



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



In the matter of:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 09-06303

**Appearances**

For Government: Eric H. Borgstrom, Esquire, Department Counsel  
For Applicant: *Pro se*

July 7, 2010

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant's debts were discharged under Chapter 7 of the Bankruptcy Code in July 2000. His statement of reasons (SOR) listed 30 debts totaling \$19,445. Four debts were duplications, and four debts were not established, leaving 22 unresolved SOR delinquent debts totaling \$18,572. He did not provide proof of any payments on any of his SOR debts. He has insufficient income to pay his current expenses. Financial considerations concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 1, 2009, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SF 86) (GE 1). On January 13, 2010, 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 and modified; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review 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 January 30, 2010, Applicant responded to the SOR and requested a hearing. (HE 3 at 8) On February 28, 2010, Department Counsel indicated he was ready to proceed on Applicant's case. On March 12, 2009, DOHA assigned Applicant's case to me. On March 19, 2009, DOHA issued a hearing notice. (HE 1) On April 7, 2010, Applicant's hearing was held. At the hearing, Department Counsel offered ten exhibits (GE 1-10) (Tr. 21), and Applicant offered six exhibits. (Tr. 23-25; AE A-F) There were no objections, and I admitted GE 1-10 and AE A-F. (Tr. 21-22, 25) Additionally, I admitted the hearing notice, SOR, Applicant's response to the SOR, and a chart showing the status of Applicant's SOR debts as hearing exhibits. (Tr. 22; HE 1-4) On April 15, 2010, I received the transcript.

### **Findings of Fact<sup>1</sup>**

Applicant's SOR response admits responsibility for 15 debts owed to the creditors in SOR ¶¶ 1.c to 1.e, 1.k to 1.s, and 1.v to 1.x, totaling \$15,550. (HE 3) He admitted that a Chapter 7 bankruptcy discharged his unsecured debts in July 2000. (HE 3) He denied the remaining SOR allegations. His admissions are accepted as factual findings.

Applicant is the 33-year-old employee of a defense contractor working as a receiving coordinator. (Tr. 7-8, 42; HE 3 at 13) He graduated from high school in 1996 and has not attended college. (Tr. 8, 43) He has received some post-high school computer technology training. (Tr. 43) He married in July 2004 and was separated from her in December 2008. (Tr. 49-50, 100) He filed for divorce on December 8, 2009. (AE A) His divorce was final on January 14, 2010. (Tr. 49-50; AE A) Issues of child support and custody were resolved on March 4, 2010. (AE A) His three children live with his former spouse and with Applicant on alternate weeks. (Tr. 51) His children are ages three, seven, and nine. (Tr. 50) He never served in the United States military. He did not disclose any illegal drug use, or alcohol-related offenses on his June 1, 2009, security clearance application. (GE 1) He has never held a security clearance. (Tr. 8)

### **Financial Considerations**

Applicant's SOR listed 30 debts totaling \$19,445 as follows: 1.a (2003 medical collection debt—\$210) (Tr. 68-70); 1.b (2008 medical collection debt—\$153) (Tr. 70);

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<sup>1</sup>Some details have been excluded in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

