



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



In the matter of:)	
)	
XXXXXXXXXX, XXXXX)	ISCR Case No. 10-00587
)	
Applicant for Security Clearance)	

Appearances

For Government: Stephanie Hess, Esq., Department Counsel
For Applicant: Eric J. McNeilus, Esq.

May 11, 2011

Decision

TUIDER, Robert J., Administrative Judge:

Applicant has mitigated security concerns pertaining to Guidelines F (financial considerations) and H (drug involvement). Clearance is granted.

Statement of the Case

On November 2, 2009, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP). On April 26, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guidelines F (financial considerations) and H (drug involvement) for Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense for SORs after September 1, 2006.

Applicant answered the SOR on May 27, 2010, and DOHA received his answer on June 1, 2010. Department Counsel was prepared to proceed on July 20, 2010. The case was assigned to another administrative judge on July 27, 2010, and was

reassigned to me on August 8, 2010. DOHA issued a notice of hearing on September 7, 2010, scheduling the hearing for September 30, 2010. The hearing was held as scheduled.

The Government offered Government Exhibits (GE) 1 through 4, which were received without objection. The Applicant offered Applicant Exhibits (AE) A through F, which were received without objection, and he testified on his own behalf.

I held the record open until October 14, 2010, to afford Applicant the opportunity to submit additional documents on his behalf. Applicant timely submitted AE G through S, which were received without objection. DOHA received the hearing transcript (Tr.) on October 9, 2010. The record closed on October 14, 2010.

Findings of Fact

Applicant admitted all of the allegations in the SOR. His answers are incorporated as findings of fact. After a thorough review of the evidence, I make the following additional findings of fact.

Background Information

Applicant is a 33-year-old help service manager, who has worked for a defense contractor since July 2009. He is a first-time applicant for a security clearance. Successfully vetting for a security clearance is not a condition of Applicant's continued employment, however, obtaining a clearance would enhance his position. (GE 1, Tr. 17-18, 34-36.)

Applicant was home-schooled, and was awarded his GED in approximately 1997. He attended community college from August 1995 to May 2002, but did not graduate. Applicant attended a distance learning college from September 2004 to April 2005 and was awarded a Project Management Certificate. He returned to community college in the fall of 2010 and has two classes to complete for an associate's degree in general studies. (GE 1, Tr. 19-20.) Applicant married in August 1999. He and his wife have two children – an eight-year-old son and a three-year-old daughter. Applicant's wife works full time as a sales associate for a major insurance company. He did not serve in the armed forces. (GE 1, Tr. 20-21, 25-27.)

Financial Considerations

Applicant's SOR cites two separate allegations under this concern – a past-due amount of \$6,610 on a fixed rate loan for a second mortgage; and a past-due amount of \$22,547 on an adjustable rate loan for a primary mortgage with a total loan balance of \$176,107. Both debts are held by the same creditor. Applicant and his wife purchased this home in 2005 for \$220,000. At the time they purchased this house, they had one child and were both working. Applicant's wife was working at a low-paying grocery store job. When their first payment was due on January 1, 2006, the

monthly payment for the adjustable rate mortgage was \$1,217 and the monthly payment for the fixed rate mortgage was \$347, for a total monthly payment of \$1,564. Three events impacted their situation and ability to pay their mortgage: (1) their second child was born in August 2007; (2) the cost of day care became cost-prohibitive causing Applicant's wife to quit her job; and (3) the note on their adjustable mortgage interest rate increased. Shortly after these events unfolded, Applicant realized that his reduction in joint income and increased mortgage was beyond his ability to pay. (GE 2, Tr. 36-39.)

Applicant contacted his bank while still current on his payments, seeking a solution before his accounts became delinquent. His bank refused to work with him and informed him that he had to be 90 days past-due before he was eligible for any form of assistance. The Applicant followed the bank's advice and stopped paying his mortgage. At the conclusion of 90 days, he contacted his bank seeking assistance and was informed they were unable to help him. Applicant's wife then returned to work at the grocery store and Applicant consulted a bankruptcy attorney. Their bankruptcy attorney counseled them to stop paying all debts to include credit cards. In July 2009, Applicant was laid off from his job and received a severance package. Applicant used his severance pay to pay off all of his debt. He did not declare bankruptcy. In May 2010, Applicant sought financial counseling. His financial counselor provided him with written money management recommendations and prepared a budget for him. (GE 2, AE D, Tr. 39-43.)

