



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
 )  
----- ) ISCR Case No. 20-03749  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Nicole Smith, Esq., Department Counsel  
For Applicant: *Pro se*

1/28/2021

**Decision**

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant did not mitigate financial consideration concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

**Statement of the Case**

On November 27, 2020, the Department of Defense (DoD) Consolidated Central Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations guidelines the DoD could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); DoD Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR on August 10, 2021, and requested a hearing. This case was assigned to me on October 6, 2021. A hearing was scheduled for November 5, 2021, and was heard on the scheduled date. At the hearing, the Government's case consisted of four exhibits. (GEs 1-4) Applicant relied on six exhibits (AEs A-F) and one witness (herself). The transcript (Tr.) was received on November 12, 2021.

### **Procedural Issues**

Before the close of the hearing, Applicant requested the record be kept open to permit her the opportunity to supplement the record with payment updates on her federal and state taxes, further documentation of her dispute with SOR creditor 1.g, and any settlements and payment updates with her remaining creditors. For good cause shown, Applicant was granted seven calendar days to supplement the record. Department Counsel was afforded two days to respond.

Within the time permitted, Applicant supplemented the record with documentation covering her state tax payment plan, a bank statement reflecting creditor payments, correspondence addressing Applicant's dispute with the debt covered by SOR creditor 1.g, a release of lien and cancellation of debt by SOR creditor 1.k, an email crediting payments made to SOR creditor 1.f, and a payment made to the Internal Revenue Service (IRS) on her federal taxes owed for tax year 2015. Applicant's post-hearing submissions were admitted for consideration as AEs G-N without objection.

### **Summary of Pleadings**

Under Guideline F, Applicant allegedly accumulated (a) delinquent taxes owed the IRS for tax years 2013-2015 in the aggregate amount of \$22,954; (b) delinquent state taxes owed to her state of residence in the amount of \$15,416; and (c) nine delinquent consumer debts exceeding \$320,000. Allegedly, these debts remain unresolved and outstanding.

In her response to the SOR, Applicant admitted all of the alleged delinquent debts with explanations. She claimed generally that she did not have any of the underlying conditions characterized as potential problems under the financial considerations guideline.

Specifically, Applicant claimed her 2013 and 2014 federal tax debts have been discharged. She claimed that her delinquent 2015 federal taxes are being paid through her tax refunds on a yearly basis. She also claimed her owed state taxes are being paid through a payment plan with the state at the monthly rate of \$236 that has produced a reduction in the overall balance. She further claimed that her mortgage debt with SOR creditor 1.d has been discharged through a 2015 foreclosure of a home that she purchased for \$730,000 in November 2006 and was worth only \$429,000 by 2015.

In further explanation, Applicant claimed that the judgment covered by SOR ¶ 1.f is being satisfied with \$400 monthly payments with no estimation of a satisfaction date.

She claimed her \$214,175 credit card debt with SOR creditor 1.g continues to be disputed as a fraudulent debt that she will not pay. She claimed her SOR ¶ 1.h delinquent debt should have been resolved in her SOR ¶ 1.e foreclosure

Addressing the alleged medical debts covered by SOR ¶¶ 1.i-1.j, Applicant claimed the two medical debts represent unplanned visits to an emergency room, where her daughter was delivered stillborn, and they are debts she does not intend to pay. She claimed uncertainty over the \$361 charged-off debt covered by SOR ¶ 1.k that no longer appears on her credit report. Responding to SOR allegations covered by ¶ 1.l, she claimed this account is in forbearance by virtue of the COVID relief bill, and previously was in current status. And, Applicant claimed that the debt covered by SOR ¶ 1.m is no longer delinquent and has been paid on time for the last year.

Applicant attached several exhibits to her response. She included a photograph of her current home, estimated to be worth \$519,000. Other attachments consisted of an updated IRS tax billing for tax year 2015 in the amount of \$6,002 (noting a \$3,527 credit resulting from an applied tax overpayment of Applicant's owed 2019 tax balance) and a payment plan cancellation notice from the comptroller of her ate of residence.

### **Findings of Fact**

Applicant is a 51-year-old employee of a defense contractor who seeks a security clearance. Applicant denied generally each of the allegations in the SOR with explanations covering the financial allegations that included admissions. Findings of fact follow.

