



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



In the matter of:)
)
-----) ISCR Case No. 11-07540
)
Applicant for Security Clearance)

Appearances

For Government: Braden M. Murphy, Esq., Department Counsel
For Applicant: *Pro se*

12/14/2012

Decision

HARVEY, Mark, Administrative Judge:

Applicant’s statement of reasons (SOR) alleges three delinquent debts, totaling \$10,748. Unemployment and other circumstances beyond his control caused him to have delinquent debts. He paid two SOR debts and has made an offer to settle the third debt. He had insufficient financial resources to make more financial progress. Financial considerations are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On September 18, 2011, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SF 86) (GE 1). On July 20, 2012, 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 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 continued or revoked. (HE 2)

On September 14, 2012, Applicant responded to the SOR and requested a hearing. (HE 3) On October 31, 2012, Department Counsel was ready to proceed on Applicant's case. On November 5, 2012, DOHA assigned Applicant's case to me. On November 13, 2012, Applicant was notified by telephone that his hearing would be on November 28, 2012; however, the location of the hearing was unspecified. (Tr. 16) On November 26, 2012, DOHA issued a hearing notice, setting the hearing for November 28, 2012, and providing the location of the hearing. (HE 1) Applicant waived his right to 15 days of notice of the date, time and location of his hearing. (Tr. 17) Applicant's hearing was held on November 28, 2012, as scheduled using video teleconference. (Tr. 4) At the hearing, Department Counsel offered five exhibits, and Applicant offered five exhibits. (Tr. 21-26; GE 1-5; AE A-E) There were no objections, and I admitted GE 1-5 and AE A-E. (Tr. 25-26) On November 28, 2012, Applicant provided two post-hearing exhibits, which were admitted without objection. (Tr. 18; AE F, G) On December 6, 2012, I received the transcript of the hearing.

Findings of Fact¹

In his Answer to the SOR, Applicant accepted responsibility for the three debts listed in the SOR, and provided extenuating and mitigating information. (HE 3) His admissions are accepted as findings of fact.

Applicant is a 57-year-old systems administrator, and he seeks employment with a defense contractor. (Tr. 6; GE 1) He received a graduate equivalency diploma (GED) in 1983 or 1984, and he has about 18 college credits. (Tr. 6-7) He has significant on-the-job experience in information technology systems. (GE 1) He married in 1983 and divorced in 2010. (Tr. 36, 40) His two children are ages 29 and 33 years old. (Tr. 40, 75) He has never served in the military. (Tr. 7) He has never worked for the federal government. (Tr. 7) A defense contractor intends to hire him, if he is able to obtain a security clearance. (Tr. 8, 32-33)

Financial Considerations

Applicant's SF 86, credit reports, SOR, and Office of Personnel Management (OPM) personal subject interview (PSI) consistently describe his three delinquent SOR debts, totaling \$10,748 and financial history. (GE 1-5, AE A-E) Applicant owed the Internal Revenue Service (IRS) \$10,362 (SOR ¶ 1.a) and two medical debts for \$304 and \$82 (SOR ¶¶ 1.b and 1.c). In September 2012, he paid the two medical debts using money orders. (Tr. 22-23, 79; AE A, B) His May 5, 2012 credit report shows 11 accounts as "Current; Paid or Paying as Agreed." (GE 3)

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

In August of 2000, Applicant was severely injured in a fall, and he broke numerous bones. (Tr. 27, 34, 55-56) Applicant's spouse took care of the family finances for several years, especially while Applicant was recuperating. (Tr. 28) His spouse was diagnosed with severe bi-polar disease, which included delusional episodes. (Tr. 28)² Her family had a history of mental problems, and her father had severe mental illness which resulted in a lengthy period of inpatient treatment. (Tr. 37) In 2004, their nonpriority, unsecured debts were discharged under Chapter 7 of the Bankruptcy Code. (Tr. 65) Over the last 10 or 11 years, Applicant was employed for only six months in 2005-2006. (Tr. 28, 75-76) His wife lost her employment at a hospital, and her employer obtained a court order of commitment because of her bi-polar disease. (Tr. 28)

