DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 20-03310
	)	
Applicant for Security Clearance	)	

Appearances

For Government: John C. Lynch, Esq., Department Counsel
For Applicant: *Pro se*

01/13/2025

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Decision

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MARINE, Gina L., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on January 13, 2020. On April 7, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (CAS) sent Applicant a Statement of Reasons (SOR) alleging security concerns under Guideline F. The CAS acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

On October 31, 2021, Applicant responded to the SOR (Answer; Ans) and requested a decision based on the written record in lieu of a hearing. On January 14, 2022, she responded to the Government's written case, a file of relevant material (FORM Response). On May 23, 2022, Applicant requested a hearing before an administrative

judge. The Government was ready to proceed on June 15, 2022. The hearing case was assigned to me on May 4, 2023. On May 12, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for July 12, 2023, after Applicant's request for delay was granted for good cause. On July 11, 2023, the parties agreed to the new hearing date of August 11, 2023, after Applicant's request to reschedule was granted for good cause. Due to an inadvertent administrative error, DOHA did not issue the second hearing notice until August 8, 2023. Given the date of the parties' actual notice and Applicant's affirmative waiver of the 15-day notice requirement, I convened the hearing as rescheduled via video conference.

Applicant testified and I admitted Applicant Exhibits (AE) A through C, and Government Exhibits (GE) 1 through 6 into evidence, without objection. I appended to the record two Government administrative documents as Hearing Exhibits (HE) I and II. With notice to the parties, I, *sua sponte*, took administrative notice of facts, as discussed further below, from U.S. government sources, which I appended to the record as Administrative Exhibits (AX) 1 and 2. At Applicant's request, I left the record open until October 31, 2023, to allow her the opportunity to submit additional information. She did not provide any additional documents. DOHA received the transcript (Tr.) on August 21, 2023.

SOR Amendment

At the hearing, I granted the Government's motion, without objection, to amend the SOR by withdrawing SOR ¶ 1.h to conform to the record. (GE 7; Tr. at 8-9, 68)

Findings of Fact

Applicant, age 44, is unmarried with three adult children, ages 23, 22, and 19, and three minor children, ages 16, 14, and 5. All three adult children are active duty military service members. She honorably served on active duty in the U.S. Marine Corps from 1998 through 2003. In 2003, she earned an associate degree from University A. On and off between 2009 and 2019, and consistently since 2023, she has taken classes at University B toward earning a bachelor's degree, expected in 2025. She has been employed by a defense contractor (Sponsor) as a systems support engineer since January 2020. This is her first application for a security clearance. (GE 1; Tr. at 10-11, 20, 29, 42-43, 47-50, 86-88, 158, 159-160, 172)

Applicant has been married and divorced five times. She had no children with Husband #1 (1998 to 1999) or Husband #3 (2008 to 2009). Husband #2 (2001 to 2007) fathered her three oldest children; Husband #4 (2012 to 2016) her 14-year old child; and Husband #5 (2018 to 2022) her five-year old child. She never married her 16-year old child's father. She neither paid, nor was awarded, spousal support. She stated she was allocated "a large portion" of marital debt in her 2007 divorce decree. The record does not indicate any SOR allegations involve the marital debts allocated in her 2007 divorce decree beyond the student loans discussed further below. She incurred no joint debt during her other marriages. (Ans; GE 1; Tr. at 19-20, 42-46, 86-89)

Applicant was ordered to pay child support for her three oldest children, as discussed further below. She neither received nor paid child support for her three youngest children. She and Husbands #4 and #5 share equally all expenses associated with her two youngest children. She filed a child-support petition for her 16-year-old child in about 2010, but she was not awarded child support until about 2012, due to a service of process delay. There remain two active arrest warrants against her 16-year-old child's father for his failure to pay any amount of child support. He has yet to be located. (GE 1; Tr. at 43-46, 86-89,157-158)

Applicant worked for a law firm from 2003 until 2005, when her third child (Child #3) was born with special needs, as discussed further below. She remained unemployed as a "stay at home mom" (SAHM) until December 2010, when she began working full time for another defense contractor (Employer A) as a material handler. Throughout most of the security clearance process, she reported being laid off in October 2012 due to a government shutdown; however, in her Answer, she recounted the year as 2013. She remained unemployed as a SAHM until October 2014, when she began working for a grocery store (Employer B), initially as part-time manager trainee, and then as full-time manager. In June 2018, she resigned due to a flare-up of a chronic medical condition, which rendered her unable to perform the physical duties of her job. She worked on and off in various part-time positions at a retailer, a farmer's market, and "some[place] else" until January 2019, when she became employed full time by another defense contractor (Employer C) as a material planner. In January 2020, she resigned to pursue her current position. (Ans; GE 1; Tr. at 20, 29-33, 49, 95-107, 123)

