



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



In the matter of: )  
 )  
----- ) ISCR Case No. 11-13086  
 )  
Applicant for Security Clearance )

**Appearances**

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

02/21/2013

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant’s statement of reasons (SOR) alleges seven delinquent debts, totaling \$55,767. All of his delinquent debts are resolved or are in the process of being resolved. He retired from the Army special forces as a master sergeant, and he continued to serve the United States as a government contractor. He earned a Soldier’s Medal while on active duty. He served in Iraq on three occasions. Financial considerations are mitigated. Eligibility for access to classified information is granted.

**Statement of the Case**

On January 27, 2012, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SF 86) (GE 1). On September 4, 2012, the Department of Defense (DOD) issued an SOR to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; DOD 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 further informed Applicant that, based on information

available to the Government, DOD adjudicators could not make the preliminary affirmative finding that it is clearly consistent with the national interest to grant or continue Applicant's security clearance, 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 October 3, 2012, DOHA received Applicant's undated response to the SOR, and Applicant requested a hearing. (HE 3) On November 8, 2012, Department Counsel was ready to proceed on Applicant's case. On November 19, 2012, Applicant's case was assigned to me. On January 15, 2013, the DOD Hearings and Appeals Office issued a hearing notice, setting the hearing for February 4, 2013. (HE 1) Applicant's hearing was held as scheduled. At the hearing, Department Counsel offered seven exhibits, and Applicant offered eight exhibits. (Tr. 26-33; GE 1-7; AE A-H) There were no objections, and I admitted GE 1-7 and AE A-H. (Tr. 26-27, 33) On February 11, 2013, I received the transcript of the hearing. On February 14, 2013, Department Counsel forwarded nine exhibits, which were admitted without objection. (AE I-Q) On February 14, 2013, I closed the record.

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

In his Answer to the SOR, Applicant admitted the debt in SOR ¶ 1.a and denied responsibility for the debts in SOR ¶¶ 1.b to 1.g. (HE 3) He also provided some mitigating information and explained why he denied responsibility for the debts in SOR ¶¶ 1.b to 1.g. (HE 3) His admissions are accepted as findings of fact.

Applicant is a 49-year-old technical training manager for soldiers, who has been working for a large government contractor since October 2004. (Tr. 6; GE 1) In 1981, he graduated from high school. (Tr. 7) In 1982, he joined the Army. (Tr. 9) In 2002, he earned a bachelor's degree with a major in computer science. (Tr. 7) He served in the infantry and special forces for 22 years. (Tr. 9) In 2004, he honorably retired from the Army as a master sergeant (E-8). (Tr. 9, 44)

Applicant married in 1982; he was separated from his spouse in 2004; and his divorce was final in 2007. (Tr. 8, 78) He married in 2008. (Tr. 8) He does not have any children. (Tr. 8) He is in the process of adopting a child born in a foreign country, and his spouse is staying in the foreign country until the adoption is completed and a visa for the child is issued. (Tr. 9) He has paid \$8,000 for adoption expenses. (Tr. 63)

His security clearance from his active duty service was carried over to his employment as a civilian employee of a government contractor. (Tr. 17) There are no allegations of security violations.

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

## Financial Considerations

Applicant's financial problems resulted from his spouse's financial irresponsibility and their separation in 2004 to 2005, culminating in their divorce in 2007. (Tr. 46) She charged up their credit cards, received possession of their residence, and forced Applicant to pay substantial spousal support. (Tr. 46-48) His monthly alimony payment was \$2,900 because she told the divorce court she was unskilled even though she managed a business for several years. (Tr. 49) He was also responsible for the mortgage payments of the family residence. (Tr. 50)

Applicant's credit reports, SOR response, and statement at his hearing discuss seven SOR debts, totaling \$55,767 as follows:

SOR ¶ 1.a alleges a May 2007 judgment filed by law firm HK for \$13,395—**DISPUTED**. Applicant sent certified letters to HK's address, as listed in the judgment, with a \$100 check and an offer to start a payment plan; however, his letters to HK were returned to Applicant with post office stamps indicating the HK law firm did not respond to the notices. (Tr. 34, 51-54; AE A) Applicant completed an email search and discovered HK's website was under construction. (AE B-C) The state Better Business Bureau (BBB) sent Applicant a letter indicating HK did not have a rating because "it is out of business." (AE F at 1) The BBB said HK filed for bankruptcy under Chapter 7 (liquidation) in 2010. (AE F at 3) Applicant recently wrote the court that is the custodian of the record of the judgment for more information. (AE L, P) Applicant is ready, willing, and able to make payments to address this debt; however, it is not possible because the creditor is out of business.

