



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



In the matter of:

Applicant for Security Clearance

)
)
)
)
)

ISCR Case No. 11-13879

Appearances

For Government: Julie R. Mendez, Esquire, Department Counsel
For Applicant: *Pro se*

09/17/2013

Decision

HARVEY, Mark, Administrative Judge:

Applicant's delinquent debts were caused by the decline in real estate values and his tenants' failure to pay their rent. His statement of reasons (SOR) lists a discharge under Chapter 7 of the Bankruptcy Code of Applicant's debts in November 1992, and in October 2012, he filed for relief under Chapter 13 of the Bankruptcy Code. In May 2013, the Bankruptcy Court confirmed his Chapter 13 repayment plan. He made sufficient progress resolving his financial problems. Financial considerations concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On June 22, 2007, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) version of security clearance application (SF 86) (Item 4). On June 5, 2013, the Department of Defense Consolidated Adjudications Facility (DOD CAF) 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). (Item 1) The SOR detailed reasons why DOD could not make the affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether Applicant's clearance should be granted, continued, denied, or revoked. (Item 1)

On July 4, 2013, Applicant responded to the SOR allegations and waived his right to a hearing. (Item 3) A complete copy of the file of relevant material (FORM), dated July 29, 2013, was provided to him on August 8, 2013. He was afforded an opportunity to file objections and to submit material in refutation, extenuation, or mitigation.¹ On August 31, 2013, Applicant responded to the FORM. The case was assigned to me on September 12, 2013.

Findings of Fact²

In Applicant's response to the SOR, he admitted the allegations in SOR ¶¶ 1.a-1.b, and he explained why he had financial problems. (Item 3) His admissions are accepted as findings of fact.

Applicant is a 52-year-old equipment test technician, who has worked for the same defense contractor since 1987.³ He served as an enlisted sailor in the Navy active reserve from 1985 to 2002, and he received an honorable discharge. He married in 1980, and he divorced in 1989. His son was born in 1985. He was convicted of driving under the influence of alcohol in December 2006.⁴ There is no other evidence of alcohol

¹The DOHA transmittal letter is dated July 30, 2013, and Applicant's receipt is dated August 8, 2013. The DOHA transmittal letter informed Applicant that he had 30 days after his receipt to submit information.

²Some details have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

³Unless stated otherwise, Applicant's June 22, 2007 SF 86 is the basis for the facts in this paragraph. (Item 4)

⁴Applicant's SOR does not allege that he drove under the influence of alcohol in December 2006. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

Id. (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). His December 2006 DUI is not recent, and it will not be considered for any purpose because Applicant has not had adequate notice and a full opportunity to collect and present evidence of mitigation regarding this allegation.

abuse or use of illegal drugs. He did not disclose any financial delinquencies on his June 22, 2007 SF 86.

Financial considerations

In 1992, Applicant's unsecured nonpriority debts were discharged under Chapter 7 of the Bankruptcy Code. Applicant explained that this bankruptcy was caused by a year-long layoff while he was in the midst of building a home. (Item 3)

Applicant's September 26, 2011 Office of Personnel Management (OPM) personal subject interview (PSI) provided a detailed description of his finances. (Item 8 at 8-10) In October 2010, a credit card creditor obtained a judgment for \$20,122 against Applicant. (Item 8 at 9) In June 2011, a credit card creditor obtained a judgment for \$8,000 against Applicant. (Item 8 at 9) In August 2011, a credit card creditor began collecting a \$1,200 monthly garnishment to address a debt. (Item 8 at 9) He also had the following collection debts: a \$2,800 credit card debt; a \$5,741 credit card debt; a \$527 credit card debt; and a \$15,773 personal loan. (Item 8 at 9)

On October 30, 2011, he satisfied a judgment of unspecified amount. (Item 8) In June 2012, he received a garnishment summons for a \$23,082 debt. (Item 9)