In 2000, Applicant was making a good income. (Tr. 29) In 2001, his spouse failed to file their tax return. (Tr. 28) They filed joint tax returns. (Tr. 41) In 2008, Applicant learned of the family tax problem relating to tax years 2000, 2001, 2004, and 2006, when he received an IRS tax lien in the mail. (Tr. 29, 35, 40-42, 44, 47, 56)

In May 2012, Applicant obtained account transcripts from 2000 to present from the IRS. (Tr. 54-55; GE 4 at 70 to 111) The interest he owed the IRS for each tax year was calculated as of May 2012. (GE 4 at 70-111) In 2000, Applicant and his spouse owed the IRS \$1,173 in taxes and \$1,793 in interest. (GE 4 at 72) In 2001, they owed the IRS \$6,423 in taxes and \$3,959 in interest. (GE 4 at 75) In 2004, they owed the IRS \$1,549 in taxes and \$476 in interest. (GE 4 at 81) In 2006, they owed the IRS \$493 in taxes and \$81 in interest. (AG 4 at 87) The IRS applied calculated refunds for 2007, 2008, and 2009 to pay the IRS debt for 2000 in full, and had a small remainder, which was applied to tax year 2001. (GE 4 at 74)

In 2008, Applicant sought tax advice and was advised to wait. (Tr. 29) In 2009, Applicant's spouse had an extremely manic episode and disappeared with the family financial records. (Tr. 29, 37, 48) She filed for divorce to give him protection from the debts she generated while in a manic episode, and their divorce was final in February 2010. (Tr. 39-40) She died of a massive stroke less than a month after their divorce was final. (Tr. 40, 57-58) In addition to his spouse's medical problems, his father was diagnosed with cancer, and he died in March 2011. (Tr. 49)

Applicant went to the Office of the Tax Advocate in his state and sought advice on resolution of his federal income taxes. (Tr. 42) That office suggested he file for uncollectible status. (Tr. 48) His IRS case was processed through an administrative appeal, including review by an administrative judge. (Tr. 30, 42) On September 11, 2012, the IRS Appeal was completed, and Applicant's lien was affirmed. (AE G)

²Applicant's son corroborated Applicant's statement that Applicant's spouse was the source of the family financial difficulties. (Tr. 69, 72-73) He observed his mother's erratic and unstable behavior, especially when she was not taking her medication. (Tr. 73) A family friend provided additional corroboration of Applicant's description of his spouse's mental problems and the damage she caused to Applicant's financial circumstances. (AE F)

Applicant provided an October 25, 2012 IRS Form 433-1, Collection Information Statement for Wage Earners and Self-Employed Individuals, which is used to assess a taxpayers ability to pay a tax debt, and an IRS Form 656, Offer in Compromise. (Tr. 49-50; AE D, E) On November 16, 2012, Applicant sent these forms to the IRS. (AE A) Applicant's IRS administrative judge suggested that Applicant offer \$200 to resolve his tax debt because of his very low income, and he offered the IRS \$200. (Tr. 44-45, 58) His offer is currently under review. (Tr. 45)

Applicant's only source of income is Social Security disability. (AE A at 5) He applied for Social Security disability in 2001, and it was approved in 2004. (Tr. 62) In January 2012, Applicant's 2001 tax debt will be collection barred due to the federal 10-year-statute of limitations for personal income taxes. (Tr. 44, 56, 58-59) This statute of limitation collection bar arises in January 2013 because of when his spouse filed their 2001 tax return. (Tr. 44, 56, 58-59)

Applicant is totally disabled and his sole income is his monthly Social Security disability check for \$1,220. (Tr. 50; AE A at 5) His doctor recommended he not return to the labor force because of stress related to his relationship with his spouse. (Tr. 62) His spouse ran up some joint credit cards to about \$7,500, and he made payments and reduced his credit card debt to about \$1,500. (Tr. 50-51; GE 3) He drives a 2002 Dodge Caravan. (Tr. 52) He understands the necessity of paying his bills; however, he has not received financial counseling. (Tr. 84-85) If Applicant receives employment from a government contractor, he promised to pay his IRS tax debt as soon as possible. (Tr. 30-31, 46, 79) He prefers to pay his taxes, as opposed to having his tax debt resolved through the statute of limitations. (Tr. 44) After learning of the tax lien in 2008, he filed his own tax returns, or his income was so low that he was not legally required to file a tax return. (Tr. 53-54; GE 4) Applicant emphasized that he loves to work and wants to return to the labor force as soon as possible. (Tr. 62, 78)

Character Evidence

Applicant's son is a technical sergeant in the Air National Guard with seven years of active service. (Tr. 74) His son is married, and he has a two-year-old son. (Tr. 72) Applicant is a reliable, responsible, and trustworthy person. (Tr. 70-71) He is confident Applicant will pay his debts once he secures employment. (Tr. 71)

An employee of a defense contractor has known Applicant for decades.³ He describes Applicant as having high character and strong moral values. Applicant can make "immeasurable" contributions to the "defense contracting world."

