



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 19-02690
)
Applicant for Security Clearance)

Appearances

For Government: Jeff Kent, Esquire, Department Counsel
For Applicant: *Pro se*

06/03/2020

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the security concerns regarding financial considerations. Eligibility for a security clearance is denied.

Statement of the Case

On October 28, 2018, Applicant applied for a security clearance and submitted a Questionnaire for National Security Positions (SF 86). On an unspecified date, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued her a set of Interrogatories. She responded to those Interrogatories with attached documents on August 6, 2019. On October 29, 2019, the DOD CAF issued a Statement of Reasons (SOR) to her, under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and Directive 4 of the Security Executive Agent (SEAD 4), *National Security Adjudicative Guidelines* (AG) (December 10, 2016), for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position, effective June 8, 2017.

The SOR alleged security concerns under Guideline F (Financial Considerations) and detailed reasons why the DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

On November 29, 2019, Applicant responded to the SOR, and she elected to have her case decided on the written record in lieu of a hearing. (Item 2) A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by the Defense Office of Hearings and Appeals (DOHA) on January 28, 2020, and she was afforded an opportunity after receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Adjudicative Guidelines applicable to her case. Applicant received the FORM on February 7, 2020. Her response was due on March 8, 2020. Applicant chose not to respond to the FORM, for as of May 12, 2020, no response has been received. The case was assigned to me on May 12, 2020. The record closed on March 8, 2020.

Findings of Fact

In her response to the SOR, Applicant admitted, with brief comments, seven of the SOR allegations (SOR ¶¶ 1.c., 1.d., 1.g., 1.h., 1.k., 1.m., and 1.n.). Applicant's admissions and accompanying comments are incorporated herein. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact:

Background

Applicant is a 59-year-old employee of a defense contractor. She has been serving as a security officer with her current employer since October 2018. She had previous experience with another employer as both a security guard and an office coordinator from July 2014 until February 2018. She is a 1980 high school graduate. She has never served with the U.S. military. She has never held a security clearance. She was married in 1986 and divorced in 1997. She has two adult children, born in 1983 and 1988.

Financial Considerations

General source information pertaining to the financial accounts discussed below can be found in the following exhibits: Item 6 (Combined Experian, TransUnion, and Equifax Credit Report, dated November 29, 2018); Item 3 (SF 86, dated October 28, 2018); Item 4 (Responses to Interrogatories, dated August 6, 2019); Item 7 (Enhanced Subject Interview, dated January 10, 2019); Item 7 (Subject Contact, dated January 29, 2019); Item 7 (Subject Contact, dated February 25, 2019); and Item 2 (Applicant's Answers to SOR, dated November 29, 2019).

Applicant reported that her financial issues arose because of a combination of two factors during the period 2016 through 2018: low-paying jobs and unemployment

(February 2018 – October 2018), or as she commented, she was down on her luck and unemployed. (Item 7, at 7; Item 2, at 3) In addition, because she did not have enough money to pay someone to file her federal and state income tax returns for a multiple tax year period, or to actually pay her income taxes, she did not timely file them or pay any income taxes. (Item 7, at 5, 7) While she was unemployed, she received unemployment compensation, and she was supported by one of her sons. (Item 7, at 4) A review of her 2018 credit report reveals that Applicant's financial difficulties actually predated the period that she identified, for she actually had several accounts that became delinquent during the period 2012 – 2014 (Item 6, at 6, 11-12). It is noted that in her SF 86, Applicant reported that in June 2018, during her financial struggles with unemployment, she managed to take a six-to-ten day tourism visit to two Caribbean Islands. (Item 3, at 25-26)

In her October 2018 SF 86, Applicant listed having only one financial issue associated with her federal income taxes, claiming that it commenced in August 2017, and it was related to her unemployment. She estimated that she owed \$6,522 in federal income taxes, but she also contended that she was on a payment plan, and she was making monthly payments. She denied having any other delinquent accounts. (Item 3, at 33-34) On January 10, 2019, during an interview with an investigator from the U.S. Office of Personnel Management (OPM), Applicant did not initially identify or discuss any other delinquent accounts until she was confronted by the investigator with information associated with additional delinquent accounts. She indicated that she did not list them in her SF 86 because she was unaware of them. (Item 7, at 5-7) Following that interview, Applicant reported that she had obtained a credit report and learned about some of her delinquent accounts. She subsequently furnished the OPM investigator with payment agreements related to two delinquent accounts. (Attachments to Item 7)

In August 2019, in response to the Interrogatories, Applicant reported that she was working with a specific national law firm "to mitigate and remove false or incorrect and negative reports on [her] credit. The accounts in question are making [her] (sic) credit scores low. [She] expects these accounts and all subsequent debts to be removed from [her] reports within the next 60 to 90 days." (Item 4, at 2) She failed to submit any documents related to her reported association with the law firm, their purported efforts on her behalf, or any results of any of those efforts.

