



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



In the matter of:)
)
) ISCR Case No. 15-05392
)
Applicant for Security Clearance)

Appearances

For Government: Gatha Manns, Esq., Department Counsel
For Applicant: Leon J. Schachter, Esq.

01/19/2018

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant mitigated the financial considerations concerns and the Government did not establish the personal conduct security concern. Eligibility for access to classified information is granted.

Statement of the Case

On March 29, 2016, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations) and Guideline E (personal conduct). The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG).¹

¹ I decided this case using the AG implemented by DOD on June 8, 2017. However, I also considered this case under the previous AG implemented on September 1, 2006, and my conclusions are the same using either set of AG.

Applicant responded to the SOR on June 10, 2016, and elected to have his case decided on the written record in lieu of a hearing. On September 12, 2016, the Government converted the case to a hearing, pursuant to ¶ E3.1.7 of the Directive, and provided Applicant with the requisite notice. The case was assigned to me on August 14, 2017. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on August 29, 2017, scheduling the hearing for November 16, 2017.

On November 13, 2017, the Government, pursuant to ¶ E3.1.13 of the Directive, amended the SOR to add allegation ¶ 1.u, and provided notice to Applicant through Counsel. Counsel objected to the Government's amendment. Counsel asserted that the amended allegation provided a basis for mitigation, not disqualification, and therefore was an inappropriate SOR allegation. Counsel also asserted that the Government did not have the authority to amend the SOR prior to the hearing. By email dated November 14, 2017, I notified both parties that the SOR was amended, and I gave Counsel the opportunity to continue the hearing to a later date, to allow him additional time to prepare. Counsel indicated he was ready to proceed. I convened the hearing as scheduled.²

At the hearing, I noted the procedural history concerning the Government's amendment, as set forth above, and that ¶ E3.1.12 of the Directive also permitted the Government to amend the SOR prior to the hearing. Counsel renewed his objection, which I noted for the record.³

I appended to the record as Hearing Exhibits (HE) I, II, and III, respectively, the Government's exhibit list and discovery letter, and Applicant's exhibit list. I admitted Government Exhibits (GE) 1 through 6, 8, and 9 in evidence without objection. Counsel objected to the last page of GE 7, asserting that since it referenced Applicant's prior Chapter 7 bankruptcy, which was not alleged in the SOR, the Government did not provide adequate notice that it was a concern. I overruled Counsel's objection and admitted GE 7 in evidence.⁴

Applicant testified, called one witness, and submitted Applicant's Exhibits (AE) A through EE. I admitted AE A and C through EE in evidence without objection. The Government objected to pages 3 through 9 of AE B, asserting that Applicant's ex-wife's bankruptcy was not relevant. I overruled the Government's objection and admitted AE B in evidence.⁵ The Government also objected to a six-page document entitled "Investigative Standards for Background Investigations for Access to Classified Information," which I marked as AE DD. The Government asserted that the document

² HE IV, V.

³ Tr. at 9-12.

⁴ Tr.at 22-25.

⁵ Tr. at 28-30.

was not an official, U.S. Government publication. I sustained the Government's objection and did not admit the document in evidence.⁶

At Counsel's request and with no objection from the Government, I left the record open until November 30, 2017, for additional documentation. Counsel timely provided additional evidence, which I marked as AE FF through HH. The Government objected to the limited portion of AE FF that Counsel sought to admit in evidence, asserting that it was not an official, U.S. Government publication. I overruled the Government's objection and admitted the limited portion of AE FF in evidence. The Government objected to AE GG, on the basis that it was double hearsay and the Government did not have the opportunity to cross-examine the author. I overruled the Government's objection and admitted AE GG in evidence. The Government objected to AE HH, on the basis that it was cumulative. I overruled the Government's objection and admitted AE HH in evidence.⁷

I appended to the record collectively as HE IV, email correspondence concerning the Government's SOR amendment and AE FF through HH. I also appended to the record as HE V the Government's amendment to the SOR. DOHA received the hearing transcript (Tr.) on November 30, 2017.