SOR ¶¶ 1.b to 1.d allege three debts owed to the same collection company for \$521, \$504, and \$413—**PAID and DISPUTED**. He believed his estranged spouse opened the three accounts without his knowledge. (Tr. 57) All three debts are shown as derogatory entries on his February 1, 2013 credit report. (AE H at 6-8) On January 15, 2013, he paid the debt in SOR ¶ 1.c (\$504). (Tr. 37-43; AE H at 8; GE 3 at 212; AE E at 1-2) Another debt from the same creditor was paid. *Compare* SOR ¶¶ 1.b and 1.d *with* AE E, H at 6-8. He indicated he was an authorized user; his name was removed from the account in SOR ¶ 1.d for \$413; and he requested removal from his credit report of the derogatory information relating to this creditor. (Tr. 37-43; SOR response; AE K, M-O)

SOR ¶¶ 1.e to 1.g allege three credit card debts for \$11,920, \$13,119, and \$15,895—**COLLECTION BARRED and UNDER INVESTIGATION**. Applicant's June 25, 2012 credit report shows the three debts with the most recent payments on May 31, 2006; June 6, 2005; and June 5, 2005, respectively. (Tr. 77-78; GE at 15) His spouse ran up the balance on the credit cards during their separation and divorce. (Tr. 56-57) Applicant attempted to establish payment plans for the three delinquent credit card accounts; however, the creditors wanted three or four substantial payments of several thousand dollars each, which were not affordable. (Tr. 48-49, 80) Applicant sincerely expressed his regret about being unable to pay these three debts. The statute of limitations of a written contract in the state where Applicant lived and started the credit

cards is three years.<sup>2</sup> (Tr. 78-79) The three debts are not legally collectable, and they have dropped off of Applicant's credit report. Applicant offered to attempt to settle the three debts. (Tr. 76-77) He said, "I'll get a hold of them and find out if they had just written it off completely or what. Maybe see if I can get something in writing. And if not, I will set up a payment plan." (Tr. 93)

Applicant's February 1, 2013 credit report indicates a 719 score with a grade of C. (AE G) It does not include any new delinquent accounts. (AE G) It has one old delinquent account and three derogatory accounts. (AE H at 1) The delinquent account was removed. (AE H at 1) The three derogatory accounts pertain to the debts in SOR ¶¶ 1.b to 1.d. Applicant has an open credit card account for about \$2,000 that is current (AE H at 3); a paid and closed credit card account for about \$780 (AE H at 4); a credit card account for about \$11,000 that is current (AE H at 5); a credit card account for about \$4,000 that is current (AE H at 5); a charge account for about \$8,000 that is current (AE H at 6); an automobile loan account for about \$19,000 that is current (AE H at 10); an automobile loan account for about \$20,000 that is current (AE H at 10); and a motorcycle loan account for about \$4,000 that is current. (AE H at 12)

Applicant generated a personal financial statement (PFS) and described his budget. (Tr. 64-72) He has a monthly positive remainder of about \$1,000. (Tr. 72) He has about \$7,000 in his checking and savings accounts and about \$3,500 in his 401(k) account. (Tr. 73-75)

## **Character Evidence**

During Applicant's 22 years of Army service, he earned multiple awards including a Soldier's Medal, three Meritorious Service Medals (MSM), four Army Commendation Medals (ARCOM), eleven Army Achievement Medals (AAM), and seven Army Good Conduct Medals (AGCM). (Tr. 11, 87; AE Q) The Soldier's Medal is the highest non-combat award for heroism. Applicant saved a family of seven who were in danger from a flood. (Tr. 11, 87) He served three four-month tours in Iraq as a contractor from 2004 to 2008. (Tr. 10) He was nominated for the Legion of Merit for special forces service or support in West Africa, as a retirement award. (AE Q) He served overseas for more than five years. (AE Q) During his service in Iraq after his military retirement, he was subjected to the perils of combat service, including sniper fire, improvised explosive devices, and mortar fire. (Tr. 86) He also served in Haiti. (Tr. 10)

A project manager (PM), who is a retired lieutenant colonel, has been Applicant's direct supervisor for four years.<sup>3</sup> PM knew Applicant before Applicant began his current employment. PM described Applicant as a responsible, diligent, and professional employee. He is one of PM's "strongest and most reliable managers." PM concluded, "I

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<sup>2</sup> A copy of the pertinent state statute and a U.S. District Court case are included in the record as HE 4.

<sup>3</sup>The source for the information in this paragraph is a February 3, 2013 letter from Applicant's supervisor.

give my strongest recommendation for the retention or restoration of a security clearance for [Applicant].”