In addition to the allegations related to Applicant's failure to timely file federal and state income tax returns for the tax years 2015, 2016, 2017, and 2018, the SOR alleged 12 delinquent accounts, including unpaid federal and state income taxes, totaling approximately \$26,468. Although she claimed that she had entered into repayment plans with some of her creditors, or that she was making payments to certain creditors, with the exception of two documents which reflected agreed repayment plans, Applicant failed to submit any documentation, such as receipts, cancelled checks, or bank account statements, to support her positions that payments had been made to any creditors or that she had complied with any of the expected requirements of the reported repayment plans.

With respect to Applicant's admitted failure to timely file her federal and state income tax returns, the SOR allegations are as follows:

SOR ¶ 1.c. alleges that the federal income tax return for the tax years 2015, 2016, and 2017 were not timely filed, as required. The Internal Revenue Service (IRS) issued account transcripts, dated July 16, 2019, that indicated that the tax returns were not filed until May 7, 2018, and Applicant was penalized for her failures;

SOR ¶ 1.c. also alleges that the federal income tax return for the tax year 2018 was not timely filed, as required. The IRS issued a letter of verification of non-filing, dated July 30, 2019, that indicated that the tax return was not yet filed; and

SOR ¶ 1.d. alleges that the state income tax returns for the tax years 2015, 2016, 2017, and 2018 were not timely filed, as required, and Applicant offered no evidence that she had yet filed those state income tax returns.

With respect to those delinquent accounts for which Applicant claimed that she had repayment plans in place or that she was making payments to certain creditors, the SOR allegations are as follows:

SOR ¶ 1.a. alleges that Applicant is indebted to the Federal Government for delinquent taxes in the amount of \$4,237 for the tax years 2015, 2016, and 2017. In her 2018 SF 86, she claimed she "was making monthly payments," but failed to specify how much was being paid or when those payments supposedly commenced. (Item 3, at 33) During her January 2019 OPM interview, she claimed that she was currently paying \$25.46 per month "to each account," but she failed to specify whether she meant federal versus state or to the IRS for each delinquent year. (Item 7, at 5) In her Answer to the SOR, she claimed that she made an arrangement to pay \$53 per month. (Item 2, at 3) None of the documents presented from the IRS indicate any installment agreements having been established or any payments having been received. Because Applicant failed to submit any documentary evidence of installment agreements or payments, there are only her unverified contentions that any positive efforts have been made;

SOR ¶ 1.b. alleges that Applicant is indebted to the state for delinquent taxes in the amount of \$790. During her January 2019 OPM interview, she acknowledged that the delinquent balance was \$790, but in her Answer to the SOR, she stated the amount was only \$279, and claimed that she had made an arrangement to make monthly payments of \$45. Because she failed to submit any documentary evidence of an installment agreement or payments, there are only her unverified contentions that any positive efforts have been made;

SOR ¶ 1.i. is a time-share account with an unpaid balance of approximately \$514 that was placed for collection and sold to a debt purchaser. Applicant initially claimed to be unaware of the account, but subsequently disputed responsibility for the account because her ex-boyfriend – the purported co-signer on the account – had declared bankruptcy. (Item 7, at 6; Item 2, at 4) In January 2019, she agreed to a repayment plan under which she was to start making \$35 payments, with the first such payment due on

January 31, 2019. (Letter, dated January 31, 2019, attached to Item 7) She failed to submit any evidence that she had actually made any payments;

SOR ¶ 1.k. is a credit-card account with an unpaid balance of approximately \$391 that was placed for collection. In December 2018, the collection agent offered her a discount if she would start making payments on the account, and the following month she agreed to a repayment plan under which she was to make a \$25 payment on January 31, 2019, to be following by monthly payments of approximately \$61 through July 2019. (Letters dated December 19, 2018, and January 31, 2019, attached to Item 7) She failed to submit any evidence that she had actually made any such payments.