Applicant explained the origin of his financial problems. He purchased two rental properties, and as long as they were rented, he was able to pay his debts. (Item 8 at 10) Over the 2009-2011 period, his renters periodically refused to pay rent, and he was eventually able to evict the tenants. (Item 3) He was also plagued with unexpected repair bills on his rental properties. (Item 3)

On October 30, 2012, Applicant filed his Chapter 13 Bankruptcy Plan, which indicate: (1) he had assets of \$280,200 in real property and \$20,400 in personal property; (2) he had liabilities of \$388,266 in secured claims, \$4,060 in unsecured priority claims, and \$20,234 in unsecured nonpriority claims; (3) his monthly income was \$5,109; and (4) his monthly expenditures were \$6,556. (Item 6 Summary of Bankruptcy Schedules; Item 7) In October 2012, he paid a \$505 retainer for filing of his Chapter 13 Bankruptcy petition, and \$375 for fees and costs. (Item 6) Attorney fees of \$2,245 were to be paid by the bankruptcy trustee. (Item 6) In sum, he had total assets of \$300,600 and total liabilities of \$412,650. (Item 6 Summary of Bankruptcy Schedules) The unsecured priority debt relates to federal income taxes from 2011. Applicant received financial counseling, and he generated a budget as part of the Chapter 13 Bankruptcy process. On May 23, 2013, the U.S. Bankruptcy Court confirmed Applicant's Chapter 13 Payment Plan. (Item 7)

Applicant's federal income tax returns show the following income from wages and salaries: 2009 (\$67,528); 2010 (\$55,205); 2011 (\$72,311); and 2012 (\$44,048). (Item 8) His federal income taxes were paid in full each year except for 2011, and he currently owes the federal government \$4,060 for 2011, as indicated on his Chapter 13 Bankruptcy Plan.

In Applicant's FORM response, he said he had a 15-year track record of paying his debts after his 1992 Chapter 7 Bankruptcy. He repeated his previous statements about his tenants' failure to pay rent on his rental properties being the cause of his financial predicament, and he added that he labored to make repairs on his rental properties. He was unable to make required credit card payments because credit card fees, required payments, and interest charges accelerated. He unsuccessfully attempted to refinance his home and consolidate his debts. He said, "In late 2011, . . . I chose to file CH13 to arrive at a plan to get relief and pay what [I] can on my de[b]t. I have a plan in place[.] I have paid [\$]450.00 per month since November 2011." It is unclear where the \$450 monthly payments were paid. He noted his federal tax debt is included in his Chapter 13 Bankruptcy Plan and will be paid, as it is a priority debt.

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 revised 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

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.” Applicant’s history of delinquent debt is documented in his OPM PSI, Chapter 13 Bankruptcy Plan, SOR response, and FORM response. The record establishes Applicant has a history of delinquent debts, debts in collection, financial judgments, delinquent federal income taxes, and garnishments. 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;⁵ 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.

The FORM makes three arguments against mitigating financial considerations concerns. First, Applicant's purchase of two rental properties was irresponsible because it overextended him financially, and it was foreseeable that tenants would not pay their rent. He had insufficient financial reserves for such contingencies. Second, his Chapter 13 Bankruptcy materials do not show a track record of payments, as it was only confirmed in May 2013. Third, Applicant failed to provide sufficient evidence of his attempts to divest himself of the rental properties and of his attempts to earn more income. These arguments have some merit; however, they are insufficient to disqualify Applicant from access to classified information.

Applicant's conduct in resolving his debts warrants full application of AG ¶¶ 20(a) and 20(b). Investment in two rental properties does not show lack of financial responsibility. The profound decline in real estate values from 2007-2011 was

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)).

unprecedented in the last 50 years. This decline caused the rental market to become unstable, and made it impossible for Applicant to sell his properties for the amount of his mortgages. Sophisticated mortgage lenders and real estate investors made the same assumptions Applicant made about the expectation of continued increase in real estate values. Applicant had every reason to believe he would have a steady stream of rental income, and the purchase of the two properties would not result in delinquent debt. Over the last 50 years, with the exception of 2007-2011, investment in real estate is one of the most conservative, prudent avenues to financial success. When he sustained losses on his two rental properties, he was unable to pay his credit cards, and charges and interest rates rapidly increased. His financial problems were affected by circumstances largely beyond his control. He paid off one judgment in 2011, and he said he was paying \$450 per month since November 2011 to address his delinquent debts.⁶ He had insufficient income to pay his debts and chose to file for protection under Chapter 13 of the Bankruptcy Code.