Findings of Fact

Applicant admitted the allegations in SOR ¶¶ 1.a to 1.u, and denied SOR ¶ 2.a. Applicant's admissions are incorporated in my findings of fact.⁸

Applicant is 38 years old. He obtained his high-school diploma in 1999. He subsequently attended vocational school and took technical college courses, but he did not earn a degree. He served in the U.S. Army Reserve from December 1999 until September 2004, when he received a General under Honorable Conditions discharge. He worked for a prior defense contractor overseas from September 2014 until October 2016. He then continued to work overseas as a help desk manager for his current defense contractor until October 2017, when he was furloughed due to the declination of his security clearance. He was first granted a DOD security clearance in 1999.⁹

Applicant married in September 2007 and divorced in September 2012. As of the hearing, he was in a relationship since 2015 and cohabitating with her since September 2017. He does not have any children.¹⁰

⁶ Tr. at 41-44.

⁷ HE IV.

⁸ Response to the SOR; Tr. at 11, 105-107.

⁹ Tr. at 84-89, 99-105, 137; GE 1, 8, 9; AE E.

¹⁰ Tr. at 103, 135, 150-151, 167; GE 1, 8.

The SOR alleges a \$2,180 judgment from August 2013; 17 delinquent consumer accounts totaling \$25,904; 2 delinquent medical accounts totaling \$2,379; and a Chapter 13 bankruptcy filed in May 2016, with an expected discharge in June 2021. The SOR also alleges that Applicant falsified his October 2014 security clearance application when he failed to disclose, in response to section 22, his July 2005 felony charge. The financial allegations are established by Applicant's admissions, bankruptcy records, and credit reports from October 2014, February 2016, and September 2016. He also listed and discussed some of his delinquent debts in his security clearance application and during his December 2014 interview.¹¹

Applicant attributes his delinquent debts and Chapter 13 bankruptcy to his ex-wife's mismanagement of their finances, his divorce, his cancer diagnosis in 2013, his ex-wife's Chapter 7 bankruptcy discharge in August 2014, and his underemployment. After they moved into their first home together in 2003, Applicant and his ex-wife agreed that she would manage their finances since he was the primary breadwinner. He was unaware that she mismanaged their finances. In 2011, he spoke to his ex-wife after his father expressed dismay with how she managed their finances, to include \$20,000 he and Applicant's mother lent her. Applicant believed his ex-wife, however, and he continued to entrust her with their finances.¹²

Applicant acknowledged responsibility for several of the SOR debts. SOR ¶¶ 1.i and 1.s are duplicate accounts with the same banking institution for whom he had an account. When he left his employer in the state where the bank was located, he informed the bank that he was leaving. The bank subsequently conducted certain transactions on his account that resulted in insufficient funds. He thought this debt was resolved, but discovered when he received the SOR that it was not. SOR ¶ 1.q is a joint loan for an ATV, which was sold to pay the loan; as such, he did not include this debt in his Chapter 13 bankruptcy.¹³

Applicant testified, however, that his ex-wife obtained several accounts in his name without his knowledge, to include SOR ¶¶ 1.b, 1.e, 1.k., and 1.r. He did not learn about these debts until either the divorce or when he received the SOR. SOR ¶ 1.b is a store credit card that his ex-wife obtained in his name, unbeknownst to him, when he worked part-time for the store. SOR ¶ 1.k is a cellular phone account that was initially for Applicant, his ex-wife, and his parents-in-law. After he removed his name from the account so that they would take responsibility for it, they transferred their numbers to a different provider. SOR ¶ 1.r is his ex-wife's primary credit card that she opened in her name. Unbeknownst to Applicant, she subsequently added his name and took her name off the account. Ultimately, her attitude towards their finances caused him to file divorce.¹⁴

¹¹ Response to the SOR; GE 1, 4-8; AE B, D.

¹² Tr. at 47-61, 67, 74-76, 107-113, 135, 137, 151-155, 157-162, 165-167; GE 1, 8; AE B, G, HH.

¹³ Tr. at 113, 133.