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.*

³The source of the information in this paragraph is a letter dated November 26, 2012. (AE F)

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 designee to grant applicants 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 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

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 SF 86, credit reports, his OPM interview, his SOR response, and his statement at his hearing. His debts became delinquent beginning in 2000 and continued to be delinquent to the present. In 2004, his unsecured, nonpriority debts were discharged under Chapter 7 of the Bankruptcy Code. His SOR alleges three delinquent debts, totaling \$10,748. 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 and his spouse's unemployment, his medical problems, her mental problems, their divorce, her death, and his father's death had a profoundly negative effect on his financial circumstances and caused the SOR debts to become delinquent. His debts resulted from his spouse's conduct, and with her passing, his financial problems "occurred under such circumstances that [they are] unlikely to recur." He paid his taxes for 2000 and two small medical debts. He paid other debts that his spouse generated during their marriage. His May 5, 2012 credit report shows 11 accounts as "Current; Paid or Paying as Agreed." I do not believe he will have new delinquent debt after he becomes reemployed, and he promised to pay his tax debts. His financial problems were generated by circumstances such as illness, unemployment, and death of his former spouse and father, which are 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 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 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 and lacked the ability to pay her creditors, noting that “it will be a long time at best before he has paid” all of her creditors. The Applicant was living on unemployment compensation at the time of her 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 [or her] 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 not fully warranted. Although Applicant did not complete financial counseling, there are clear indications that the problem is being resolved or is under control. He established and maintained contact with his creditors;⁵ he paid two SOR debts; he paid or is paying 11 non-SOR debts; and he will pay his IRS debt once he obtains employment.

AG ¶ 20(d) is partially applicable. Applicant admitted responsibility for and is taking reasonable and responsible actions to resolve his SOR debts, showing some

⁴ 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.

⁵“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.

good faith.⁶ AG ¶ 20(e) is not applicable. Applicant did not dispute any of his delinquent SOR debts.

In sum, Applicant fell behind on his debts primarily because of his and his spouse's unemployment, his medical problems, her mental problems, her mental-health-related failure to fully pay their federal income taxes, their divorce, her death, and his father's death. He paid two small medical SOR debts. He promised to pay his remaining tax debt once he becomes employed. It is unlikely that such problems will recur. 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 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.

⁶The Appeal Board has previously explained what constitutes a "good faith" effort to repay overdue creditors or otherwise resolve debts:

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

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

Applicant is 57 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. Two character witnesses provided evidence supporting approval of his access to classified information. There is every indication that he is loyal to the United States. There is no evidence that he abuses alcohol or uses illegal drugs. His and his spouse's unemployment, his medical problems, her mental problems, her failure to pay their federal income taxes, their divorce, her death, and his father's death contributed to his financial woes. I give Applicant substantial credit for admitting responsibility for his delinquent debts in his SF 86, OPM PSI, responses to DOHA interrogatories, SOR response, and at his hearing.

Even though Applicant lacked financial resources, Applicant paid two medical SOR debts. His sole income for the last several years has been his Social Security disability payments of about \$14,000 per year. His actions were appropriate and reasonable. 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 and quotation marks omitted).

Applicant is an intelligent person, and he understands what he needs to do to establish and maintain his financial responsibility. There is simply no reason not to trust him. His most recent credit report shows 11 current or paid debts. It will list two more paid debts when the creditor for the two medical SOR debts credits him for making payments. He established a "meaningful track record" of debt re-payment. I am confident he will maintain his financial responsibility.⁷

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

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.c: 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 Applicant's eligibility for a security clearance. Eligibility for a security clearance is granted.

MARK HARVEY
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.