1.c (2006 collection debt—\$1,721) (Tr. 70-71);<sup>2</sup> 1.d (2008 collection account—\$1,450) (Tr. 71); 1.e (2004 collection account—\$145) (Tr. 71-72); 1.f (2007 medical collection debt—\$50) (Tr. 72); 1.g (2006 medical collection debt—\$240) (Tr. 72); 1.h (2004 medical collection debt—\$141) (Tr. 73); 1.i (2006 medical collection debt—\$50) (Tr. 16-17, 74); 1.j (2003 medical collection debt—\$230) (Tr. 74); 1.k (2004 telecommunications collection debt—\$1,451) (Tr. 75);<sup>3</sup> 1.l (2003 medical judgment—\$3,479) (Tr. 79); 1.m (2004 state tax lien—\$1,041) (Tr. 79-80); 1.n (telecommunications debt—\$1,728) (Tr. 81-83);<sup>4</sup> 1.o (2008 credit card collection debt—\$502) (Tr. 83-84); 1.p (2003 collection debt—\$230) (Tr. 84); 1.q (2008 telecommunications collection debt—\$3,105) (Tr. 84); 1.r (2004 collection debt—\$410) (Tr. 84); 1.s (2003 medical collection debt—\$100) (Tr. 85); 1.t (2003 collection debt—\$75) (Tr. 86-87); 1.u (2007 collection debt—\$2,178) (Tr. 88-89); 1.v (2002 bad check collection debt—\$61) (Tr. 89); 1.w (2002 bad check collection debt—\$68) (Tr. 89); 1.x (2002 bad check collection debt—\$59) (Tr. 89); 1.y (2006 collection debt—\$50) (Tr. 16-17); 1.z (2006 collection debt—\$50) (Tr. 91-92); 1.aa (2008 collection debt—\$50) (Tr. 16-17); 1.ab (collection debt—\$50) (Tr. 16-17); 1.ac (2007 collection debt—\$240) (Tr. 16-17); and 1.ad (2007 insurance debt—\$128). (Tr. 92)<sup>5</sup>

Department Counsel stated that the debt in SOR ¶ 1.i was duplicated by the debt in SOR ¶ 1.y; the debt in SOR ¶ 1.j was duplicated by the debt in SOR ¶ 1.p; the debt in SOR ¶ 1.f was duplicated by the debt in SOR ¶ 1.aa; and the debt in SOR ¶ 1.g was duplicated by the debt in SOR ¶ 1.ac. There was insufficient evidence to substantiate the debt in SOR ¶ 1.ab. (Tr. 17) I granted Department Counsel's motion to withdraw the allegations in SOR ¶¶ 1.j, 1.y, 1.aa, 1.ab, and 1.ac. (Tr. 16-17, 74) I marked withdrawn on the SOR and placed my initialed next to the allegations in subparagraphs 1.j, 1.y, 1.aa, 1.ab, and 1.ac. (Tr. 17, 74)

Applicant's debts were discharged under Chapter 7 of the Bankruptcy Code in July 2000. (Tr. 67-68; HE 3) He did not carefully monitor his credit after the bankruptcy. (Tr. 67-68)

In addition to the 15 debts Applicant admitted in his SOR response, at his hearing he said he contacted the creditors and based on what he learned, he also admitted responsibility for the debts in SOR ¶¶ 1.a, 1.b, 1.f, 1.g, and 1.h. (Tr. 68, 70, 72)

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<sup>2</sup>Applicant said his former wife opened the account in SOR ¶ 1.c without his knowledge; however, he admitted the debt was in his name. (Tr. 70-71) He said he would try to prove it was not his debt in the future. (Tr. 71)

<sup>3</sup>Applicant said his former wife opened the account in SOR ¶ 1.k without his knowledge; however, he admitted the debt was in his name and that he was living in the home when the cable services were received. (Tr. 75) She received the bills and kept them him. (Tr. 76-77)

<sup>4</sup>Applicant said he gave the money for this bill to his wife; however, she did not pay the bill. (Tr. 82) The creditor called Applicant on his telephone and told him his account was delinquent. (Tr. 83)

<sup>5</sup>Citations to the credit reports supporting the debts are listed in the table at HE 4.

Applicant wrote a letter to the hospital-creditor about several medical SOR debts, and learned he was responsible for them. (Tr. 69-72) He provided five medical bills dated January 25, 2010. Four show an account balance of \$50, after insurance co-payment, for medical debts accrued on December 26, 2005, February 7, 2006, June 23, 2006, and November 10, 2007. (AE E) The debt in SOR ¶ 1.f is for \$50. He provided a bill dated January 25, 2010, showing an account balance of \$240, with no insurance co-payment, for a medical debt accrued on November 15, 2006. (AE E) The debt in SOR ¶ 1.g is for \$240.