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 to her. 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 evidence⁷ 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 she 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

⁶ 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)).

⁷ 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.

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.*

Partial application of AG ¶ 20(c) is warranted. Applicant received some financial counseling, and he generated a budget as part of the Chapter 13 Bankruptcy process. Although there is limited evidence of record that he established and maintained contact with his creditors,⁸ his financial problem is being resolved or is under control. He has a bankruptcy court-approved payment plan to resolve his remaining debts.

AG ¶ 20(d) is partially applicable. Applicant admitted responsibility for and took reasonable and responsible actions to resolve his SOR debts, establishing some good faith.⁹ AG ¶ 20(e) is not applicable. Applicant did not dispute any of his delinquent SOR debts.

⁸“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.

⁹The 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)).

In sum, Applicant fell behind on his debts primarily because of the decline in the real estate market, failure of his tenants to pay rent, increased credit card fees and interests, and insufficient income. The Bankruptcy Court has assessed his ability to pay his creditors and determined his monthly payment. He began the bankruptcy process prior to his receipt of the SOR. He has established his financial responsibility. It is unlikely that financial 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.

Applicant is a 52-year-old equipment test technician, who has worked for the same defense contractor since 1987. He served as an enlisted sailor in the Navy active reserve from 1985 to 2002, and he received an honorable discharge. 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 as a sailor in the Navy. There is every indication that he is loyal to the United States and his employer. The decline in real estate prices and the failure of his tenants to comply with their rental contracts and pay rent contributed to his financial woes. I give Applicant substantial credit for utilizing Chapter 13 of the Bankruptcy Code and paying what he is able to his creditors.

If Applicant fails to make his court-ordered bankruptcy payments, his bankruptcy will be dismissed, and all money paid under a Chapter 13 bankruptcy may be applied as partial payment towards interest and penalties. He would then likely discover that he owed more after making the payments than he owed before the bankruptcy was filed.

His attorney fees, trustee fees, filing fees, and some other charges will also be forfeited. I am confident Applicant will keep his promise to continue resolving his debts and comply with bankruptcy court's payment plan. The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

. . . 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 understands what he needs to do to establish and maintain his financial responsibility. There is simply no reason not to trust him. He paid \$450 monthly since November 2011, and he has established a "meaningful track record" of debt repayment. I am confident he will keep his promise to pay his delinquent debts and comply with his Chapter 13 payment plan.¹⁰ He is an asset to his employer, or he would not have retained his employment since 1987.

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.

¹⁰ Of course, the government can revalidate Applicant's financial status at any time through credit reports, investigation, and additional interrogatories. Approval of a clearance now does not bar the government from subsequently revoking it, if warranted. Violation of a promise made in a security context to pay legitimate debts also raises judgment concerns under Guideline E, and may support future revocation of a security clearance. An administrative judge does not have authority to grant a conditional clearance. ISCR Case No. 99-0901, 2000 WL 288429 at *3 (App. Bd. Mar. 1, 2000). See also ISCR Case No. 04-03907 at 2 (stating, "The Board has no authority to grant [a]pplicant a conditional or probationary security clearance to allow her the opportunity to have a security clearance while she works on her financial problems." and citing ISCR Case No. 03-07418 at 3 (App. Bd. Oct. 13, 2004)). This footnote does not imply that this Applicant's clearance is conditional.

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 and 1.b: For Applicant

Conclusion

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

Mark Harvey
Administrative Judge