



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



In the matter of:)
)
-----) ISCR Case No. 12-00319
)
Applicant for Security Clearance)

Appearances

For Government: Caroline H. Jeffreys, Esq., Department Counsel
For Applicant: *Pro se*

07/24/2012

Decision

Harvey, Mark, Administrative Judge:

Applicant’s statement of reasons (SOR) alleges six delinquent debts, totaling \$39,583. He mitigated his delinquent federal tax debt by establishing a payment plan; however, he did not make sufficient progress resolving his other delinquent debts. Financial considerations are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On September 20, 2011, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SF 86) (GE 1). On April 23, 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 May 8, 2012, Applicant responded to the SOR and requested a hearing. (HE 3) On May 29, 2012, Department Counsel was ready to proceed on Applicant's case. On June 14, 2012, DOHA assigned Applicant's case to me. On July 3, 2012, DOHA issued a hearing notice, setting the hearing for July 12, 2012. (HE 2) Applicant's hearing was held as scheduled. Applicant waived his right to 15 days of notice of the time and place of his hearing. (Tr. 13-15) At the hearing, Department Counsel offered five exhibits, and Applicant offered four exhibits. (Tr. 17-19; 30-33; GE 1-5; AE A-D) There were no objections, and I admitted GE 1-5 and AE A-D. (Tr. 19, 32-33) On July 20, 2012, I received the transcript of the hearing.

Findings of Fact¹

In his Answer to the SOR, Applicant admitted responsibility for the debts in SOR ¶¶ 1.b to 1.e. (HE 3) He admitted partial responsibility for the debt in SOR ¶ 1.a. (HE 3) He also provided explanations for the SOR allegations. (HE 3) His admissions are accepted as findings of fact.

Applicant is a 39-year-old expert martial arts trainer. (Tr. 4) He served on active duty in the Army from 1993 to 1996. (Tr. 5) His military occupational specialty (MOS) was infantryman with ranger specialty (11B1V). (Tr. 5-6) In 1999, he earned a bachelor's degree with a major in Bible and theology. (Tr. 5) He married in 1996, and he and his spouse have four children, who were born in 2003, 2006, 2007, and 2009. (Tr. 38; GE 1)

In 2001, Applicant started a business, providing martial arts training. (Tr. 36) He had a lull in business when major Army units were deployed from a nearby military installation. (Tr. 37) He received some income from real estate, and his spouse was employed as a facility security officer. (Tr. 38)

Applicant has not previously held a security clearance. (Tr. 6) His security clearance application does not list any reportable incidents involving illegal drugs, alcohol, or felonies. (GE 1) There is no evidence that he abuses alcohol or uses illegal drugs.

Financial Considerations

Applicant disclosed most of his delinquent debts in his September 20, 2011 SF 86. (GE 1) The SOR and his credit report list six delinquent debts, totaling \$39,583. The status of the six debts is as follows:

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

1.a is for a federal tax debt for \$6,200—**PAYMENT PLAN**. Applicant was unable to pay his 2009 taxes in 2010. (Tr. 40) He filed his federal tax return for tax year 2009 late in 2010, possibly in October 2010. (Tr. 43) When he completed his September 20, 2011 SF 86, he said he was making payments on his \$6,200 federal income tax debt. (GE 1) When an Office of Personnel Management (OPM) investigator interviewed Applicant, he said that he intends to pay the full amount of federal taxes by January 2012. (GE 2) He actually began making \$250 monthly payments in February 2012. (Tr. 41, 44; GE 1 at 38) He has paid the Internal Revenue Service (IRS) \$1,250. (Tr. 41, 44) He intends to continue making monthly \$250 payments until the debt is paid. (Tr. 41)