An Army employee of more than 30 years works closely with Applicant and the employees that Applicant supervises. (AE J) He described Applicant as impressive, professional, and scrupulous about protecting the Government’s financial interests. (AE J)

Applicant’s direct supervisor from 2005 to 2007, when he served as a program manager for various contracts in the United States and Iraq, described Applicant as being committed to excellence.<sup>4</sup> Applicant was “prompt, trustworthy, communicative, and professional.” He was reliable and professional, and he provided quality service in a difficult environment.

### **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

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<sup>4</sup>The source for the information in this paragraph is a February 12, 2013 statement from Applicant’s supervisor from 2005 through 2007. (AE I)

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 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

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

## Analysis

### Financial Considerations (Guideline F)

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 SF 86, his SOR response, and his statement at his hearing.

Applicant's SOR and credit reports allege seven delinquent debts, totaling \$55,767. 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 only recently resolved several delinquent SOR debts, and he did not receive financial counseling. AG ¶¶ 20(a) and 20(c) do not apply. The Appeal Board has limited the scope of the good faith mitigating condition,<sup>5</sup> and AG ¶ 20(d) is not applicable in this case.

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<sup>5</sup>The Appeal Board has previously explained what constitutes a "good faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the good faith mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term good-faith. However, the Board has indicated that the concept of good-faith requires a showing that a person acts in a way that shows reasonableness,

AG ¶ 20(e) applies to the debt in SOR ¶ 1.a, which is a May 2007 judgment filed by law firm HK for \$13,395. Applicant provided proof that he diligently attempted to locate the creditor and resolve the debt. HK went bankrupt in 2010. Applicant is ready, willing, and able to make payments to address this debt; however, it is not possible because the creditor is out of business.

AG ¶ 20(b) fully applies. Applicant's delinquent debts were caused by his estranged spouse's excessive spending and divorce. His monthly alimony payments at \$2,900 and his monthly mortgage payments were so substantial that Applicant did not have sufficient financial resources to make the large payments required to satisfy the three creditors in SOR ¶¶ 1.e to 1.g. These were circumstances largely beyond Applicant's control, and Applicant acted responsibly under the circumstances. He attempted to establish payment plans on his three delinquent credit card debts; however, the creditors were unwilling to accept small monthly payments over long periods of time, the only option available for repayment because of Applicant's limited financial resources.

In May 2006, Applicant made his most recent payment on the three delinquent credit card accounts for \$11,920, \$13,119, and \$15,895 in SOR ¶¶ 1.e to 1.g. The three debts have been dropped from his credit report, and the creditors are not seeking payment because they know they will not be able to obtain a deficiency judgment against Applicant, if he chooses to oppose the judgment with a statute of limitations defense.

The statute of limitations of a written contract in the state where Applicant lived and started the credit cards is three years. See n. 2, *supra*. The state statute of limitations requires a breach of contract action to be filed within three years of accrual. Breach of contract claims accrue at the time of the alleged breach.

Since May 2009, the three debts in SOR ¶¶ 1.e to 1.g have not been collectible. The South Carolina Court of Appeals succinctly explained the societal and judicial value of application of the statute of limitations:

Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence and promote repose by giving security and stability to human affairs. The cornerstone policy consideration underlying statutes of limitations is the laudable goal of law to promote and achieve finality in litigation. Significantly, statutes of limitations provide potential defendants with certainty that after a set period of time, they will not be ha[iled] into court to defend time-barred

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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, quotation marks, 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)).



claims. Moreover, limitations periods discourage plaintiffs from sitting on their rights. Statutes of limitations are, indeed, fundamental to our judicial system.

*Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 175-76, 609 S.E.2d 548, 552 (S.C. Ct. App. 2005) (internal quotation marks and citations omitted). As a general statement, under the Appeal Board's jurisprudence, debts that are beyond the statute of limitations for collections cannot be mitigated solely because they are not collectable.<sup>6</sup> Applicant was not aware of this jurisprudence, and did not realize the three debts remain unresolved for security clearance purposes. Applicant said he intended to contact the three creditors in SOR ¶¶ 1.e to 1.g and attempt to settle the three credit card debts. I found his promise to resolve his three credit card debts to be credible.<sup>7</sup>

In sum, Applicant established that the unusual events that caused delinquent debt and additional delinquent debt are unlikely to recur. His credit report shows eight accounts that are current or paid. The three derogatory entries on his credit report should be eliminated in 90 days. His track record of financial responsibility shows sufficient effort, good judgment, trustworthiness, and reliability to warrant mitigation of financial considerations concerns.<sup>8</sup> Even if financial considerations are not mitigated under AG ¶ 20(b), they are mitigated under the whole-person concept, *infra*.

