



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



In the matter of:)
)
-----) ISCR Case No. 09-06698
)
Applicant for Security Clearance)

Appearances

For Government: Daniel F. Crowley, Esquire, Department Counsel
For Applicant: *Pro se*

February 28, 2011

Decision

HARVEY, Mark, Administrative Judge:

Applicant's financial problems were caused by his unemployment and underemployment. His statement of reasons (SOR) lists 10 debts totaling \$16,745. Approximately \$13,500 of his SOR debts relate to two student loans. Applicant paid six SOR debts, established a payment plan on one debt, and intends to establish a payment plan on one debt. He disputes two SOR debts. Applicant has a viable plan to resolve all SOR debts. In the last two years, he reduced his delinquent debt by about \$7,000. Financial considerations are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On July 10, 2008, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) version of his security clearance application (SF-86) (GE 1). On August 20, 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; 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).

Applicant responded to the SOR and requested a hearing. (HE 3) On October 14, 2010, Department Counsel indicated he was ready to proceed on Applicant's case. On October 18, 2010, DOHA assigned Applicant's case to me. On November 3, 2010, DOHA issued a hearing notice and on November 30, 2010, Applicant's hearing was held. (HE 1) At the hearing, Department Counsel offered eight exhibits (GE 1-8) (Tr. 18), and Applicant offered 16 exhibits. (Tr. 20-26; AE A-P) There were no objections, and I admitted GE 1-8 and AE A-P. (Tr. 18, 26) Additionally, I admitted the hearing notice, SOR, and Applicant's response to the SOR as hearing exhibits. (HE 1-3) On December 7, 2010, I received the transcript. On February 24, 2011, Department Counsel provided 14 exhibits, which were admitted without objection. (AE Q-AD)

Findings of Fact¹

Applicant's SOR response admits responsibility for the debts in SOR ¶¶ 1.a to 1.f. (HE 3) He denied responsibility for the debts in SOR ¶¶ 1.g, 1.h, and 1.i. (HE 3) His admissions are accepted as factual findings.

Applicant is a 30-year-old employee of a defense contractor. (Tr. 7) For the last two years, he worked as an executive assistant. (Tr. 36) In 1998, he graduated from high school. He is currently a sophomore in college, and he is majoring in business. (Tr. 7-8, 54)

In 1998, Applicant joined the Navy. (Tr. 28) He served in the Navy for eight years and was awarded the rate of Yeoman (E-4). (Tr. 8, 28-30) He was discharged from the Navy in June 2006 with an Honorable discharge. (Tr. 32; GE 1) He served in the Navy Reserve for an additional three years, until October 2009. (Tr. 41) He has never been married. (Tr. 34; GE 1) Applicant takes care of his 15-year-old brother. (Tr. 34) He currently holds a clearance at the Secret level. (Tr. 9) His SF-86 did not include any reportable involvement with illegal drugs, excessive alcohol consumption, or criminal offenses involving civilian law enforcement. (GE 1)

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

Financial Considerations

After completing his active Navy service, Applicant was unemployed for about four months. (Tr. 37) He worked in a restaurant as a fry cook until July 2007. (Tr. 33, 37-40) After July 2007, one company employed Applicant for three months, and another employed him for a year. (Tr. 37-38) Due to unemployment and underemployment, he generated delinquent debt, was evicted from an apartment, and his vehicle was repossessed. (Tr. 39-40)

Applicant's SOR listed 10 debts totaling \$16,745. The status of his 10 SOR debts is as follows:

1.a (education debt—\$11,338)—DISPUTED AMOUNT. Applicant enrolled in a college, and he completed two classes. (Tr. 43; AE O at 17; AE P at 25) He was deployed. He informed his school, and his tuition assistance program withdrew their financial support because he was unable to complete some courses. (Tr. 41; AE at 5) Applicant disputed the amount owed on the debt. (Tr. 42) He believed that if the school deducted the two courses from his debt, or if the Veterans Administration reimbursed him for the two classes, the debt would be reduced to \$4,500 to \$6,200. (Tr. 43) He was working with the creditor to obtain a settlement. (Tr. 42)

1.b (telecommunications debt—\$232)—PAID. On November 10, 2010, Applicant paid this debt. (Tr. 43; AE I; AE O at 15, 17, 25)