1.b to 1.d are three debts owed to the same credit union for \$2,134, \$4,477, and \$12,333—**UNRESOLVED**. In October and November 2009, Applicant borrowed money to purchase two vehicles, and in December 2009, Applicant used credit to finance a \$3,100 trip to Ireland in early 2010 and for some other purposes. (Tr. 49, 51-53) The trip to Ireland was prepaid, and he was unable to obtain a refund. (Tr. 50-51)² In about January 2010, he stopped making regular payments to this creditor. (Tr. 50) In early 2011, Applicant made partial or intermittent payments on his three debts to this creditor in an effort to maintain them in current status. (Tr. 49, 54) He could not sell the vehicles because the liens were more than the fair market values of the vehicles. (Tr. 55) In May 2011, he presented a \$4,000 check to the creditor, which would have brought the accounts to current status; however, the creditor refused to accept the check and repossessed the two vehicles. (Tr. 48, 54) He has not made any payments to the creditor since May 2011. (Tr. 49) When he completed his September 20, 2011 SF 86, he noted three debts owed to this creditor for \$10,000; \$2,414; and \$4,971, and that he disputed the three debts in court because the creditor refused to accept a payment to bring the accounts to current status. (GE 1 at 42-45) On June 17, 2012, Applicant appeared in court to dispute these three debts. Applicant conceded he owed the three debts. (Tr. 47) Applicant's defense or counterclaim was that the persons who repossessed his vehicles entered Applicant's home illegally, threatened his spouse, and caused a breach of the peace. (Tr. 45-47) The court declined to consider Applicant's defense or counterclaim and issued a judgment against Applicant for the three debts. (Tr. 47) Applicant did not make any payments and is considering whether he should appeal. (Tr. 47) He said, "it's a matter of principle for me. You're not going to come into my home and threaten my wife and then get money from me." (Tr. 47)

1.e is a debt owed to a credit union for \$12,333—**UNRESOLVED**. In March 2010, Applicant opened this account. (Tr. 62) Applicant believed he could obtain reimbursement for a martial-arts-related trip to Afghanistan. (Tr. 51-52) He borrowed money for the trip. (Tr. 51-52) He went to Afghanistan in March 2010 for two weeks and in July 2010, hoping to train the U.S. Army and Afghans. (Tr. 56-57, 60; OPM November 3, 2011 personal subject interview (PSI), GE 2) He expected an Afghan official to pay his expenses. (Tr. 58) His expenses were not reimbursed, and no contract with the U.S.

²In March 2007, Applicant went to Europe and borrowed money from his church for the trip. (Tr. 88; Office of Personnel Management (OPM) November 3, 2011 personal subject interview (PSI), GE 2) He paid the debt to his church. (Tr. 88) His description of his financial difficulties in his OPM PSI is consistent with his hearing statement. (GE 2)

Army or the Afghan official was ever established. (Tr. 58-59) He stopped making payments to the creditor in August 2010. (Tr. 63) When he completed his September 20, 2011 SF 86, he said he was working on a payment arrangement to resolve this debt. (GE 1 at 46) In April 2012, he went to court on his debt. (Tr. 82, 86) He admitted in court that he owed the debt; however, he was unsure if the creditor obtained a judgment. (Tr. 87) He said he is working out a payment plan with the creditor. (Tr. 83, 87)

1.f is a student loan for \$3,843—**UNRESOLVED**. Applicant began a master's degree program (Tr. 69) When he completed his September 20, 2011 SF 86, he said his student loan debt was not paid; however, he was working on resolving this debt. (GE 1 at 47) He told the OPM investigator that he intended to pay this debt by September 2012. (GE 2) In his May 8, 2012 SOR response, he said that in August 2012 he would receive a large contract payment, and he would pay his student loan debt at that time. (HE 3) At his hearing, he said he will pay this debt in August 2012. (Tr. 69-70, 88) He did not provide any receipts or other documentation to show any payments to address this debt.

In October 2009, Applicant's martial arts business went from earning \$3,000 per month to \$10,000 per month. (Tr. 42, 77) The first payment under the new contract was received in November 2009. (Tr. 77-78) Instead of using the increased income to pay his debts, he accrued additional debts, based on his assumption that he would receive the income promised in the new contract. (Tr. 78-79) He planned to use some of the extra income to pay his debts. (Tr. 79-80) In January 2010, the contracting officer informed Applicant that the contract was substantially reduced to approximately \$7,500 per month. (Tr. 43; SOR response)

In July 2010, a credit card fraud resulted in a substantial loss to Applicant's business. (Tr. 64-66) Business checks bounced totaling \$3,000. (Tr. 65) He reported the theft to law enforcement, and paid the checks. (Tr. 65)

In January 2011, Applicant hired a contractor to remodel his business's building because of a leaky roof, rot, and mold. (Tr. 67, 85) He continued to rent the building because he liked the location. (Tr. 86) The contractor performing the repairs attempted to increase the price, and Applicant refused to increase the price. (Tr. 67) When he returned to the business, materials worth almost \$3,000 were missing. (Tr. 67) He had also paid the contractor about \$2,000 for labor. (Tr. 67-68) He reported the theft to law enforcement; however, no action was taken because it was deemed to be a civil matter. (Tr. 68-69)