### **Background**

Applicant has never been married but has cohabited with a significant other since December 2015. (GE 1; Tr. 51-52) She had one child from this relationship who was delivered stillborn in November 2015. (GE 1) She earned a high school diploma in May 1984. (GE 1) She earned a bachelor's degree in in May 1992 and a master's degree in business and health care in May 1996. (GE 1; Tr. 50) Applicant did not report any military service.

Since September 2018, Applicant has been employed by her current employer as an enterprise architect. (GE 1; Tr. 50) Pending the outcome of her security clearance application, she has been placed on administrative leave. (Tr. 50) Between August 2017 and May 2018, she worked for another employer as a project manager, before terminating her employment over pregnancy issues. (GE 1)

Applicant was employed by other employers in various types of positions between September 2015 and August 2017. She reported periods of unemployment between June 2015 and September 2018. (GE 1) Applicant owned and operated her own private business between September 2004 and June 2015. (GE 1; Tr. 54) She held either a security clearance or public trust position between October 2005 and

August 2017, and was reportedly denied a security clearance in August 2018 due to financial issues. (GE 1)

### **Applicant's finances**

Between 2013 and 2015, Applicant accumulated delinquent federal taxes owed the IRS for these tax years. (GEs 1-3) For tax year 2013, she accrued \$9,000 in delinquent federal taxes (inclusive of interest and penalties for late-filing and non-payment). (Applicant's response and AE D) IRS tax transcripts for tax year 2013 document IRS application of levied tax credits from other tax years in March 2017 to reduce Applicant's balance to zero. (AE D; Tr. 56-57) The IRS tax transcript for tax year 2013 documented an installment agreement Applicant arranged with the IRS in April 2016 that was cancelled in July 2017 for apparent lack of payment compliance. (AE D)

For tax year 2014, Applicant reported federal taxes owed of \$3,400. (AE D) Added penalties of \$5,341 to cover late filing and payments raised Applicant's 2014 federal tax assessment to over \$21,000. (AE D) Without an installment agreement in place, the IRS supplemented Applicant's one-time October 2017 voluntary payment of \$1,836 with a series of involuntary levies to create a zero balance in May 2019. (AE D; Tr. 56-57)

IRS transcript records reflect delinquent federal income taxes owed by Applicant for tax year 2015 exceeding \$9,000. (AE D) Applicant's net taxes for tax year 2015 were calculated by the IRS in September 2021 to be \$6,130, after making allowances for her withholding from her reported income (\$6,681), added penalties (\$2,223), accrued interest (\$2,598), net voluntary payments from Applicant in 2020 (\$1,000), and involuntary levies from the IRS on scheduled Applicant refunds for other years (\$5,979). (AE D; Tr. 57-59)

With Applicant's credited voluntary \$1,000 payment to the IRS in November 2021, Applicant currently has a reported past-due balance of around \$5,130 for tax year 2015, with interest continuing to accrue at the legal rate. (AEs D and I-J) While Applicant had an installment agreement in place for a brief period spanning June 2019 and May 2020, the agreement was cancelled by the IRS in May 2020 for non-compliance with the payment terms of the agreement. (AE D; Tr. 48) IRS records do not document any other installment agreements with Applicant. Since 2015, Applicant has stayed current with her federal taxes (i.e., for tax years 2016-2020), and pledged to continue to do so in the future with the aid of IRS levies on any scheduled refunds she is eligible to receive. (AE L; Tr. 60,106)

State tax records reflect past delinquent taxes owed by Applicant to her state of residence for tax year 2015 in the amount of \$12,703. (GE 1 and AE E) From a starting balance of \$15,416 in 2016, Applicant made several payments between 2016 and 2020 through credited involuntary levies. (AE E; Tr. 62) In 2020, Applicant entered into an installment agreement with the state's comptroller. (AE E) Under this installment agreement, she made a number of voluntary payments that reduced the overall tax amount owed to \$12,073. (AE E) When she defaulted in her payment terms, her state's

comptroller canceled her installment agreement in April 2020. (AE E; Tr. 62-63) Applicant entered into a new installment agreement with her state's comptroller's office in August 2021. (AE E; Tr. 61-62)