1.c (utility debt—\$238)—PAID. On November 10, 2010, Applicant paid this debt. (Tr. 44; AE J, S)

1.d (telecommunications debt—\$327)—PAID. On April 8, 2010, Applicant settled this debt in full. (Tr. 45; AE D; AE O at 11, T)

1.e (education debt—\$2,260)—PAYMENT PLAN. Applicant's November 2, 2010 credit report, does not list the SOR creditor or collection agent (except as a credit inquiry in 2008); however, it shows several educational accounts in either deferred or current status, including one for \$2,262. (AE O at 4-10, 20) Applicant has an established payment plan where he agreed to pay \$340 every other month, which will result in the satisfaction of the debt in February 2012. (AE AA, AB)

1.f (telecommunications debt—\$722)—PAID. On November 22, 2010, the creditor wrote that the debt was paid in full. (Tr. 44, 46-47; AE K, L, O at 15, U, V, W)²

²Applicant provided three letters from the same collection agent for a telecommunications creditor. The three letters are dated November 22, 2010, and have different client account numbers or credit reporting numbers, and all three indicate the pertinent debt is resolved. (AE K, L, M) After his hearing he resubmitted copies of the same three letters from the creditor. (AE U, V, W)

1.g (collection debt—\$488)—PAID. On February 21, 2008, Applicant's Military Star debt of \$581.17 was paid. (Tr. 47; AE E) Applicant contended the debt in SOR ¶ 1.g was the Military Star debt.

1.h (collection debt—\$159)—DISPUTED RESPONSIBILITY FOR DEBT. Applicant contacted the creditor; however, the creditor was unable to determine the basis of the debt. (Tr. 48-49) Applicant was unable to determine his responsibility for this debt. (Tr. 48-49)

1.i (insurance debt—\$553)—PAID. On January 13, 2011, Applicant began making \$45 monthly payments to the creditor, which was a satisfactory arrangement for the creditor. (Tr. 50; AE X-Z) However, in an email dated February 18, 2011, Applicant said the debt was settled for \$445 and paid. (AE AC)

1.j (collection debt—\$428)—SUCCESSFULLY DISPUTED DEBT. Applicant did not have an account with the creditor, and he disputed the debt. (Tr. 50) It was removed from his credit report and did not appear on his 2009 or 2010 credit reports. (Tr. 50; AE O, P)

In April 2010, DOHA interrogatories sought information from Applicant about 15 delinquent debts. (AE N at 11) Applicant provided proof of payment for five of the 15 debts and they were not included on his SOR. On March 20, 2008, he resolved a judgment of \$625 by an apartment complex. (AE D, Q) On February 2, 2010, he paid \$1,200 and resolved a debt relating to an apartment complex suing Applicant for \$4,653. (AE A, B)³ On February 3, 2010, he resolved a judgment of \$625 by an apartment complex. (AE C, R) On March 12, 2010, he paid a creditor \$98, and resolved a debt from November 2007. (AE G) On April 5, 2010, a medical debt for \$170 was paid in full. (AE H) The payments on Applicant's \$15,000 car loan are \$369, and the account is current. (AE P at 14)

Applicant generated a personal financial statement. (GE 6 at 2) His monthly income is \$3,437, his monthly expenses are \$2,650, and his monthly remainder is about \$760. (Tr. 51-53) Applicant has not had credit counseling. (Tr. 59) On December 10, 2010, Applicant signed an agreement with a credit counseling service, and he agreed to pay the service \$599 on January 14, 2011. (AE AD)

In sum, three SOR debts are disputed: 1.a (\$11,338); 1.h (\$159); and 1.j (\$428)). Six debts were paid: 1.b (\$232); 1.c (\$238); 1.d (\$327); 1.f (\$722); 1.g (\$488); and 1.i (\$553). The debt in SOR ¶ 1.e for \$2,260 is in a payment plan.