Applicant informed the bank that he could no longer afford to remain in their home and with the bank's knowledge moved to a rental home for \$1,200 per month. The bank foreclosed on his home. The bank informed Applicant that he does not owe them any money. Applicant stated, however, that if at some future time it is determined that he owes a deficiency as a result of this foreclosure, he will "take care of it." Applicant worked with his bank before and during the foreclosure process and kept them apprised of his actions. At the time of his hearing, Applicant did not owe a deficiency on his house as a result of foreclosure. Since then, Applicant's wife found a full-time job as a sales associate for an insurance company earning a higher salary. (GE 2, Tr. 43-44, 50-58, 67-68.)

Post-hearing, Applicant submitted an updated budget that reflects a joint monthly income of \$5,137. After Applicant and his wife pay all of their monthly expenses, they have a net remainder of \$309. His budget includes setting aside \$150 a month in savings, which he mentioned at his hearing. (AE H - AE J, Tr. 50-58.) Applicant's budget reflects that he is living well within his means, is current on his debts, and is saving \$150 per month. (AE K – AE R.)

Drug Involvement

Applicant's SOR cites two allegations under this concern – that he used marijuana from January 2004 to April 2009; and that during the time frame from 2006 to 2008 he used a prescription pain medication on at least two occasions that were not

prescribed to him. Applicant estimates that he used marijuana seven times during the five-year span from 2004 to 2009. He described his marijuana use as a “social type situation” when friends offered it to him. Applicant no longer associates with these individuals. He has not used marijuana since April 2009. Applicant promised to cease all future use of marijuana, recognizing his responsibilities as a husband and a father and further recognizes that drug use is illegal. (GE 2, Tr. 44-46, 58-64.)

Applicant used prescription drugs two times without a prescription. In the first instance, Applicant’s mother, who is a registered nurse, gave him two pills of prescription pain medication to alleviate the pain associated with his club foot. Applicant took one of the pills and threw the other one away. In the second instance, Applicant’s wife gave him one ibuprofen to counter a severe headache. Those two occasions comprise the totality of Applicant’s misuse of prescription drugs. (Tr. 46-48, 64-65.) In September 2010 before the hearing, a qualified medical professional performed a substance abuse evaluation on the Applicant. The evaluation report concluded that Applicant does not have an addiction or substance abuse problem and is not in need of substance abuse treatment. (AE E, Tr. 48-49.)

Post-hearing, Applicant submitted a signed statement of intent not to use drugs with automatic revocation of clearance for any violation. In his statement, he reiterated what he stated at his hearing, that he has no intention of using illegal drugs or prescription drugs not prescribed to him at any time in the future. (AE G.)

Character Evidence

Applicant’s supervisor testified on his behalf. The supervisor holds a top secret clearance. He has known Applicant since he came to work for their company in July 2009 and interacts with him on a daily basis. He described Applicant as an “excellent” employee. He added that Applicant is motivated, self-directed, produces an excellent work product, and is very honest. He considers Applicant to have potential for future advancement. The supervisor stated that he initiated Applicant’s security clearance and that if Applicant is granted a clearance, his value to the company and potential for advancement would increase. (Tr. 71-78.)

Applicant submitted his last evaluation from his previous employer as well as several certificates documenting various employer-sponsored training. His evaluation documented superior performance. (AE A.) Applicant submitted numerous e-mails and correspondence from his previous employer that documented client satisfaction with his work. (AE B.) Applicant’s 2009 to 2010 performance evaluation from his current employer again reflects superior performance. (AE C.) Lastly, Applicant submitted five reference letters. These letters span a range of individuals – long and short term friends, two church-related references, and former and present work-related references. The collective sense of these letters paints a very favorable picture of Applicant. He is a responsible member of society, active in his church, and a stellar employee. All of these individuals describe Applicant as honorable and trustworthy. (AE F.)

Policies

The President of the United States 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. *Department of the Navy v. Egan*, 484 U.S. 518, 527 (1988). The President has authorized the Secretary of Defense to grant eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These AGs 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 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 to reach his decision.

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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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), Section 3. Thus, a clearance decision is merely an indication that the Applicant has or 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 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 or her] 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

Financial Considerations

AG ¶ 18 articulates the security concern regarding 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.” Applicant’s history of delinquent debt is established by his admissions and the evidence presented. As indicated in the SOR, he had two past-due debts totaling \$29,157 owed on his first and second mortgages. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c).

Five financial considerations mitigating conditions under AG ¶¶ 20(a) to (e) are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;

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

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

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

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

Applicant's conduct does not warrant full application of AG ¶ 20(a) because there is more than one delinquent debt and his financial problems are not isolated. It was not until recently that these debts were resolved. Therefore, his debt is "a continuing course of conduct" under the Appeal Board's jurisprudence. See ISCR Case No. 07-11814 at 3 (App. Bd. Aug. 29, 2008) (citing ISCR Case No. 01-03695 (App. Bd. Oct. 16, 2002)). He receives partial credit under AG ¶ 20(a) because the debt "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."

