¶ 1.g) His most recent contact with DFAS was in December 2008. (Tr. 53) He believed he was entitled to the pay because he did work the weekend, event though he was technically discharged from the Army. (Tr. 53) He thought DFAS was going to obtain the money from his VA disability check; however, DFAS never took the money. (Tr. 55)

The debt in SOR ¶ 1.h (\$459) is for a state tax lien for tax year 2000, which the State filed in 2003. (Tr. 57-58; AE I at 1) On April 14, 2004 the State Department of Revenue filed a termination of state tax lien. (AE I at 2)

The debt in SOR ¶ 1.i (\$1,246) is for repairs for Applicant and his spouse's vehicle. Their vehicle was repaired while he was deployed away from home. He paid about \$2,500 for a replacement engine, and his spouse received the vehicle. (Tr. 59-60) The repair company then sent an additional bill for \$1,246 for labor. (Tr. 59-60) The repair company obtained a judgment in August 2006. (Tr. 59) Applicant did not believe the debt was fair because his spouse was allowed to take the vehicle from the shop, and he refused to pay the judgment. He also thought maybe the mechanics were trying to take advantage of his spouse. (Tr. 60-62) Applicant sold the vehicle. (Tr. 60)

SOR ¶ 1.k (\$117) alleges an insurance debt. (Tr. 62-65) Department counsel indicated the Applicant signed a contract to pay for six months of insurance. He believed he paid for six months; however, the insurance company said he only paid for five months. (Tr. 62-63) He did not provide any documentation showing he disputed the account.

SOR ¶ 1.m alleges a judgment for \$300. Applicant listed the judgment on his December 23, 2008 SF 86. (Tr. 67; GE 1) Applicant did not contact the creditor or investigate the debt. (Tr. 67-69)

SOR ¶ 1.n alleges a debt for \$9,524 owed to a credit card company. (Tr. 69) Applicant was an authorized user on his girlfriend's credit card. (Tr. 69-70) Applicant said the debt could also be based on his spouse's credit card. (Tr. 69-70) In March 2009, he called the creditor and learned he was an authorized user on the account. (Tr. 71)

Except for sending a form back to the VA to challenge the DFAS collection in SOR ¶ 1.g, Applicant has not disputed any of the debts with the creditors or credit reporting companies. (Tr. 71)

Applicant's two former spouses have garnishment orders to collect child support from him. (Tr. 72) His combined monthly child support is \$835. (Tr. 83) His child support account is several thousand in arrears, and Applicant is unsure how much he is behind on his child support. (Tr. 72-74, 105-106) The money is collected automatically from his pay, and the child support arrearage is not alleged in the SOR.

Applicant's current spouse works for a grocery store as a product specialist. (Tr. 36) His monthly budget shows: gross pay (Applicant's salary-\$3,500; spouse salary-\$1,100; and Applicant's disability-\$764); net pay (\$3,664); expenses (\$2,200); and debt payments (\$600). (Tr. 75-89) He has about \$750 in monthly discretionary income available to address his SOR debts and child support arrearage. (Tr. 89) After his hearing Applicant provided the following monthly budget: net pay (\$3,458); expenses (\$2,333); and debt payments (\$990). He indicated he had a monthly surplus of \$135 to use to resolve his delinquent debts.

There are some positive signs for the future that Applicant and his spouse will have greater income. Recently his spouse's income has increased, as she has gone from part-time employment to full-time employment in the last three months. Applicant believes two children from his former marriage will move in with him and he will start receiving child support from his former spouse, and will not have to pay child support.

Applicant received credit counseling. (Tr. 93-94) At his hearing Applicant said he did not have any recent contact with any of the SOR creditors; however, he did intend to start paying his debts one at a time in the near future. (Tr. 95) After his hearing, he paid the medical debt for \$26 in SOR ¶ 1.f. (AE F)

### **Character references**

On May 21, 2009, a chief warrant officer two wrote that he served with Applicant in the National Guard from 2005 to 2006. (AE C) Applicant worked in the unit Supply Room and was entrusted with items of Government property valued at more than \$450,000. Applicant conscientiously ensured compliance with regulations. A routine audit conducted upon Applicant's departure from the Supply Room did not detect any discrepancies. Applicant's performance of duty was exemplary.

Applicant's supervisor at his current employment describes him as trustworthy, efficient, and professional. (AE D) He is confident that Applicant is not a security risk and has a strong loyalty to the Army.

### **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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. 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 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 applicant concerned.” See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), § 3.1. 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 (4<sup>th</sup> 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 concerns are under Guideline F (financial considerations).

### **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 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.” In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government’s obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). Applicant’s history of delinquent debt is documented in his credit reports, his SOR response, and his statement at his hearing.