Applicant denied responsibility for the debts in SOR ¶¶ 1.t, 1.u, 1.z, and 1.ad. (Tr. 86-87, 91-93) He contacted the creditors in SOR ¶¶ 1.t and 1.z. (Tr. 87, 91) The creditor in SOR ¶ 1.t was unable to locate information about Applicant's debt. (Tr. 87) He said he tried to call the creditor in SOR ¶ 1.z, and that creditor did not have information about his responsibility for this debt. (Tr. 92) The collection company in SOR ¶ 1.u (\$2,178) is seeking payment on behalf of a credit card company. (Tr. 87) Applicant had a credit card from that particular credit card company, and he was uncertain if he had paid his debt. (Tr. 87-89) He denied that he had an account with the creditor in SOR ¶ 1.ad. (Tr. 92) He did not want to accept responsibility for debts until he had proof of his responsibility. He did not provide any documentation from the creditors in SOR ¶¶ 1.t, 1.u, or 1.z. (Tr. 87, 89, 91-92)

When Applicant completed his security clearance application on June 1, 2009, he disclosed his bankruptcy in 2000, the 2003 medical debt for \$3,479 in SOR ¶ 1.l, and the \$1,100 telecommunications debt in SOR ¶ 1.n. (GE 1)

Applicant said his spouse wrote bad checks on his checking account, which generated the debts in SOR ¶¶ 1.v (\$61), 1.w (\$68), and 1.x (\$59). (Tr. 89) She was responsible for paying their debts, using his checking account. (Tr. 90) Applicant also wrote checks on their account. (Tr. 90) He has not paid the creditors for these three bad checks.

Applicant was unemployed from May 2002 to October 2003, from August 2004 to September 2005, and from December 2005 to September 2006. (Tr. 44-47) He lived with his girlfriend and then spouse from 2003 to 2008. (Tr. 45-47, 77-78) He was the homemaker, and she was the wage earner. (Tr. 45) He has been steadily employed since September 2006. (Tr. 45-47) He currently earns \$21 per hour. (Tr. 49)

Applicant's fiancée is 30 years old, and she has known him for 16 years. (Tr. 28, 31-32) They were high school sweethearts, broke up, and then Applicant married someone else. (Tr. 32) They stayed in touch over the years. (Tr. 32) They intend to marry in September 2010. (Tr. 36) She is employed in a sensitive position as a contractor at a federal agency. (Tr. 28, 30) She has held sensitive government-related employment for nine years. (Tr. 31) She has paid \$920 of Applicant's \$1,200 rent for several months. (Tr. 39-40) He often repays what he borrows. (Tr. 40) Applicant has learned from his mistakes and wants to have good credit. (Tr. 29) She described him as trustworthy and responsible. (Tr. 28) Despite his financial problems, she recommended approval of his security clearance. (Tr. 28)

Applicant's monthly gross salary is \$3,800; his net monthly salary is \$2,400; his monthly expenses are \$3,100;<sup>6</sup> and his net remainder is negative \$700. (Tr. 54; GE 2 at 4) He has not had financial counseling. (Tr. 47) He did not pay any of his SOR debts. (Tr. 47) He is current on his child support, rent, and utilities. (Tr. 59, 61) His monthly child support is \$768; however, he must pay \$888 monthly until the new earnings withholding becomes effective. (Tr. 51; AE A, B) His car is paid off. (Tr. 59, 63) He borrowed \$600 from his fiancée the previous month to pay his rent. (Tr. 62) In 2009 and in early 2010, he paid the attorney handling his divorce more than \$1,000. (AE F) However, he still owes the attorney who handled his divorce \$497. (Tr. 59; AE F) He has \$700 in his checking account and \$20 in his savings account. (Tr. 60) He owes about \$2,000 on his federal income taxes. (Tr. 80-81) An additional non-SOR state tax lien was filed against him on November 17, 2009, in the amount of \$1,808. (Tr. 80, 94; GE 10) He thought the 2004 state tax lien in SOR ¶ 1.m for \$1,041 and the 2009 state tax lien might be related to the same debt. (Tr. 99) He did not have the funds to address his SOR debts. (Tr. 93) He was focused on paying his lawyer and his living expenses for himself and his children. (Tr. 93)