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<sup>6</sup>The statute of limitations clearly and unequivocally ends an Applicant's legal responsibility to pay the creditor after the passage of a certain amount of time, as specified in state law. In a series of decisions the Appeal Board has rejected the statute of limitations for debts generated through contracts, which is the law in all 50 states, as automatically mitigating financial considerations concerns under AG ¶ 20(d). See ISCR Case No. 08-01122 at 4 (App. Bd. Feb. 9, 2009); ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008); ADP Case No. 07-13041 at 5 (App. Bd. Sep. 19, 2008); ISCR Case No. 07-11814 at 2 (App. Bd. Dec. 29, 2008) ADP Case No. 06-14616 at 3 (App. Bd. Oct. 18, 2007) (stating, "reliance upon legal defenses such as the statute of limitations does not necessarily demonstrate prudence, honesty, and reliability; therefore, such reliance is of diminished probative value in resolving trustworthiness concerns arising out of financial problems. See, e.g., ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)."). This opinion does not assert that the statute of limitations provides any mitigation under Guideline F; however, this aspect of Applicant's financial situation is a circumstance which explains Applicant's failure to take more timely and aggressive actions to resolve these three credit card debts after 2009. The Appeal Board has not defined how long after the statute of limitations expires an Applicant must wait before receiving a fresh start similar to that received under Chapter 7 of the Bankruptcy Code. If three years elapsed after discharge of three credit card debts, totaling less than \$50,000, under Chapter 7 of the Bankruptcy Code, and all accounts were paid and current, the three discharged debts would be mitigated.

<sup>7</sup>The Appeal Board has indicated that promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. ISCR Case No. 07-13041 at 4 (App. Bd. Sept. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)). Applicant's February 1, 2013 credit report shows a track record of paying his debts.

<sup>8</sup> Of course, the Government can re-validate Applicant's financial status at any time through credit reports, investigation and/or additional interrogatories. Approval of a clearance now does not bar the Government from subsequently revoking it, if warranted. Violation of a promise made in a security context to pay legitimate debts also raises judgment concerns under Guideline E, and may support future revocation of a security clearance. An administrative judge does not have authority to grant a conditional clearance. ISCR Case No. 99-0901, 2000 WL 288429 at \*3 (App. Bd. Mar. 1, 2000). See also ISCR Case

## 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.

The whole-person factors against reinstatement of Applicant's clearance are significant; however, they do not warrant revocation of his security clearance. Applicant's failure to pay or resolve his just debts in accordance with contracts he signed was not prudent or responsible. He has a history of financial problems. His credit reports, security clearance application, and SOR response listed delinquent debts.

The rationale for granting or reinstating Applicant's clearance is more substantial. He was forthright and candid in his security clearance application, his responses to DOHA interrogatories, his SOR response, and at his hearing about his financial problems. Several problems beyond his control adversely affected his financial status. His debts resulted from his former spouse's excessive spending during their separation and their divorce. He separated from his spouse in 2004; his divorce was final in 2007; and he is required to pay monthly spousal support of \$2,900. Of his seven delinquent debts totaling \$55,767, he resolved the four SOR debts in ¶¶ 1.a to 1.d. He credibly promised to attempt to resolve the three remaining SOR debts in ¶¶ 1.e to 1.g, even though they have been collection-barred by the statute of limitations for more than three years. He understands what he must do to maintain his financial responsibility. He has eight debts on his credit report that are current or paid. I am confident he will keep his promise to avoid future delinquent debt. The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

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No. 04-03907 at 2 (stating, "The Board has no authority to grant [a]pplicant a conditional or probationary security clearance to allow [him or] her the opportunity to have a security clearance while [resolving their] 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.

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 some quotation marks omitted).

Applicant is a 49-year-old technical training manager for soldiers, who has been working for a large government contractor since October 2004. He is sufficiently mature to understand and comply with his security responsibilities. In 2002, he earned a bachelor’s degree with a major in computer science. He demonstrated his patriotism and trustworthiness through his 22 years of active duty Army special forces service and his service to the Department of Defense as a contractor. He earned a Soldier’s Medal, three MSMs, four ARCOMs, eleven AAMs, and seven AGCM during his military service. In 2004, he honorably retired from the Army as a master sergeant. Character witnesses described Applicant as professional, honest, responsible, reliable, and diligent. He is an asset to his employer, and he has made important contributions to mission accomplishment in peace and war.

Applicant is in the process of adopting a child born in a foreign country, and his spouse is staying in the foreign country until the adoption is completed, and a visa for the child is issued. He has paid \$8,000 for adoption expenses. He has achieved some important educational and employment goals, demonstrating his self-discipline, responsibility and dedication. Applicant generated a budget or a personal financial statement. He 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. Moreover, he has established a “meaningful track record” of debt re-payment.

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. 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 not clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for a security clearance is granted.

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Mark Harvey  
Administrative Judge