Under the terms of this new installment agreement, Applicant is obligated to make monthly payments of \$235, beginning in September 2021. (AE E; Tr. 69-71) While her most recent bank statement reflects an October 2021 \$235 payment, it does not credit her with a September 2021 payment or any other obligated payments, and it remains unclear from the provided documentation whether Applicant made either a September payment or any other payments called for in the agreement. (AE K; 61-62)

Besides her tax debt accruals, Applicant accumulated major delinquent consumer debts over a 17-year period spanning 2004-2021. Credit reports document that she opened two mortgage accounts in 2005. (GEs 2-4; Tr. 73-74) One was a first mortgage for \$583,000, (covered by SOR ¶ 1.e) in November 2005, to finance a \$730,000 home purchase, and another was a second mortgage of \$86,000 with the same lender (covered by SOR ¶ 1.h) in December 2005 to finance a reported home equity loan. (GEs 2-4; Tr. 78-79) Credit reports document that Applicant's first mortgage holder sold its interest in the mortgage to SOR creditor 1.e in December 2014 on terms not disclosed. (GEs 2-4; Tr. 74, 116)

For the first 10 years of her mortgages, Applicant was able to manage her mortgages safely without any cost-over-runs. (GEs 2-4; Tr. 76) By 2015, the assessed value of Applicant's home had fallen precipitously to \$429,000. (Applicant's response; Tr. 27) Facing balloon payments and a devalued home, she ceased making payments and prepared herself for foreclosure of the first and second mortgages on her property. (Tr. 27-28, 76-78) Following Applicant's default in her mortgage payments in June 2015, SOR creditor 1.e foreclosed (June 2015) its mortgage. (GEs 2-4) Whether the lender's foreclosure produced enough sale proceeds to cover its first mortgage is unclear. Credit reports do not assign any deficiency balance, and Applicant expressed no awareness of any remaining deficiency resulting from the foreclosure. (GEs 2-4)

By far, the largest delinquent debt accumulated by Applicant between 2005 and 2020 is covered by SOR ¶ 1.g. (GEs 2-4 and AEs F and H; Tr. 28-29) This reported charged-off account is documented in Applicant's credit reports as a \$214,175 consumer account with a major credit card firm that is covered by SOR ¶ 1.g. Through this credit card firm, Applicant financed advertising credits with a major internet firm in excess of \$224,000 during 2014. (GEs 2-4 and AEs F and H; Tr. 39-46, 91, 102) After advancing over \$60,000 to SOR creditor 1.g to cover initial advertising charges with the creditor's internet merchant, she found a number of claimed discrepancies in the number of clicks the merchant charged her. (AE H; Tr. 85-86, 91, 102)

At Applicant's request, SOR creditor 1.g opened a billing dispute over these charges in June 2014. (AE F; Tr. 38-48, 78-80) After a thorough review of the documentation furnished by its internet customer, SOR creditor 1.g validated the charges for its merchant's services to Applicant and referred Applicant to the internet merchant for further information and discussions. (AE F) Following up with the internet

merchant, Applicant sought clarifications of the internet's costing data for Applicant's registered clicks to its site in 2014. (AE H) In email exchanges with the merchant, Applicant claimed only 839 visits to the merchant's internet site and questioned the 71,000 visits credited to her by the merchant. (AE H)

Ensuing investigations by both the credit card issuer and the charging internet merchant with Applicant-supplied data produced favorable results for the financing credit card firm who confirmed the validity of the billings. (AEs F and H; Tr. 90-91) Communications between Applicant and the internet merchant whose services she used for her business advertising never facilitated any kind of resolution of the charges billed to SOR creditor 1.g. Unable to convince her creditors of the validity of her claims, Applicant ceased all communications with both the creditor and its internet merchant after June 2014. (GEs 2-4 and AEs F and H; Tr. 38-46) Applicant's dispute with SOR creditor 1.g has never been resolved. (Tr. 92) Credit reports confirm that in 2016 the debt was charged off to profit and loss. (GEs 2-4) And, the debt has since been removed from Applicant's 2021 credit report. (GEs 2-4 and AE C; Tr. 34-35, 136-137)

Whether Applicant's dispute with SOR creditor 1.g. can be attributed to good-faith misunderstandings over the merchant's billing practices (i.e., charging for the number of clicks to the website rather than for the number of visits) is unclear based on the documentation and hearing testimony supplied by Applicant. To date, she has not provided any contemporaneous documentation of the claims materials she furnished SOR creditor 1.g, or any other substantiating documentation to aid in assessing the merits of her dispute.

