



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



In the matter of:)
)
) ISCR Case No. 10-10077
)
Applicant for Security Clearance)

Appearances

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

04/20/2012

Decision

TUIDER, Robert, Administrative Judge:

Applicant's statement of reasons (SOR) alleges seven delinquent accounts, totaling \$90,167. His financial problems were caused by unemployment, separation, divorce, and the decline in real estate values. He paid two debts; two debts are disputed; two debts are in established payment plans; and one debt is under investigation. Applicant is financially responsible. He showed self-discipline and good judgment, and he made payments to his creditors. Financial considerations are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On March 2, 2010, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SF 86) (GE 1). On May 11, 2011, 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 was unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and it recommended that his case be submitted to an administrative judge for a determination whether his clearance should be granted, continued, denied, or revoked. (HE 2)

On July 28, 2011, Applicant responded to the SOR. (HE 3) On October 6, 2011, Department Counsel completed a file of relevant material (FORM). The FORM amended SOR ¶¶ 1.f and 1.g. (Tr. 8-9; HE 2) On November 3, 2011, after receiving the FORM, Applicant requested a hearing. On December 21, 2011, Department Counsel was ready to proceed on Applicant's case. On February 8, 2012, DOHA assigned Applicant's case to me.

On February 15, 2012, DOHA issued a hearing notice, and on March 1, 2012, Applicant's hearing was held. Applicant received 15 days of notice of the time and place of his hearing. (Tr. 9-11) At the hearing, Department Counsel offered seven exhibits (GE 1-7), and Applicant offered three exhibits. (Tr. 17-18; AE A-C) There were no objections, and I admitted GE 1-7 and AE A-C. (Tr. 18) Department Counsel did not object to my consideration of the additional exhibit that Applicant submitted on March 9, 2012, and I admitted it. (Ex. D) On March 12, 2012, I received the transcript of the hearing. I held the record open until March 16, 2012, to permit Applicant to provide additional evidence. (Tr. 71-72, 80)

Findings of Fact¹

In his Answer to the SOR, Applicant denied responsibility for the seven debts listed in the SOR, and he provided explanatory documentation. (HE 3) After a thorough review of the evidence, I make the following findings of fact.

Applicant is a 41-year-old field terminal operator, who maintains maintenance data on ships. (Tr. 25-26, 67) He graduated from high school in 1990, and he has 18 college credit hours. (Tr. 19-21) He joined the Army in 1995. (Tr. 21) His initial military occupational specialty (MOS) was anti-armor infantry soldier (11I); he transferred to the MOS of unit level supply specialist (92Y); and in 2009, he reverted to his infantry MOS (11B). (Tr. 23-25) Applicant served in the active Army for a total of nine years and for 5 ½ years in the Army Reserves and Army National Guard. (Tr. 23-28) He married in 1993, and his three children are ages 8, 12, and 16. (Tr. 31; GE 1) He was separated from his spouse in 2006, and they were divorced in January 2010. (GE 1) He pays \$900 per month in child support, using an allotment from his bank. (Tr. 31-32, 52-53) His child support is current. (Tr. 32) He has held an interim Secret clearance. (Tr. 29-30) He has worked for his current employer since February 2010. (Tr. 68; 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

The SOR alleges seven delinquent accounts, totaling \$90,167 as follows: 1.a is a telecommunications debt for \$385; 1.b is a collection account for \$668; 1.c is a debt to the Defense Finance and Accounting Office (DFAS) for \$10,261; 1.d is a collection account, resulting from a repossessed vehicle for \$14,480; 1.e is a collection account, resulting from a vehicle loan for \$1,994; 1.f is a deficiency balance after a foreclosure of \$17,279 (as amended); and 1.g is a second mortgage collection account for \$45,100 (as amended). (Tr. 8-9; HE 2)

In April 2011, Applicant paid the telecommunications debt in SOR ¶ 1.a for \$385. (Tr. 34-36; HE 3) On February 8, 2011; March 14, 2011; and April 4, 2011, Applicant wrote the current collection agent for the account in SOR ¶ 1.b for \$668 and asked for documentation to validate the collection action. (Tr. 36; HE 3) Applicant expressed an interest in settling the debt if valid and asked, in the alternative, for removal of this debt from his credit reports. (HE 3) He took responsibility for the debt; however, he was unsure which collection company currently held the debt. (Tr. 36-38)