Under AG ¶ 20(b), Applicant receives full credit under this mitigating condition. The downturn in the economy led to his being laid off. His wife left her job in the grocery store because it was not cost effective for her to continue working there to pay for day care. Both these events were beyond his control, and he acted responsibly under the circumstances. In particular, when he realized that he could not meet his mortgage payments, he contacted his lender.¹ At the time he contacted his lender, he was informed no help was available. Before and during the foreclosure proceedings, he remained in contact with his lender. As of the hearing date, the lender had informed Applicant that the foreclosure proceedings satisfied his obligation. However, if an arrearage later develops, Applicant remains ready to address it. Applicant moved to a less-expensive rental property, and his wife returned to work in a higher paying job.

AG ¶ 20(c) is applicable because Applicant sought financial counseling and there are clear indications that his financial difficulties are under control. He sought financial counseling well before his hearing and it is clear he has benefited from such counseling. He has increased his financial acumen. Applicant produced evidence that he is living within his means, and he has regained financial responsibility. There is sufficient information to establish full mitigation under AG ¶ 20(d). Applicant has

¹ 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 maintained contact with his creditors and attempted to negotiate partial payments to keep his debts current.

settled, paid, or otherwise resolved his debts albeit through foreclosure proceedings. It is clear that his efforts to avoid foreclosure were substantial and the way he conducted himself throughout the process demonstrated a true sense of integrity and responsible behavior. AG ¶ 20(e) is not applicable because Applicant did not dispute the legitimacy of any of his debts.

Drug Involvement

AG ¶ 24 articulates the security concern regarding drug involvement:

Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

The Government established its case under Guideline H through Applicant's admissions and the evidence presented. He fully disclosed his drug abuse in his SOR Response and at his hearing.

A review of the evidence supports application of two drug involvement disqualifying conditions. AG ¶ 25(a): "any drug abuse (see above definition);"² and AG ¶ 25(c) "illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution, or possession of drug paraphernalia."

Considering the totality of the circumstances in this case, I find application of drug involvement mitigating conditions AG ¶ 26(a) "the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;" and AG ¶ 26(b): "a demonstrated intent not to abuse any drugs in the future, such as: (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; (3) an appropriate period of abstinence; (4) a signed statement of intent with automatic revocation of clearance for any violation."

² AG ¶ 24(a) defines "drugs" as substances that alter mood and behavior, including:

- (1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens), and (2) inhalants and other similar substances.

Schedules I, II, III, IV, and V, as referred to in the Controlled Substances Act are contained in 21 U.S.C. § 812(c). Marijuana is a Schedule (Sch.) I controlled substance. See Sch. I(c)(9) and I(c)(10), respectively. See also *Gonzales v. Raish*, 545 U.S. 1 (2005) (discussing placement of marijuana on Schedule I).

Concerning AG ¶ 26(a), there are no “bright line” rules for determining when conduct is “recent.” The determination must be based “on a careful evaluation of the totality of the record within the parameters set by the Directive.” ISCR Case No. 02-24452 at 6 (App. Bd. Aug. 4, 2004). For example, the Appeal Board determined in ISCR Case No. 98-0608 (App. Bd. Aug. 28, 1997), that an applicant's last use of marijuana occurring approximately 17 months before the hearing was not recent. If the evidence shows “a significant period of time has passed without any evidence of misconduct,” then an administrative judge must determine whether that period of time demonstrates “changed circumstances or conduct sufficient to warrant a finding of reform or rehabilitation.”³

AG ¶ 26(a) fully applies. Applicant’s last drug use was in April 2009, about 18 months before his hearing. His illegal drug use consisted of using prescription pain medication given to him by his nurse mother and his wife, on two separate occasions, between 2006 and 2008; and using marijuana seven times over a five year period between 2004 and 2009. The absence of evidence of more recent or extensive drug use, his promise not to use illegal drugs in the future, and his favorable evaluation by a qualified medical professional eliminates doubts about his current reliability, trustworthiness, or good judgment with respect to abstaining from illegal drug use.⁴

³ ISCR Case No. 02-24452 at 6 (App. Bd. Aug. 4, 2004). In ISCR Case No. 04-09239 at 5 (App. Bd. Dec. 20, 2006), the Appeal Board reversed the judge’s decision denying a clearance, focusing on the absence of drug use for five years prior to the hearing. The Appeal Board determined that the judge excessively emphasized the drug use while holding a security clearance, and the 20 plus years of drug use, and gave too little weight to lifestyle change and therapy. For the recency analysis the Appeal Board stated:

Compare ISCR Case No. 98-0394 at 4 (App. Bd. June 10, 1999) (although the passage of three years since the applicant's last act of misconduct did not, standing alone, compel the administrative judge to apply Criminal Conduct Mitigating Condition 1 as a matter of law, the Judge erred by failing to give an explanation why the Judge decided not to apply that mitigating condition in light of the particular record evidence in the case) with ISCR Case No. 01-02860 at 3 (App. Bd. May 7, 2002) (“The administrative judge articulated a rational basis for why she had doubts about the sufficiency of Applicant’s efforts at alcohol rehabilitation.”) (citation format corrections added).