Applicant blamed his former spouse for his financial predicament. (Tr. 51-52) She abused his trust. (Tr. 98) He was not aware of some of her financial decisions. (Tr. 52) Applicant said he was naïve, young, and silly. (Tr. 78-79, 96, 98) He did not pay attention to his finances. (Tr. 79) Applicant was considering a debt consolidation plan. (Tr. 53) Applicant started pulling his credit report more than once per year, trying to contact companies, and identify duplications. (Tr. 35) He said he accepted responsibility for his financial plight. (Tr. 96) He admitted he made mistakes and wanted to avoid the mistakes he has made in the past. (Tr. 96, 97) He wanted to be a model citizen and father. (Tr. 96) Although Applicant did not make any payments on any of his SOR debts (Tr. 97), he promised to pay his debts when he is able to do so. (Tr. 102)

## **Character references**

The security specialist where Applicant is employed has worked closely with Applicant for the last five months, and describes Applicant as a hard worker who has self-discipline and solid ethics. (HE 3 at 10) He entrusts Applicant with classified materials and access to high security areas without escorts or supervision. (HE 3 at 10)<sup>7</sup> He recommended reinstatement of Applicant's clearance.

A specialist in information technology has worked with Applicant for eight months. (HE 3 at 11, 12) Applicant is highly motivated to care for his family, get his financial house in order, and to become more successful. Applicant is friendly and hard working. (HE 3 at 12) He is reliable, and his performance is superb. (HE 3 at 12)

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<sup>6</sup>His personal financial statements showed expenses of \$2,750; however, Applicant provided expenses of \$3,100, which included expense figures as follows: rent (\$1,200); food (\$550); clothing (\$50); utilities (\$100); car expenses (\$400); and daycare (\$800). (Tr. 56-58)

<sup>7</sup>This statement is undermined by Applicant's statement that he does not have and never did have a security clearance. (Tr. 8)

Applicant's administrative division chief has worked with Applicant for six months. (HE 3 at 13) Applicant is professional, punctual, and dependable. He is an asset to the office. (HE 3 at 13)

Two of Applicant's co-workers have known him for over eight months. (HE 3 at 14, 15) He is described as having integrity, and being organized, efficient, competent, and talented. (HE 3 at 14) Approval of his security clearance is recommended. (HE 3 at 14) On January 27, 2010, Applicant received an employee commendation for his efficiency, professional manner, and outstanding support. (HE 3 at 16)

### **Policies**

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

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the revised adjudicative guidelines. 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 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 July 2000, Applicant's debts were discharged under Chapter 7 of the Bankruptcy Code. His SOR lists 30 delinquent debts totaling \$19,445.<sup>8</sup> Some of his debts have been delinquent more than five years. He has an unpaid state tax lien from 2004. 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.

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<sup>8</sup>The four debts in SOR ¶¶ 1.j, 1.y, 1.aa, and 1.ac are duplications and are not adverse financial information in this case.



AG ¶ 20(b) has limited applicability. Applicant's financial situation was damaged by insufficient income, separation, divorce, unemployment, and his spouse's financial irresponsibility. However, his financial circumstances have been stable since December 2008 when he was separated from his spouse. Applicant was aware of several delinquent debts when he completed his security clearance application on June 1, 2009. Moreover, there is insufficient evidence about these circumstances to show that he acted responsibly under the circumstances. There is insufficient documentary evidence he maintained contact with his creditors,<sup>9</sup> attempted to pay or settle any of his SOR, or attempted to establish payment plans with his creditors. His documented actions were insufficient to establish he acted responsibly under the circumstances.