With respect to those delinquent accounts for which Applicant did not claim that she had repayment plans in place or that she was making payments to any creditors, the SOR allegations are as follows:

SOR ¶ 1.e is an automobile loan with an unpaid balance of \$5,546 that was placed for collection (Item 6, at 6); SOR ¶ 1.f. is an unspecified type of account with an unpaid balance of \$2,337 that was placed for collection and charged off (Item 6, at 6; Item 7, at 7); SOR ¶ 1.g. is a charge account with an unpaid balance of \$32 that was placed for collection (Item 6, at 6; Item 7, at 7); SOR ¶ 1.h. is an unspecified type of account with an unpaid balance of \$11,770, of which \$881 was past due that was placed for collection (Item 6, at 8); SOR ¶ 1.j. is a cellular-telephone account with an unpaid balance of \$404 that was placed for collection (Item 6, at 11); SOR ¶ 1.i. is a cellular-telephone account with an unpaid balance of \$296 that was placed for collection (Item 6, at 11); and SOR ¶¶ 1.m. and 1.n. are medical accounts with unpaid balances of \$81 and \$70 that were placed for collection (Item 6, at 12).

The IRS account transcripts reflect the following adjusted gross incomes for the years in question: \$31,376 (2015); \$28,106 (2016); and \$29,861 (2017). (Attachments to Item 4) It is not known what Applicant's 2018 or 2019 adjusted gross income was, or what current financial resources may be because she did not report her current net monthly income; monthly expenses; and any monthly remainder that might be available for discretionary spending or savings. There is no evidence of a budget. There is no evidence of financial counseling. In the absence of additional financial information, it remains difficult to determine if Applicant is currently in a better position financially than she had been.

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. The President has authorized the Secretary of Defense or his designee to grant an applicant 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 and modified.)

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.” “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” (ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1)) “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 Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government. (See ISCR Case No. 02-31154 at 5 (App. Bd. Sept. 22, 2005))

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those 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 as to potential, rather than actual, risk of compromise of classified information. Furthermore, “security clearance determinations should err, if they must, on the side of denials.” (*Egan*, 484 U.S. at 531)

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) 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 as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income taxes or failure to pay annual Federal, state, or local income tax as required.

In addition to the allegations related to Applicant's failure to timely file federal and state income tax returns for the tax years 2015, 2016, 2017, and 2018, the SOR alleged 12 delinquent accounts, including unpaid federal and state income taxes, totaling approximately \$26,468. By the time the record closed, there was documentary evidence that the federal income tax returns for the tax years 2015, 2016, and 2017 were eventually, but not timely, filed. The federal income tax return for 2018 has not yet been

filed. Moreover, there is no evidence that the state income tax returns for 2015, 2016, 2017, and 2018 have yet been filed. Furthermore, none of the delinquent accounts have been verifiably addressed by Applicant. AG ¶¶ 19(a), 19(c), and 19(f) have been established, but there is no evidence that Applicant has been unwilling to satisfy her debts regardless of an ability to do so, and AG ¶ 19(b) has not been established.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties under AG ¶ 20:

- (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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶ 20(b) minimally applies, but none of the other conditions apply. As noted above, Applicant essentially attributed her financial difficulties to a combination of two factors during the period 2016 through 2018: low-paying jobs and unemployment (February 2018 – October 2018), or as she commented, she was down on her luck and unemployed. A review of her credit report reveals that Applicant simply stopped making some payments during 2012 - 2014, and others following each year thereafter, resulting in her accounts being placed for collection, charged off, and sometimes transferred or sold. As of the date the record closed on March 8, 2020, she had verifiably addressed not a single delinquent account. As for her failure to timely file her income tax returns, her reason was that she did not have enough money to pay someone to file her income tax return for multiple tax years, or to actually pay her income taxes. She did, however, have sufficient time and money to visit two Caribbean Islands during her period of unemployment. A debt that became delinquent several years ago is still considered recent because “an applicant’s ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating

conditions.” ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sept. 13, 2016)).