Applicant disputed the debt in SOR ¶ 1.c, which resulted from overpayments of his pay and allowances. (HE 4) DFAS intercepted Applicant's tax refund, and his debt was paid down from \$10,261 to \$6,414. (Tr. 39-40, 43-44; HE 4) Applicant wrote his U.S. Senator and objected to DFAS' handling of the debt. DFAS responded and admitted mistakes in the processing of the debt. DFAS explained to Applicant how he could apply for a DFAS waiver of the debt. (HE 3) If his request for a waiver is denied, Applicant will establish a payment plan. (Tr. 40-42; HE 3) A letter from DFAS indicated the debt was not being actively collected through the Internal Revenue Service. (Tr. 45; HE 3) On January 23, 2012, DFAS wrote that the debt was being audited, and then it would be evaluated for a waiver. (AE D at 14)

The debt in SOR ¶ 1.d for \$14,480 resulted from a delinquent vehicle loan. (Tr. 45) Applicant's former spouse turned in the vehicle to the creditor. (Tr. 47) Applicant settled the debt for \$5,200, and he has been paying \$50 per month for 12 months. (Tr. 45-46; HE 3; AE D at 8) On April 6, 2011, the creditor in SOR ¶ 1.e for \$1,994 wrote that the debt was satisfied. (Tr. 47-48; HE 3)

The debts in SOR ¶¶ 1.f for \$17,279 and 1.g for \$45,100 resulted from two mortgages on his foreclosed residence. In 2004, Applicant purchased his and his spouse's residence for about \$255,000. (Tr. 48) The purchase did not include a down payment, and the loans were interest-only conventional loans. (Tr. 49) Applicant lived in the residence for about two years before he separated from his spouse. (Tr. 49) He unsuccessfully attempted to sell his residence. (Tr. 54)

On March 28, 2011, the creditor in SOR ¶ 1.f wrote that a settlement agreement had been reached. (HE 3) The settlement agreement indicates that the original amount of the debt owed to the creditor in SOR ¶ 1.f was \$180,400. (Tr. 55-63, 66; HE 3) The property was foreclosed, and the balance owed after the foreclosure on the note was \$13,320. (HE 3) The agreement specified that Applicant's debt for \$17,279 was settled

for \$5,000 to be paid at the rate of \$55.51 per month for 10 years. (Tr. 55-63; HE 3) As part of his SOR response, Applicant provided proof of five payments on March 30, 2011; April 22, 2011; May 24, 2011; June 21, 2011; and July 22, 2011. (HE 3) He has continuously made all of his payments for a year. (Tr. 58-59; AE A; D at 7) Applicant erroneously believed that both mortgage accounts were merged into the same debt, and he planned to find out what he needed to do to start payments on the second mortgage account of about \$45,100. (Tr. 55-63)

Several circumstances beyond Applicant's control damaged his finances. Applicant and his wife separated, and she moved to another state with their three children. He was unable to sell the marital home because of the decline in real estate value. Without his spouse's income and due to the requirement to provide child support, Applicant was unable to make payments. His residence went into foreclosure. Applicant was unemployed from May 2009 to February 2010. (Tr. 32)

Applicant received financial counseling in February 2011. (Tr. 63) He assessed the possibility of using a debt consolidation company to make restitution to his creditors. (Tr. 64-65) Applicant decided he could best address his debts directly without the paid assistance of a third party. (Tr. 65)

Applicant updated his personal financial statement (PFS) on March 3, 2012. (Ex. D at 2) His PFS showed gross monthly income of \$4,125; net monthly income of \$2,942; expenses of \$1,450; debt payments of \$1,226; and net remainder of \$267. (Tr. 69-70; GE 3 at 4; AE D at 2)

Character Evidence²

Applicant was an Army staff sergeant. He provided military diplomas, academic evaluation reports, certificates of training, state National Guard awards, and numerous noncommissioned officer (NCO) evaluation reports. He is airborne and air assault qualified. He earned an expert infantryman badge, and he served in Kosovo. He earned various military awards, including two Army Commendation Medals, two Army Achievement Medals, two Good Conduct Medals, two National Defense Service Medals, one Global War on Terrorism Service Medal, one Kosovo Campaign Medal, one Army Service Ribbon, one Overseas Service Ribbon, and one NATO Medal.