¹⁴ Tr. at 47-61, 67, 74-76, 107-113, 135, 137, 151-155, 157-162, 165-167; GE 1, 8; AE HH.

As part of the divorce settlement agreement, Applicant testified that the judge held his ex-wife responsible for paying a number of the debts she created during the marriage. The judge ordered her to pay Applicant a settlement, so that he could then pay his ex-wife's debts. His ex-wife subsequently filed and received a Chapter 7 bankruptcy discharge, and consequently did not have to pay the debts, Applicant, or his father. He did not provide a copy of the divorce decree or his ex-wife's complete bankruptcy paperwork.¹⁵

After his ex-wife's bankruptcy, Applicant began to try to resolve the outstanding debts. He contacted the creditors. He made payments when he could. He sold assets. He worked overtime and side jobs. He accepted a job in a different state in June 2013 that offered increased pay, but was subsequently diagnosed with colon cancer and suffered a reduced income. For ethical reasons, he left that job and accepted another job in another state in May 2014, at a reduced income. He also bartended part time. He accepted his initial contractor job overseas, only to receive an income upon arrival that was different from what he expected.¹⁶

Applicant testified that after his October 2014 application and December 2014 interview, but before the SOR, he consulted with his Government Facility Security Officer (FSO) about his delinquent debts and his intent to file Chapter 13 bankruptcy. The Government FSO advised him to wait to file bankruptcy until his final security clearance was issued. In a June 2016 letter, the Government FSO indicated that Applicant brought the SOR to his attention. He indicated that Applicant shared court documents with him that revealed much of Applicant's debt was due to his ex-wife, who was ordered to pay them. He also stated in a September 2016 letter that he was "very familiar" with the SOR and he ". . . acted as a security advisor to [Applicant]."¹⁷

In May 2016, after consulting with his bankruptcy attorney, his employer's legal department and security manager, and his parents, Applicant filed Chapter 13 bankruptcy. He elected a Chapter 13 over a Chapter 7 bankruptcy because he understood that his creditors would not receive any reimbursement with the latter, whereas they would receive either partial or full reimbursement with the former. He wanted to take responsibility for his debts. He included all of the SOR debts in the bankruptcy, with the exception of SOR ¶ 1.q, as discussed above, and two additional non-SOR debts. While not alleged in the SOR, the bankruptcy documentation reflects that Applicant included an IRS debt of \$10,466 for his 2015 taxes. He testified that he does not have any other delinquent debts.¹⁸

As of the hearing, Applicant timely made monthly payments since July 2016, in accordance with his Chapter 13 bankruptcy. His payments were initially \$350 monthly,

¹⁵ Tr. at 76, 135, 152-153; GE 1, 8; AE B, DD, HH.

¹⁶ Tr. at 76; GE 1, 8; AE DD, HH.

¹⁷ Tr. at 73-89, 113, 119-135, 137, 144-150, 157-160; AE A, H.

¹⁸ Tr. at 73-89, 113, 128-135, 137, 149-150, 157-160, 167-168; GE 7; AE B, D, G, DD, HH.

but they increased to \$525 monthly in October 2016. He expected to continue to make his bankruptcy payments accordingly, with the last payment scheduled for June 2021. In addition to his Chapter 13 bankruptcy payments, he paid \$30,000 in out-of-pocket cancer-related medical costs.¹⁹

While not alleged in the SOR, Applicant previously filed and received a Chapter 7 bankruptcy discharge in 1999, at the age of 18. He did so on his parents' advice, after his car was broken into and his financial information stolen. He reported the matter to the police, who later found the culprit. He also reported the identity theft to his creditors. Over a period of a few months, however, the culprit made charges totaling \$50,000 in Applicant's name. Applicant stated that he also pled guilty to an insufficient bad check charge in 1998 because of the culprit's actions.²⁰