³Applicant had three judgments against him by two apartment complexes. (Office of Personnel Management (OPM) report of investigation (ROI) personal subject interview (PSI) on August 19, 2008; AE N at 3-6) Applicant was on active duty in the Navy, and his brother stayed in Applicant's apartment complex while he was deployed. *Id.* The rent was not paid, and the apartment was damaged. *Id.* On another occasion, Applicant failed to pay one month of his rent. *Id.*

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 about 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 about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

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

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the

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

Analysis

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, I conclude the relevant security 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 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 OPM ROI PSI, and his statement at his hearing. His debts became delinquent in 2006 and 2007. Applicant’s SOR listed 10 debts totaling \$16,745. Approximately \$13,500 of Applicant’s delinquent SOR debt related to two student loans. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast

doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's conduct in resolving his debts warrants full application of AG ¶¶ 20(a) and 20(b). Applicant's deployment while attending college classes, unemployment, and underemployment had a profoundly negative affect on his financial circumstances and caused most of the SOR debts to become delinquent. He resolved about \$7,000 of delinquent debt in the last two years. He has paid six SOR debts and five non-SOR debts. He is making payments on his student loan in SOR ¶ 1.e (\$2,260). He plans to set up a payment on his remaining student loan in SOR ¶ 1.a (\$11,338) as soon as the issue of the amount of the debt is established. I found his promise to resolve his remaining, unresolved debts to be credible.⁴ His financial problems were generated by circumstances largely beyond his control. There is no evidence that he acted irresponsibly.

Two recent Appeal Board decisions illustrate the analysis for applying AG ¶¶ 20(a) and 20(b). In ISCR Case No. 09-08533, the Applicant had \$41,000 in delinquent credit card debt and defaulted on a home loan generating a \$162,000 delinquent debt. *Id.* at 2. She filed for bankruptcy the same month the Administrative Judge issued her decision. *Id.* at 1-2. The Applicant in ISCR Case No. 09-08533 was recently divorced, had been unemployed for 10 months, and had childcare responsibilities. Her former husband was inconsistent in his payment of child support. The Appeal Board determined that AG ¶ 20(a) was "clearly applicable (debt occurred under such circumstances that it is unlikely to recur and [the debt] does not cast doubt on the

⁴ The Appeal Board has indicated that promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. ISCR Case No. 07-13041 at 4 (App. Bd. Sept. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)).

individual's current reliability, trustworthiness, or good judgment)" even though that Applicant's debts were unresolved at the time the Administrative Judge's decision was issued. The Appeal Board also decided that the record evidence raised the applicability of AG ¶ 20(b) because of the absence of evidence⁵ of irresponsible behavior, poor judgment, unreliability, or lack of trustworthiness. *Id.* at 4.

Similarly, in ISCR Case No. 08-06567 at 3 (App. Bd. Oct. 29, 2009) the Appeal Board addressed a situation where an Applicant, who had been sporadically unemployed and lacked the ability to pay his creditors, noting that "it will be a long time at best before he has paid" all of his creditors. The Applicant was living on unemployment compensation at the time of his hearing. The Appeal Board explained that such a circumstance was not necessarily a bar to having access to classified information stating:

However, the Board has previously noted that an applicant is not required to be debt-free nor to develop a plan for paying off all debts immediately or simultaneously. All that is required is that an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by "concomitant conduct," that is, actions which evidence a serious intent to effectuate the plan. See ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008).

ISCR Case No. 08-06567 at 3 (App. Bd. Oct. 29, 2009). The Applicant in ISCR Case No. 08-06567 used his limited resources to (1) resolve some of his debts; (2) had a repayment plan for the remaining debts; and (3) took "reasonable actions to effectuate that plan." *Id.* The Appeal Board remanded the Administrative Judge's decision because it did not "articulate a satisfactory explanation for his conclusions," emphasizing the Administrative Judge did "not explain[] what he believes that Applicant could or should have done under the circumstances that he has not already done to rectify his poor financial condition, or why the approach taken by Applicant was not "responsible" in light of his limited circumstances." *Id.*

Application of AG ¶ 20(c) is warranted. Although Applicant did not provide proof that he completed financial counseling, he has enrolled in a financial advice and counseling service. He also generated a personal financial statement (PFS) as part of his response to DOHA interrogatories. He maintains his own budget. Applicant's financial situation was damaged by insufficient income as a result of unemployment and underemployment. His SOR lists two student loans totaling \$13,500 out of a total of \$16,745 in SOR debt. His student loans are 81% of his SOR debt. One student loan is in a payment plan, and the amount of the other student loan is being disputed. Once the amount of his disputed student loan is established, he has promised to arrange a payment plan to resolve it. Applicant established that he acted responsibly under the