AG ¶ 20(c) does not fully apply. He received financial counseling in 2000 as part of his bankruptcy. Applicant did not provide a plan to resolve his delinquent debts. His personal financial statement or budget indicated he had a negative monthly cash flow of \$700. Applicant 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 22 of his SOR debts. He has not resolved small debts such as the bad checks written on his checking account, which generated the debts in SOR ¶¶ 1.v (\$61), 1.w (\$68), and 1.x (\$59). There are some initial, positive "indications that the problem is being resolved or is under control." He has admitted responsibility for and promised to pay 21 SOR debts, showing some good faith mitigation under AG ¶ 20(d).<sup>10</sup> AG ¶ 20(e) is not applicable because Applicant did not provide documentation showing he disputed any of his SOR debts. Applicant consistently denied responsibility for the debts in SOR ¶¶ 1.t (\$75), 1.u (\$2,178), 1.z (\$50), and 1.ad (\$125). He is credited with mitigating the debts in SOR ¶¶ 1.t, 1.z, and 1.ad because those debts are small and creditors are not likely to make much effort to determine Applicant's responsibility for these small debts.

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<sup>9</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.

<sup>10</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)).

Applicant does not receive credit for mitigating the debt in SOR ¶ 1.u (\$2,178) because he did not provide documentation showing any attempts to resolve or dispute this debt. His efforts are insufficient in light of the size of this debt. Additionally, he admitted the possibility the debt was valid. He was uncertain whether he had resolved his account with the original credit card holder that sent the debt to the collection creditor in SOR ¶ 1.u.

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 18 months. He did not provide proof of any payments to his SOR creditors. He has not provided documentation showing sufficient progress on his SOR debts. His documented steps are 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):

(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 33 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. 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 unemployment, separation, divorce, and problems with his spouse's handling of their finances contributed to his financial woes. Several character witnesses laud his diligence, professionalism, and responsibility. I give Applicant substantial credit for admitting responsibility for 21 SOR debts totaling \$16,394. 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 2000 under Chapter 7 of the Bankruptcy Code. His post-bankruptcy delinquent debts date back to a 2003 medical debt for more than \$3,000 and a 2004 state tax lien for more than \$1,000. He was separated from his spouse in December 2008 and since then had stable employment. He did not provide proof of any payments of his SOR debts even though five of them were less than \$100. His personal financial statement showed he had a monthly negative cash flow of \$700. His fiancée has kept him from sinking further into debt. The issue of financial considerations was further emphasized when he received the SOR, yet he did not make any payments to his creditors. He had ample notice of his delinquent SOR debts, and sufficient opportunity to make greater progress in the resolution of his SOR debts. He did not pay, start payments, document and justify any disputes, or otherwise resolve any SOR debts. He has not reduced his expenses sufficiently to make progress resolving his SOR debts. Because of his negative cash flow, it is likely that he will accrue additional delinquent debts. His promises to pay some of the SOR debts are insufficient to mitigate these debts 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 fully mitigated, and 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
Subparagraphs 1.a to 1.i:	Against Applicant
Subparagraph 1.j:	For Applicant (duplication)
Subparagraphs 1.k to 1.s:	Against Applicant
Subparagraph 1.t:	For Applicant
Subparagraphs 1.u to 1.x:	Against Applicant
Subparagraph 1.y:	For Applicant (duplication)
Subparagraph 1.z:	For Applicant
Subparagraph 1.aa:	For Applicant (duplication)
Subparagraph 1.ab:	For Applicant (withdrawn)
Subparagraph 1.ac:	For Applicant (duplication)
Subparagraph 1.ad:	For 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