On his prior contract, Applicant earned \$58,000 annually. In October 2016, with the new contract, his income increased to \$90,000 annually. After he was furloughed in October 2017, his income decreased by 65%. His net monthly income was \$1,800 as of the hearing date. He obtained a part-time job at \$8 hourly to extend his financial resources. He saved money so that he could sustain himself for a period during the furlough, and he lined up a backup job should he have to return stateside to work. He expected that he would be able to return to work overseas with the same company if he resolved his clearance. He received financial counseling through the Chapter 13 bankruptcy, and he vaguely recalled receiving similar counseling through his Chapter 7. After his divorce, he received financial guidance from a friend who has tax expertise. He and his girlfriend keep their finances separate, and he intends to continue to manage his finances in the future.²¹

In July 2005, Applicant was arrested and charged with misdemeanor sexual contact without consent. The state's attorney dropped the charge in January 2006. A new state's attorney charged Applicant with felony attempted second-degree rape and misdemeanor sexual contact without consent. A jury trial unanimously acquitted him of both charges in April 2006.²²

Applicant testified that he completed an initial security clearance application in June 2014. The June 2014 application is not in the record. While he had previously completed a similar application, it was in 1999 when he was in military basic training. Due to an issue with his fingerprints, he had to redo the June 2014 application, which he did electronically, in less than one day, in October 2014.²³

¹⁹ Tr. at 73-89, 113, 128-135, 137, 149-150, 157-160, 167-168; GE 7; AE B, D, G, DD, HH.

²⁰ Tr. at 71, 73-89, 128-133; GE 2, 3, 7.

²¹ Tr. at 80-89, 136-137, 167-168; AE D, G.

²² Tr. at 67-70, 89-94, 125-128, 155-157, 168-169; GE 2, 3, 8; AE C, CC, EE.

²³ Tr. at 94-99, 114-119, 137-149; GE 1, 8; AE F, S, W, FF, HH; HE IV.

When he initially completed the application in June 2014, he was confused when he encountered section 22, which inquired, in one question, whether he had any felony charges. He thought he was required to list only felony convictions, as inquired by the preceding and succeeding questions, though it also occurred to him that he should list his felony charge. He telephoned his then-Assistant FSO (AFSO), who worked stateside, for clarification, as his hiring manager had instructed him to work with the AFSO to complete the application. The AFSO advised him that he was not required to list his felony charge since he was not convicted. The AFSO additionally advised him that he was not required to list his felony charge since it occurred eight years prior, and were thus outside the seven-year scope of a secret clearance. Applicant followed the AFSO's guidance and responded "No." When he encountered section 22 for the second time, in October 2014, he followed the advice previously given him by his AFSO and did not list his felony charge.²⁴

When he was interviewed by an investigator in December 2014, after his company put him in for a top secret clearance, the interviewer told Applicant that a longer scope of investigation was required. Applicant stated that he consequently volunteered his felony charge to the investigator, as he knew it fell within the longer scope of the investigation. He did not intend to falsify his October 2014 application, as he had already informed his then-AFSO and his hiring manager about his criminal history and delinquent finances. He testified that he understood that he should have listed his felony charge.²⁵

After his October 2014 application and December 2014 interview, and before the SOR, Applicant testified that he also discussed his felony charge with his Government security officer. As discussed previously, the Government FSO advised him not to make any changes to his application until his final security clearance was issued. The Government FSO stated in his June 2016 letter, that Applicant brought the SOR to his attention and discussed the rape charges with him.²⁶

Applicant unsuccessfully attempted, before and after the hearing, to locate his then-AFSO. When he asked his hiring manager to assist him, he learned that the individual no longer worked for the company. The hiring manager stated in an August 2017 letter that Applicant was offered an overseas position in May 2014, and the position required a secret clearance; Applicant followed the directions from the FSO in May 2014 when he completed his application; after Applicant was granted an interim secret in August 2014, he departed overseas to fill the position; upon arriving overseas, his interview was scheduled, and he found out he was submitted for a top secret clearance to fill another role, at which point Applicant volunteered the extra data.²⁷

²⁴ Tr. at 94-99, 114-119, 137-149; GE 1, 8; AE F, S, W, FF, HH; HE IV.

²⁵ Tr. at 94-99, 114-119, 137-149; GE 8; AE F, S, W, FF, HH; HE IV.