⁵ Applicant has the burden of proving the applicability of any mitigating conditions, and the burden to disprove a mitigating condition never shifts to the Government.

circumstances. He established contact with his creditors.⁶ He attempted to pay or settle, or attempted to establish payment plans with his creditors. His financial problem is being resolved or is under control. He paid six of ten SOR debts. He admitted responsibility for and taking reasonable and responsible actions to resolve his remaining SOR debts, showing some good faith and partial mitigation under AG ¶ 20(d).⁷

AG ¶ 20(e) is not fully applicable. Applicant disputed the debts in SOR ¶¶ 1.h (\$159) and 1.j (\$428). The creditor could not find one debt and the other debt was removed from his credit report; however, full mitigating credit is not warranted because he did not provide “documented proof to substantiate the basis of the dispute or provide[] evidence of actions to resolve the issue” as required in AG ¶ 20(e).

In sum, Applicant fell behind on his debts because of unemployment and underemployment. His deployment while attending college resulted in a disputed student loan debt. It is unlikely that such problems will recur. He resolved about \$7,000 of delinquent debt in the last two years. He paid six SOR debts and five non-SOR debts. One student loan is in a payment plan, and does not appear on his current credit report as delinquent. One substantial student loan remains to be resolved. His efforts are sufficient to fully mitigate financial considerations security concerns. Assuming, financial considerations concerns are not mitigated under AG ¶ 20, security concerns are mitigated under the whole-person concept, *infra*.

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

⁶“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.

⁷The 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)).

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 Guideline F, but some warrant additional comment.

Applicant is 30 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 previously as a Sailor on active duty for eight years in the Navy as well as for his three-years of service in the Navy Reserve. There is every indication that he is loyal to the United States and his employer. His security clearance application does not list any reportable incidents involving illegal drugs, alcohol, the police, or courts. There is no evidence that he abuses alcohol or uses illegal drugs. His unemployment, underemployment, and deployment while in college contributed to his financial woes. I give Applicant substantial credit for admitting responsibility for seven of ten SOR debts. He did not admit full responsibility for one SOR debt because he disputed the amount of the debt, the creditor was unable to locate one disputed debt, and one disputed debt was deleted from his current credit report.

All of Applicant's SOR debts, except for two debts, are either in current status or disputed. Six SOR debts were paid, and five non-SOR debts were paid. I am confident he will keep his promise to continue resolving his student loans and avoid future delinquent debt. The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." However, an applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has ' . . . established a plan to resolve his financial problems and taken significant actions to implement that plan.' The Judge can reasonably consider the entirety of an applicant's financial situation and his actions in evaluating the extent to which that applicant's plan for

the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ('Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.') There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Applicant is an intelligent person, and he understands how to budget and what he needs to do to establish and maintain his financial responsibility. There is simply no reason not to trust him. Moreover, he has established a "meaningful track record" of debt re-payment. I am confident he will keep his promise to pay his delinquent debts⁸ because of his track record of financial progress shown over the last two years.

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 mitigated, and eligibility for access to classified information 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

Subparagraphs 1.a to 1.j: For Applicant

⁸ Of course, the government can re-validate Applicant's financial status at any time through credit reports, investigation, and additional interrogatories. Approval of a clearance now does not bar the government from subsequently revoking it, if warranted. Violation of a promise made in a security context to pay legitimate debts also raises judgment concerns under Guideline E, and may support future revocation of a security clearance. An administrative judge does not have authority to grant a conditional clearance. ISCR Case No. 99-0901, 2000 WL 288429 at *3 (App. Bd. Mar. 1, 2000). See *also* ISCR Case No. 04-03907 at 2 (stating, "The Board has no authority to grant [a]pplicant a conditional or probationary security clearance to allow her the opportunity to have a security clearance while she works on her financial problems." and citing ISCR Case No. 03-07418 at 3 (App. Bd. Oct. 13, 2004)). This footnote does not imply that this Applicant's clearance is conditional.

Conclusion

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

MARK HARVEY
Administrative Judge