The nature, frequency, and recency of Applicant’s continuing financial difficulties, and her failure to voluntarily and timely resolve her delinquent accounts for several years, cause me to conclude that her financial difficulties were not infrequent and they are likely to remain unchanged. Applicant completed her SF 86 in October 2018; underwent her OPM interview or subject contacts in January and February 2019; and the SOR was issued in October 2019. Each step of the security clearance review process placed her on notice of the significance of the financial issues confronting her. In her Answer to the SOR, she claimed that she had entered into repayment arrangements with some of her creditors, and that the remaining ones were in the repayment process with payments being made. She failed to submit documentary evidence to show that she was in compliance with any of those arrangements. Although she could have indicated some positive action in response to the FORM, especially when the Department Counsel noted that she had the opportunity to submit documentation, she failed to do so.

Based on the evidence, it appears that Applicant intentionally chose to ignore her delinquent accounts even after she was interviewed by OPM. She failed to submit any documentary evidence to verify her contentions of positive resolution efforts taken following her OPM interview. An applicant who begins to resolve financial problems only after being placed on notice that his or her security clearance is in jeopardy may be lacking in the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his or her own interests. (See, e.g., ISCR Case No. 17-01213 at 5 (App. Bd. Jun. 29, 2018); ISCR Case No. 17-00569 at 3-4 (App. Bd. Sept. 18, 2018)). In this instance, there have been promises, but no verifiable action following those promises.

The DOHA Appeal Board has observed:

Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. See, e.g., ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward inducing an applicant to file tax returns. Rather, it is a proceeding aimed at evaluating an applicant’s judgment and reliability. *Id.* A person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. See, e.g., ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). See *Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff’d*, 367 U.S. 886 (1961).

ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016). See ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016) (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002)); ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015).

The Appeal Board clarified that even in instances where an applicant has purportedly corrected his or her federal tax problem, and the fact that the applicant is now motivated to prevent such problems in the future, does not preclude careful consideration of an applicant's security worthiness in light of his or her longstanding prior behavior evidencing irresponsibility including a failure to timely file federal income tax returns. (See ISCR Case No. 15-01031 at 3 and note 3 (App. Bd. Jun. 15, 2016) (characterizing "no harm, no foul" approach to an Applicant's course of conduct and employed an "all's well that ends well" analysis as inadequate to support approval of access to classified information with focus on timing of filing of tax returns after receipt of the SOR).

Clearance decisions are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of every debt or issue alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve issues or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts or issues alleged in an SOR be resolved first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts, or resolution of such issues, one at a time. Mere promises to pay debts in the future, without further confirmed action, are insufficient.

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

In order to qualify for application of [the "good-faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term "good-faith." However, the Board has indicated that the concept of good-faith "requires a showing that a person acts in a way that shows reasonableness, 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 [or statute of limitations]) 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. Jun. 4, 2001)).

In the absence of any verifiable positive activity by Applicant, of financial counseling, and a budget, it remains difficult to determine if Applicant is currently in a better position financially than she had been. Her actions, or inaction, under the circumstances cast doubt on her current reliability, trustworthiness, and good judgment. See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

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 SEAD 4, App. A, ¶ 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 SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis. See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); see also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

There is some evidence in favor of mitigating Applicant's financial concerns. She is a 59-year-old employee of a defense contractor. She has been serving as a security officer with her current employer since October 2018. She had previous experience with another employer as both a security guard and an office coordinator from July 2014 until February 2018. She is a 1980 high school graduate.

The disqualifying evidence under the whole-person concept is simply more substantial and compelling. In addition to her failures to timely file her federal and state income tax returns for 2015, 2016, 2017, and 2018, Applicant had 12 delinquent accounts, including unpaid federal income taxes, totaling approximately \$26,468, as alleged in the SOR. As of the date the record closed, she had not verifiably resolved any of those delinquent accounts, and she failed to provide documentary proof regarding her purported installment agreements with any of her creditors. She made unfulfilled promises to address her debts, but she failed to do so, even with those having relatively modest balances of \$32, \$70, or \$81.

In ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008), the Appeal Board addressed a key element in the whole-person analysis in financial cases stating:

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts. However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant

demonstrate that he [or she] has “. . . established a plan to resolve his [or her] 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 [or her] 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.

Applicant’s verifiable current track record is poor, at best. Overall, the evidence leaves me substantial questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has failed to mitigate the security concerns arising from her financial considerations. See SEAD 4, App. A, ¶¶ 2(d)(1) through AG 2(d)(9).

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
Subparagraphs 1.a. through 1.n.:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

ROBERT ROBINSON GALES
Administrative Judge