Pertinent documentation from Applicant covering her dispute with SOR creditor 1.g could be expected to yield information covering the substance of her disputes with her creditors, any settlement discussions between the parties, and whether Applicant ever offered to pay SOR creditor 1.g for the charges she acknowledged to be legitimate. Without more evidence from Applicant on the substantive grounds of her dispute with SOR creditor 1.g, and any prior initiatives taken by Applicant with the creditor and its internet customer to resolve her dispute amicably, either bilaterally or through mutually enlisted arbitration and mediation services available in her community, before suspending any further payments to the creditor, the debt dispute issues raised by Applicant cannot be favorably resolved.

Other large delinquent debts are covered in SOR ¶¶ 1.h and 1.i. SOR ¶ 1.h involves a mortgage debt of \$86,617 arising out of a home equity loan Applicant arranged on her former residence in December 2005. (GEs 2-4; Tr. 78-79) After making a few payments on this loan following the first mortgagee's foreclosure of its mortgage interest, Applicant ceased making payments on the loan altogether. (GEs 2-4; Tr. 79-80) This debt was charged off by the lender in August 2019, with no activity noted in the account since 2016. (GEs 2-4)

Applicant's claims that this second mortgage (SOR ¶ 1.h) was resolved with the 2016 foreclosure of the first mortgage on the property are not corroborated by any evidence developed in the record. (GEs 2-4; Tr. 27, 29-30) Without any remaining sale

proceeds from the 2016 foreclosure sale, SOR creditor 1.h became essentially a sold-out junior lien holder with no security left to recover its loan outlays. While this debt has fallen off of Applicant's 2021 credit report, it remains unresolved. (AE C; Tr. 34-35)

In 2017, Applicant filed a law suit against her former employer (SOR creditor 1.f) over a dispute involving her performance contract. (GEs 2-4; Tr. 81-83) In 2017 court proceedings, Applicant was denied the relief she sought and was assessed attorneys' fees of \$5,397. After making two \$200 payments to the judgment creditor under an agreement she reached with the creditor, she could no longer fit the monthly payments within her budget and ceased making payments. (AE N; Tr. 85-86; 112-113) Neither her bank statement nor her credit reports provide any updates or clarifications of the status of this judgment debt, and the debt remains unresolved.

In addition to her other mortgage debts, Applicant incurred a mortgage debt with a small reported balance of \$361 noted in her credit reports on a mortgage account reportedly opened in 2004 with SOR creditor 1.k. (GEs 2-4 and AE M) Before charging off the debt, SOR creditor 1.k canceled the remaining \$361 charge on the mortgage and released the lien covering the charge on the mortgage (AE M) Based on the creditor's actions the SOR ¶ 1.k debt is extinguished and resolved favorably to Applicant.

SOR creditor 1.l covers a delinquent account with Applicant's current first mortgagee. The reported mortgage in Applicant's credit reports is a conventional mortgage on her current residence. Since October 2020, the mortgage has been in forbearance status. (AE C; Tr. 99) While she incurred recurrent delinquencies in the account before the account was placed in forbearance, no payments are currently due on the mortgage pending its return from Covid-19-based deferment. (GEs 2-4 and AE C; Tr. 98-99) Once the deferred loan is returned to active status, she is committed to resuming her \$1,027 monthly payments. (Tr. 98-99, 112-113) Considering the substantial interest she has in the property and the underlying mortgage, Applicant can be expected to resume her scheduled loan payments when they become due, Favorable resolution is warranted on this debt.

Medical debts admitted by Applicant, but later challenged, are covered by SOR ¶¶1.i and 1.j. (GEs 1-4) Applicant challenges these charged-off debts without any explanations of the legal basis of her disputes with the creditors. (Tr. 92) Both debts list \$780 delinquent balances that Applicant claims are associated with her unplanned visits to the hospital in 2016 who delivered her stillborn baby. While these debts could be duplicates, they bear different account numbers and are not challenged by Applicant on duplication grounds. Without more information from Applicant on the facts and circumstances of these debts, these medical debts remain unresolved.