As additional character evidence, Applicant included four letters of recommendation from past and current supervisors or coworkers. Applicant's file establishes that he is a dedicated, honest, responsible, loyal, trustworthy, and reliable NCO, who provided excellent leadership to subordinates and contributed to mission accomplishment.

²The source for the information in this file is a large volume of award certificates, evaluation reports, award nominations, award certificates, diplomas, certificates of release or discharge from active duty (DD Form 214), training certificates, and letters of recommendation. (AE B, C)

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 concern is 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 SOR response, and his statement at his hearing.

Applicant’s SOR and credit reports allege seven delinquent accounts, totaling \$90,167. Several of Applicant’s debts became delinquent at least four years ago. 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). Unemployment, separation, divorce, and the precipitous decline in real estate values had a negative effect on Applicant's financial circumstances and caused several debts to become delinquent. He paid two debts: 1.a for \$385, and 1.e for \$1,994. He has established payment plans on two debts: 1.d for \$14,480, and 1.f for \$17,279. He is disputing two debts: 1.b for \$668, and 1.c for \$10,261. He is investigating the debt in SOR ¶ 1.g for \$45,100.³ Circumstances largely beyond his control caused his financial problems. He is acting responsibly under the circumstances.

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. That applicant 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 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

³Of course, Applicant loses some mitigating credit because a substantial amount of his DFAS debt was paid when the IRS intercepted his federal income tax refund, and he did not establish his payment plans in a timelier manner.

issued. The Appeal Board also decided that the record evidence raised the applicability of AG ¶ 20(b) because of the absence of evidence⁴ 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 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. That 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 denying a security clearance to the applicant 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.*

Partial application of AG ¶¶ 20(c) and 20(d)⁵ is warranted. Applicant received financial counseling, and he generated a budget or personal financial statement. He

⁴Applicant has the burden of proving the applicability of any mitigating conditions, and the burden to disprove a mitigating condition never shifts to the Government.

⁵The 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)).

understands how to establish his financial responsibility and eliminate delinquent debt. Although he did not maintain contact with all of his creditors,⁶ Applicant established that he acted responsibly under the circumstances. He attempted to sell his residence before it went into foreclosure. Due to separation, divorce, unemployment, and lack of income, and the decline in real estate values, his residence was foreclosed, resulting in \$62,379 of the \$90,167 SOR debt (69%). His financial problem is being resolved or is under control. He is taking reasonable and responsible actions to resolve his debts, showing some good faith.

AG ¶ 20(e) is applicable to the two debts he is disputing: 1.b for \$668, and 1.c for \$10,261. Applicant assures if his disputes are unsuccessful, he will establish payment plans. DOHA can reassess his compliance with his promises at any time. See n. 7, *infra*.

In sum, Applicant fell behind on his debts because of separation, divorce, unemployment, and the decline in real estate values. After he became consistently employed, he made substantial progress investigating and paying his debts. He has paid over \$7,000 to address his SOR debts. It is unlikely that financial problems will recur. His efforts are sufficient to mitigate financial considerations security concerns. Assuming, financial considerations concerns are not mitigated under AGs ¶ 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 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

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.

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 a 41-year-old field terminal operator. He is a high school graduate with 18 college credit hours. He served in the active Army for a total of nine years and 5 ½ years in the Army Reserves and Army National Guard. He has three children, and he is current on his \$900 per month child support payments. He has worked for his current employer since February 2010 without security violations. He is a dedicated, honest, responsible, and trustworthy NCO, who provided excellent leadership to subordinates and contributed to mission accomplishment. 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 an Army Soldier. There is every indication that he is loyal to the United States and his employer. His separation, divorce, unemployment, and the decline in real estate values contributed to his financial woes.

Applicant has paid over \$7,000 to address his SOR debts, and the majority of his debts are either paid or in established payment plans. 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 quotation marks and 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. Moreover, he has established a "meaningful track record" of debt re-payment. I am confident he will keep his promise to pay his delinquent debts⁷ because of his track record of

⁷Of 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

financial progress shown over the last two years since becoming employed by his current employer.

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 fully 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.g: 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 TUIDER
Administrative Judge

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.