²⁶ Tr. at 119-125, 144-150; AE A, H.

²⁷ Tr. at 94-99, 114-119, 137-149; GE 8, 9; AE F, S, W, FF, HH; HE IV.

The vice-president and FSO for Applicant's company, who has held the position since October 2011, attested in a November 2017 letter, that he recalled Applicant having questions concerning section 22 of his application. He stated that Applicant was advised by the company's then-AFSO ". . . that he should answer this question 'NO' since he had been acquitted by a jury and the arrest date was outside the scope of a SECRET clearance for which the company was then having him apply." He acknowledged that while the professional advice given to Applicant was, in hindsight, incorrect, the advice was given and accepted in good faith. He also attested that Applicant disclosed ". . . the full circumstances surrounding his arrest for rape, and how it ended with a jury verdict of not guilty on all charges" during the interview process. As such, he posited that such disclosures indicate that Applicant intended to be honest.²⁸

The vice-president and FSO for Applicant's company, Applicant's hiring manager, and Applicant's Government FSO, along with numerous other character references, described Applicant as an honest, reliable, and trustworthy individual. They recommended him for a clearance. In addition, Applicant presented evidence of coins and awards given to him for his distinguished performance.²⁹

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

²⁸ Tr. At 162-165; AE GG.

²⁹ Tr. At 162-165; AE A, E, H-Q, R, T-V, X-BB, GG.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. 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 of potential, rather than actual, risk of compromise of classified information.

Section 7 of Exec. Or. 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has a history of not paying his debts. The evidence is sufficient to raise AG ¶¶ 19(a) and 19(c) as disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Conditions beyond his control contributed to Applicant's financial problems. Since his divorce, ex-wife's bankruptcy, cancer diagnosis, and periods of underemployment, he has made a good-faith effort to resolve his delinquent debts. He contacted the creditors, made payments when he could, and sold assets. He worked overtime and side jobs, and he took jobs with either an increased income or the expectation of one. He sold the ATV to resolve the loan in SOR ¶ 1.q. He filed Chapter 13 bankruptcy in May 2016, and would have likely done so earlier but waited because of the advice given him by his Government FSO. He included all of the SOR debts, as well as several non-SOR debts, in the bankruptcy, and he does not have any other delinquent debts. As of the hearing, he timely made monthly payments in accordance with his bankruptcy plan since July 2016, while simultaneously paying \$30,000 in out-of-pocket cancer-related medical costs. He planned to continue to adhere to his bankruptcy plan going forward.

A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). The adjudicative guidelines do not require that an individual make payments on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

While he has unresolved debts remaining, Applicant has demonstrated a good-faith effort to resolve them and intends to continue to do so. He set aside some savings to sustain him during his furlough, he lined up a backup job should he have to return stateside, and he took up a part-time job to extend his financial resources. AG ¶¶ 20(a), 20(b), 20(c), and 20(d) are applicable.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15, as follows:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

I considered Applicant's demeanor at hearing, and he credibly testified that when he completed his security clearance application in October 2014, he misunderstood the question in which he had to disclose his felony charge, as previously discussed. He completed the application electronically, in less than one day. As he had sought clarification from his then-AFSO when he initially completed the application in June 2014, and the advice given to him was that he was not required to disclose it, he followed that advice. He had no reason to hide it. He disclosed the rape charges to his hiring manager, his then-AFSO, his Government FSO, and the company's vice-president and FSO. He also volunteered the information during his December 2014 interview, upon learning that a longer scope of investigation was required because his company put him in for a top secret clearance. AG ¶ 16(a) is not established.

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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(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.

Under AG ¶ 2(c), 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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F and Guideline E in my whole-person analysis. The Government did not establish the personal conduct security concern. Applicant has made efforts to resolve his debts. While he has unresolved debts remaining, he credibly testified at hearing and there is sufficient evidence to show that he is committed to resolving them.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations and personal conduct security concerns.

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 - 1.u:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Conclusion

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

Candace Le'i Garcia
Administrative Judge