A final consumer debt listed in the SOR is covered by SOR ¶ 1.m. This debt lists a past-due account of \$28 on an \$897 balance that is reported as current in Applicant's August 2021 credit report. (AE C; Tr. 100) Inferences are warranted that this debt is resolved.

Applicant earns \$150,000 a year from her current employer and shares household expenses with her significant other. (Tr. 52) She has a 401(k) retirement account with approximately \$200,000 in her plan. (Tr. 53) She has not received any documented financial counseling to date. Nor has she provided a monthly budget. With little reported savings to deal with her delinquent accounts, it is not clear what resources Applicant can expect to have on hand to address her still unresolved debts. (Tr. 52) While endorsements and performance evaluations might have been helpful in facilitating a whole-assessment of Applicant's overall reliability and trustworthiness, none were furnished.

## **Policies**

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." 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. Eligibility for access to classified information may only be granted "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 AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any.

These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period



of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

### **Financial Considerations**

*The Concern:* 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 or 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 acts or otherwise questionable acts to generate funds. . . . AG ¶ 18.

### **Burdens of Proof**

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 Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden

of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] 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**

Security concerns are raised over Applicant’s accumulation of delinquent tax, consumer, and medical debts over the course of many years. While most of the debts covered by the SOR have been charged off, they raise trust, reliability, and judgment concerns about her current and future ability to manage her finances safely and responsibly.

#### **Financial concerns**

Applicant’s accumulation of delinquent debts (comprised of tax, consumer, and medical debts) warrant the application of four of the disqualifying conditions (DC) of the financial consideration guidelines: DC ¶¶ 19(a), “inability to satisfy debts”; 19(b), unwillingness to satisfy debts regardless of the ability to do so”; 19(c), “a history of not meeting financial obligations,” and 19(f), “failure to file or fraudulently filing annual Federal, state, or local income tax returns, or failure to pay annual Federal, state, or local income tax as required.” Each of these DCs apply to Applicant’s situation.

Applicant’s admitted debts with explanations require no independent proof to substantiate them. See Directive 5220.6 at E3.1.1.14; *McCormick on Evidence* § 262 (6<sup>th</sup> ed. 2006). Her admitted debts are fully documented and create judgment issues as well over the management of her finances. See ISCR Case No. 03-01059 (App. Bd. Sept. 24, 2004). Although she qualified her admissions with explanations, her admissions can be weighed along with other evidence developed during the hearing. Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that entitles the person to access classified information. While the principal concern of a security clearance holder’s demonstrated difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving delinquent debts.

Historically, the timing of addressing and resolving debt delinquencies are critical to an assessment of an applicant's trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015).

Applicant's cited financial difficulties associated with her lengthy history of delinquent debt accruals in connection with her federal and state taxes, consumer, and medical accounts preclude her from taking advantage of most of the potentially available extenuating and mitigating benefits. While some extenuating benefit to Applicant is warranted based on her reported periods of unemployment between 2015 and 2018, her personal obligations for her owed back federal and state taxes, consumer, and medical debts remained outstanding and unresolved following her return to full-time employment in September 2018 and required her earnest attention.

Application of mitigating condition MC ¶ 20(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," partially applies. While Applicant is able to fulfill the first prong of MC ¶ 20(b) with her cited periods of unemployment, her failure to satisfy the second prong ("acted responsibly under the circumstances") of MC 20(b) is conjunctive in its application and is the key prong that prevents her from gaining any more than limited application of MC 20(b)

Several of the allegations covered by the SOR are disputed by Applicant, notably SOR ¶¶ 1.g and 1.i-1.j. SOR ¶.g covers Applicant's disputes over advertising charges billed in 2014 by SOR creditor 1.g. SOR ¶¶ 1.i and 1.j cover disputed medical debts charged her in 2016 by the same hospital creditor covered by SOR ¶¶ 1.i and 1.j. None of these raised disputes are supported by adequate contemporaneous documentation covering the factual and legal bases of her disputes with these creditors.