In ISCR Case No. 05-11392 at 1-3 (App. Bd. Dec. 11, 2006) the Appeal Board, considered the recency analysis of an administrative judge stating:

The administrative judge made sustainable findings as to a lengthy and serious history of improper or illegal drug use by a 57-year-old Applicant who was familiar with the security clearance process. That history included illegal marijuana use two to three times a year from 1974 to 2002 [drug use ended four years before hearing]. It also included the illegal purchase of marijuana and the use of marijuana while holding a security clearance.

⁴In ISCR Case No. 02-08032 at 8 (App. Bd. May 14, 2004), the Appeal Board reversed an unfavorable security clearance decision because the administrative judge failed to explain why drug use was not mitigated after the passage of more than six years from the previous drug abuse.

AG ¶ 26(b) lists four ways Applicant can demonstrate his intent not to abuse illegal drugs in the future. With maturity and recognizing his responsibilities as a husband and father and the responsibilities of his career, his 18-month period of abstinence, and his signed statement of intent with automatic revocation of clearance for any violation, he has broken his patterns of drug abuse, and he has changed his own life. He has abstained from drug abuse and has no problem in doing so. AG ¶ 26(b) fully applies.

His testimony and character evidence from a range of individuals to include former and present senior company officials, long-term friends, and church representatives show Applicant's work and personal behavior have not been indicative of a drug problem. He is viewed as a valuable employee, who is reliable, dependable, and professional. His value to the defense industry is supported by senior company officials who know him personally and professionally, and by his own credible testimony and evidence presented. His reference letters demonstrate strong family support to avoid future drug use. At his hearing, Applicant acknowledged that future drug abuse is incompatible with his future career, and manifested a steadfast commitment to continue a lifestyle consistent with total abstinence of any drugs.

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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

The ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. AG ¶ 2(c).

The comments in the Analysis section of this decision are incorporated in the whole-person concept analysis. In assessing Applicant's suitability for a security clearance, I note his willingness to accept responsibility for his shortcomings – both for financial considerations and drug involvement. Having accepted responsibility, he has endeavored to make things right. It is rare to see an Applicant as pro-active as Applicant was with his lender. He stayed in communication with his lender throughout

the process and even though he was not able to avoid foreclosure, he remains willing to make good on a deficiency should one develop. While foreclosure was ongoing, Applicant was laid off from his job and his wife became unemployed. Applicant immediately began looking for a job, found one, and his wife found a higher paying job. He moved into a rental property for less money, sought financial counseling, is living within his means, and is saving money. Applicant's efforts to date clearly establish that he has regained financial responsibility.

Applicant is a law-abiding citizen. There is sufficient evidence that he is putting forth his best effort given the resources available to him. I did not detect any recalcitrance or reluctance on his part to address his past debts. On the contrary, Applicant views this process seriously and recognizes his failure to regain financial responsibility can adversely affect his future employment. His monthly expenses are current. 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 making a significant contribution to the national defense. His company fully supports him and recommends him for a security clearance. He made mistakes, and debts became delinquent. He has put forth a noteworthy effort to resolve his debts and has established a "meaningful track record" of debt payments. These factors show responsibility, rehabilitation, and mitigation. After weighing the disqualifying and mitigating conditions, and all the facts and circumstances in the context of the whole-person, I conclude he has mitigated the financial considerations security concerns.

Well before Applicant applied for a security clearance, he realized that illegal drug use was incompatible with his responsibilities as a husband and a father.

Applicant's last drug use was at least 18 months before his hearing. To bolster his assertions of being drug free, he underwent a substance abuse evaluation administered by a qualified medical professional, who concluded Applicant did not have an addiction or substance abuse problem. As with financial considerations concerns, Applicant was equally cooperative and respectful of the process as it pertains to drug involvement.

I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my careful consideration of the whole-person factors and supporting evidence, my application of the pertinent factors under the adjudicative process, and my interpretation of my responsibilities under the adjudicative guidelines. Applicant has fully mitigated or overcome the Government's case. For the reasons stated, I conclude he is 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:	FOR APPLICANT
Subparagraphs 1a – 1b:	For Applicant
Paragraph 2, Guideline H:	FOR APPLICANT
Subparagraphs 2a – 2b:	For Applicant

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.

Robert J. Tuidier
Administrative Judge