Applicant expects that his business will have increased income and lower expenses in the future. His business's annual gross earnings are about \$200,000 to \$225,000. (Tr. 72) Applicant has a \$75,000 contract to provide martial arts training to the Army, and he expects to net \$10,000 to \$15,000 after he pays expenses and seven instructors in the next several months. (Tr. 70) He anticipates the \$6,200 monthly rent at his building will be lower because of the lack of air conditioning, and he may receive a credit, if a friend repairs the air conditioning. (Tr. 71-72) His mortgage and utilities are

current. (Tr. 72-73) His spouse's student loan for approximately \$24,000 is in good standing. (Tr. 88)

A debt not listed in the SOR causes concern about Applicant's financial responsibility. Applicant leased a building from 2003 to 2009 or 2010 to conduct his training business. (Tr. 74-75) The monthly rent was about \$5,000. (Tr. 76) He was behind on his lease. (Tr. 75) There was a problem with repairs. (Tr. 76) He estimated that in 2009 he owed \$12,000 to \$15,000 on his lease. (Tr. 80) He planned to use the extra funds from the contract approved in 2009 to pay this debt; however, when the contract was reduced, he chose not to pay this debt. (Tr. 80) He has not made any payments to this creditor since 2009. (Tr. 80) He agreed that he owed the creditor; however, there was some uncertainty as to the amount of the debt. (Tr. 81) On February 16, 2011, the creditor obtained a judgment for \$34,486 against Applicant. (GE 5) Applicant did not disclose this debt on his SF 86 because it was not on the credit report that he used to complete his SF 86.³ (Tr. 89)

Applicant provided a personal financial statement (PFS), indicating he and his spouse's monthly gross salary was \$3,751, however, he did not include any deductions, such as for federal or state taxes or social security. (GE 2) Monthly expenses, including his mortgage, are \$3,416, and his net remainder is \$334. (GE 2) He did not include any payments to any creditors (except for his mortgage payments).

Applicant does not have any money in savings, and he has about \$2,000 in a retirement account. (Tr. 81-82) He and his spouse have two paid-off vehicles. (Tr. 82) In 2011, he started training for two events that he believed would result in a \$14,000 payment; however, the Army contracting office did not pay him. (Tr. 85)

Applicant emphasized that he provides a valuable service to the Army that has saved lives in combat. (Tr. 89) He has performed work over the last 12 years without receiving promised compensation. (Tr. 89) He did not want to use bankruptcy to avoid paying his creditors. (Tr. 90) He promised to continue to work to pay his creditors. (Tr. 90) He has not had financial counseling. (Tr. 91)

³The SOR did not allege that this debt was delinquent or that he failed to disclose it on his SF 86. I did not consider his failure to disclose this judgment on his SF 86 to be an intentional attempt to deceive the Government about the extent of his financial problems. 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.

(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)). I have considered the non-SOR evidence related to this substantial debt for the four purposes (reasons (b) to (e)), and not for any other purpose.

Character Evidence

A retired Army lieutenant colonel, who served 23 years on active duty, including four combat tours as an infantry officer, is currently a consultant to the Army. (Tr. 25) He holds a Top Secret clearance with SCI access. (Tr. 24) He has known Applicant since 2007 and utilized Applicant's physical training and martial arts services for his unit. (Tr. 24-25) He attributed Applicant's financial problems to delays in payments of government contracts. (Tr. 26) Applicant attempted to help the U.S. Army in Afghanistan by providing martial arts services. (Tr. 28-29) He described Applicant as an honest, conscientious, and responsible person and businessman. (Tr. 26-27)

A promotable staff sergeant, who has known Applicant ten years, described Applicant as "a man of incredible integrity, character, and faith." (AE A) He endorsed Applicant as a businessman, combatives instructor, mentor, and friend. (AE A)

A retired Army master sergeant has known Applicant since 1998 on a personal and professional basis. (AE B) He lauded Applicant's professionalism, dedication, ethics, and honesty. (AE B) He recommends approval of Applicant's security clearance (AE B) Another Army retiree, who has known Applicant for 12 years, describes him in similar very positive terms. (AE C)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation

about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), § 3.1. Thus, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

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

Analysis

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, I conclude the relevant security concern is under Guideline F (financial considerations).

Financial Considerations

AG ¶ 18 articulates the security concern relating to financial problems:

Failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

AG ¶ 19 provides two disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts;” and “(c) a history of not meeting financial obligations.” In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government’s obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). Applicant’s history of delinquent debt is documented in his SF 86, credit reports, his SOR response, and his statement at his hearing.

Applicant’s debts became delinquent in early 2010. His SOR alleges six delinquent debts, totaling \$39,583. He has made minimal progress addressing the six delinquent debts. 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.