To apply MC ¶ 20(e), "the individual has a reasonable basis to dispute the legitimacy of the past-due debts 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," it was incumbent upon Applicant to supply documented evidence of the nature of the dispute, the substantive basis of her claims and efforts on her part to resolve the dispute with the creditor before declining any further payments. Without such evidence, MC ¶ 20(e) is not available to her. Evidence provided by Applicant does not support the application of any of the other potentially available mitigating conditions.

In evaluating Guideline F cases, the Appeal Board has stressed the importance of a "meaningful track record" that includes evidence of actual debt reduction through the voluntary payment of accrued debts. ISCR case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) In Applicant's case, she has failed for the most part to take any documented voluntary steps to address her accumulated delinquent federal and state tax, medical,

and consumer debts and provide persuasive proof of her voluntary resolving these debts.

While Applicant is credited with making some voluntary payments on her 2013-2015 federal tax and 2015 state tax payment obligations, most of the tax and other payments were credited through involuntary levies on her scheduled tax refunds for other years. Debts reduced through involuntary initiatives, such as creditor levies, attachments, and foreclosures, generally do not meet the mitigation requirements of MC ¶ 20(d), “the individual initiated and is adhering to a good-faith to repay overdue creditors or otherwise resolve debts.” Absent more evidence of voluntary payment initiatives on Applicant’s part to discharge her documented delinquent federal taxes for tax years 2013-2015, state taxes for tax year 2015, and the debts covered by SOR ¶¶ 1.f and 1.h-1.i, MC ¶ 20(d) is not available to Applicant.

The Appeal Board has consistently imposed evidentiary burdens on applicants to provide documentation corroborating actions taken to resolve financial problems, whether the issues relate to back taxes, consumer, medical, or other debts and accounts (inclusive of mortgages). See ISCR Case No. 19-02593 at 4-5 (App. Bd. Oct. 18, 2021); ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 20, 2020). For similar reasons, potentially applicable statutes of limitation and debts removed from credit reports for reasons other than payment or resolution by other voluntary means (to include meritorious disputes of debts) cannot be equated with good-faith efforts to repay overdue creditors. See, e.g., ISCR Case No. 03-04779 (App. Bd. July 2005); ISCR Case No. 02-3030 at 3 (App. Bd. April 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 2001)).

Simply because Applicant’s credit card and mortgage debts no longer appear on her latest credit report, they cannot be credited as voluntarily paid or otherwise resolved through good-faith means. Debts removed from an applicant’s credit report require independent evidence of voluntary, good-faith payment efforts for debt resolution credit. To date, Applicant has not provided any evidence of good-faith payments of these debts. Based on the evidence developed to date in this administrative record, only four of the SOR-listed debts (SOR ¶¶ 1.e and 1.k-1.m) merit resolution in Applicant’s favor.

### **Whole-person assessment**

Whole-person assessment of Applicant’s clearance eligibility requires consideration of whether her finances are fully compatible with minimum standards for holding a security clearance. While Applicant is entitled to credit for her work in the defense industry, her efforts are not enough at this time to overcome her failures or inability to resolve her accumulated tax, mortgage, judgment, and medical debt delinquencies with good-faith initiatives following her return to full-time employment in September 2018. Overall trustworthiness, reliability, and good judgment have not been established.

Applicant’s past and present failures to address and resolve most of her accumulated tax, consumer (inclusive of mortgages and judgments), and medical debts

reflect adversely on her ability to maintain her finances in a sufficiently stable manner to meet the minimum requirements for holding a security clearance. Based on a consideration of all of the facts and circumstances considered in this case, it is too soon to make safe predictions that Applicant will be able to undertake reasoned, good-faith efforts to mitigate the Government's financial concerns within the foreseeable future. More time is needed for her to establish the requisite levels of stability with her finances to establish her overall eligibility for holding a security clearance.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations security concerns are not mitigated. 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:

Guideline F (FINANCIAL CONSIDERATIONS): AGAINST APPLICANT

Subparagraphs 1.a-1.d, 1.f-1.j:	Against Applicant
Subparagraphs 1.e, 1.k-1.m	For 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.

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Roger C. Wesley  
Administrative Judge