In June 1999, Applicant’s debts were discharged under Chapter 7 of the Bankruptcy Code. His SOR lists 13 delinquent debts totaling \$22,574. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

Five Financial Considerations 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 any mitigating conditions 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)). Applicant does not receive credit under AG ¶ 20(a) because he did not establish that his financial problems "occurred under such circumstances that [they are] unlikely to recur." There is some residual doubt about whether Applicant is fully committed to resolving his delinquent SOR debts and is making adequate steps to do so.

AG ¶ 20(b) has limited applicability. Applicant's financial situation was damaged by insufficient income, separation, divorce, and his former spouse's financial irresponsibility. However, there is insufficient evidence about these circumstances to show that he acted responsibly under the circumstances. His financial circumstances have been stable for about 30 months. Applicant was aware of and disclosed several delinquent debts when he completed his security clearance application on December 23, 2008. There is insufficient documentary evidence to show he maintained contact with his creditors,<sup>4</sup> attempted to pay or settle 11 of his 13 SOR debts. His documented actions were inadequate to establish he acted responsibly under the circumstances.

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<sup>4</sup>Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.



AG ¶ 20(c) does not fully apply. Applicant receives credit for obtaining financial counseling. However, he did not provide a detailed plan for resolution of his delinquent SOR debts. He cannot receive full credit under AG ¶ 20(c) because he has not paid, established payment plans (by making payments), adequately documented disputes of debts, or otherwise resolved 11 of his 13 SOR debts, totaling \$22,207. He has not resolved five SOR debts of \$300 or less.

Applicant receives partial mitigation under AG ¶ 20(d). There are some initial, positive “indications that the problem is being resolved or is under control.” He has admitted responsibility for and promised to his SOR debts, showing some good faith mitigation under AG ¶ 20(d).<sup>5</sup> He does not receive full mitigation because he did not make greater progress resolving 11 of 13 delinquent SOR debts.

AG ¶ 20(e) is applicable to his DFAS debt (SOR ¶ 1.g for \$341) because Applicant filled out a form and sent it to the VA to contest the debt. The VA had the ability to garnish the \$341 and chose not to do so. Applicant does not receive credit under AG ¶ 20(e) for mitigating the other SOR debts because he did not provide “documented proof to substantiate the basis of the dispute.”

In sum, Applicant should have been more diligent and made greater efforts sooner to resolve his delinquent SOR debts. He has had steady employment for the last 30 months and earned approximately the same income during those 30 months. Recently his spouse’s income has increased, as she has gone from part-time employment to full-time employment. However, he only provided proof of payment of one SOR debt for \$26. His documented progress in SOR debt resolution is simply inadequate to fully mitigate financial considerations security concerns.

### **Whole-Person Concept**

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

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<sup>5</sup>The Appeal Board has previously explained what constitutes a “good faith” effort to repay overdue creditors or otherwise resolve debts:

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

(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 those guidelines, but some warrant additional comment.

Although the rationale for reinstating Applicant's clearance is insufficient to support a security clearance at this time, there are several factors tending to support approval of his clearance. Applicant is 40 years old. He is sufficiently mature to understand and comply with his security responsibilities. He deserves substantial credit for volunteering to support the U.S. Government as an employee of a contractor, and especially as a soldier in the U.S. Army. He served in Iraq for three months and four days. There is every indication that he is loyal to the United States and his employer. There is no evidence that he abuses alcohol or uses illegal drugs. His separation, divorce, and problems with his former spouse's handling of their finances contributed to his financial woes. Two character witnesses laud his diligence, professionalism, and responsibility. I give Applicant some credit for promising to pay his debts at some point in the future and for paying one SOR debt for \$26. He received financial counseling and generated a budget. He is also credited with disclosing his financial problems on his security clearance application. These factors show some responsibility, rehabilitation, and mitigation.

The whole-person factors against reinstatement of Applicant's clearance are more substantial at this time. Failure to pay or resolve his just debts is not prudent or responsible. Applicant has a history of financial problems. His unsecured delinquent debts were discharged in June 1999 under Chapter 7 of the Bankruptcy Code. He has had stable employment without significant changes in his income for approximately 30 months. He paid one SOR debt for \$26, and he successfully disputed one SOR debt for \$341. He has five other SOR debts for \$300 or less (\$250, \$176, \$117, \$117, and \$399). His budget showed he had about \$130 per month surplus to address his delinquent debts. The issue of financial considerations was further emphasized when he received the SOR, yet he did not make any payments to any of his creditors until he made a single \$26 payment to one creditor after his hearing. He had ample notice of his delinquent SOR debts, and sufficient opportunity to make greater progress in the resolution of his SOR debts. His promise to start paying some of the SOR debts is inadequate to mitigate financial considerations concerns because there is insufficient evidence to explain why he has not done more to address his SOR debts after becoming aware that they raised a security concern.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations concerns are not mitigated at this time. For the reasons stated, I conclude he is not currently eligible for access to classified information.

### **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a to 1.e:	Against Applicant
Subparagraphs 1.f and 1.g:	For Applicant
Subparagraphs 1.h to 1.n:	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.

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MARK HARVEY  
Administrative Judge