None of the mitigating conditions fully apply to all of Applicant's SOR debts. The debt in SOR ¶ 1.a is mitigated under AG ¶¶ 20(b) and 20(d).⁴ Applicant's business had insufficient income because an Army contract did not yield anticipated revenue, a thief defrauded a credit card account, and a contractor stole building supplies valued at several thousand dollars. In 2011, several planned martial arts events did not result in expected income. These are circumstances largely beyond his control. He generated a budget or PFS. He understands how to establish his financial responsibility and eliminate delinquent debt. He maintained contact with his creditors,⁵ and he attempted to establish payment plans. I credit Applicant with mitigating his federal income tax debt because he paid \$1,250 to the IRS, and has an established payment plan with the IRS.

Applicant's debts cannot be mitigated because he acted irresponsibly. He traveled to Ireland, and purchased two vehicles, shortly after beginning a large Army contract, assuming that estimated income would be forthcoming from the Army. When income was less than expected, he made intermittent payments on the debts. In 2009, he knew he was behind on a lease for his building, and on February 16, 2011, the creditor obtained a judgment for \$34,486 against Applicant. He should have paid the lease debt before committing to pay for a vacation in Ireland. Another creditor repossessed two of Applicant's vehicles. Applicant did not fully establish that he was unable to make more payments to address his delinquent debts.

Applicant did not establish "there are clear indications that the problem is being resolved or is under control." He did not prove that he acted responsibly under the circumstances. His spending, such as trips to Ireland and Afghanistan, caused delinquent, unresolved debt. He failed to take reasonable actions in a timely fashion to resolve his delinquent SOR debts.

⁴The 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)).

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.

AG ¶ 20(e) is not applicable. Applicant did not provide any documentation showing reasonable disputes with his creditors over the validity of any debts.

Applicant has not provided enough evidence to establish that his delinquent debt is unlikely to recur. His track record of financial responsibility shows insufficient effort, good judgment, trustworthiness, and reliability to warrant mitigation of financial considerations concerns. It is likely that financial problems will continue.

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.

Although the rationale for reinstating Applicant's clearance is insufficient to support a security clearance at this time, there are several factors tending to support approval of his access to classified information. Applicant is a 39-year-old expert martial arts trainer, who honorably served on active duty in the Army from 1993 to 1996. His MOS was infantryman with ranger specialty. In 1999, he earned a bachelor's degree. He married in 1996, and he and his spouse have four children, who were born in 2003, 2006, 2007, and 2009. He has 11 years of experience in providing martial arts training. He is sufficiently mature to understand and comply with his security responsibilities. There is no evidence that he abuses alcohol, uses illegal drugs, or has a history of felony criminal offenses.

Applicant's financial woes were caused by a decrease in a government contract from about \$10,000 per month to \$7,500 per month in January 2010, a credit card fraud in July 2010, theft of materials and some unanticipated labor costs in January 2011, and unforeseen cancellation of some martial arts events in 2011. These financial problems were events beyond his control. Several character witnesses lauded Applicant's character and work performance, as ethical, courageous, conscientious, diligent,

honest, reliable, and responsible. He deserves substantial credit for volunteering to support the U.S. Government as a Defense contractor and during his years of active duty Army service. There is every indication that he is loyal to the United States. These factors show some responsibility, rehabilitation, and mitigation.

The whole-person factors against reinstatement of Applicant's clearance are more substantial. He is an intelligent person, and he did not prove he was unable to pay his federal income taxes in a timely manner. When he had an increase in income (his contract went from \$3,000 per month to \$10,000 per month), he did not use the extra funds to pay his lease-debt for his building, and on February 16, 2011, the creditor obtained a judgment for \$34,486 against Applicant. He chose to go to Ireland. When the contract was reduced to \$7,500 per month in January 2010, he was unable to pay his debts. In March 2010, he went to Afghanistan for two weeks. He believed that his expenses would be reimbursed; however, they were not. Nevertheless, in July 2010, he again went to Afghanistan. He has not repaid the creditor that funded these two trips to Afghanistan. His SOR alleges six delinquent debts, totaling \$39,583, and he has a non-SOR judgment for \$34,486. He has paid \$1,250 to address one of these seven debts. There are not "clear indications that the problem is being resolved or is under control." He did not prove that he acted responsibly with respect to his finances under the circumstances. More progress is necessary to address his debts before financial considerations security concerns can be fully mitigated.

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 not fully mitigated, and eligibility for access to classified information is denied.

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:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b to 1.f:	Against 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 denied.

MARK HARVEY
Administrative Judge