Applicant was "pigeonholed" into being a SAHM between October 2012 and October 2014 due to the lack of available contracts in her field; her inability to find any other jobs that paid enough to offset the cost of childcare required by her three children and Husband #4's children; and her "very volatile" marriage to Husband #4, who was "financially and emotionally abusive." Between June 2018 and January 2019, she similarly struggled to secure a full-time position with a schedule and salary that met her childcare needs. (Ans; GE1; Tr. at 19-20, 29-30, 100)

SOR Allegations

Applicant disclosed financial problems on her January 2020 SCA. She provided additional details during her March 16, 2020 security clearance interview (SI1) and March 24, 2020 follow up to SI1 (SI2), in her October 2021 Answer (Ans) and January 2022 FORM response, and during her testimony in August 2023. (AE A; GE 2, 3, 4, 6; Tr. at 99, 100)

Tax Issues. Applicant failed to timely file and pay, as required, her tax year (TY) 2018 federal income tax return (SOR ¶ 1.a) and her TY 2018 federal income taxes of $400 (SOR ¶ 1.b). (Ans; GE 1, 5, 7; Tr. at 51-60, 116-117)

On her 2020 SCA, Applicant proffered a plan to hire a tax professional to address both self-reported TY 2018 tax issues. During her 2020 SI1, she asserted she hired a tax professional (X) in 2019 and X filed her TY 2018 return on an unspecified date. She

planned to pay the $400 debt via either her increased income or her anticipated TY 2019 refund. She denied deliberately disregarding her tax obligations for TY 2018, to which she attributed the emotional and financial distress of her 2016 divorce. In her 2020 Answer, she admitted the $400 debt remained unresolved. In her 2022 FORM response, she referenced but did not provide, Internal Revenue Service (IRS) tax records, which she asserted did not reflect her filing of TY 2017, 2018, and 2021 returns "through a professional." She claimed she had "no way" to pay the $400 debt because the IRS records did not reflect she owed a balance for TY 2018. (Ans; GE 1, 5, 7)

Applicant proffered the following testimony. She hired X in about 2018 or 2019. X filed her TY 2018 return sometime during the summer of 2019. She timely self-filed her TY 2019 and 2020 returns. In 2021, upon discovering the IRS rejected her TY 2020 return, she hired another tax professional (Y). Y discovered X filed her TY 2018 return incorrectly and her TY 2019 and 2020 returns had been rejected due to a "social security number issue" with Husband #5's W-2. After requesting filing extensions for TY 2021 and 2022, she "spent many hours" working with Y to "rectif[y] everything." In about "the beginning of [August 2023]," Y filed amended returns for TY 2018 to 2020, and original returns for TY 2021 and 2022. "To [her] knowledge," the $400 debt was paid and she owed no outstanding federal or state taxes for TY 2018 through 2022. The SOR did not allege facts about late return filings post TY 2018. Accordingly, I will consider them solely to evaluate mitigation and the whole-person concept. Despite indicating an intent to do so post hearing, she proffered no documents to corroborate the resolution of her TY 2018 tax issues. (Ans; GE 1, 5, 7; Tr. at 51-60, 116-117)

Consumer Debts. SOR ¶¶ 1.c, 1.e through 1.g, 1.k, and 1.l are consumer debts totaling $3,037. Applicant's March 2020 and April 2021 credit bureau reports (CBRs) reflected all six debts; her December 2021, only SOR ¶¶ 1.d and 1.k; and June 2022 CBR, only SOR ¶ 1.k. None were reflected on her other CBRs. (AE A, B; GE 2-4, 6; Tr. at 60-61, 66-68, 70-71)

During her 2020 SI1, Applicant stated she planned to contact her creditors and pay her delinquent debts with her new income. During her 2020 SI2, she stated her attempts to contact creditors within the week following her 2020 SI1 were unsuccessful due to the COVID-19 pandemic. In her 2022 FORM response, Applicant asserted she managed her debts via a credit bureau agency application (app) for which she paid unspecified subscription fees. With information from the app, she paid some debts and successfully challenged others. (GE 5, 7)

In her 2021 Answer, Applicant claimed she resolved SOR ¶¶ 1.c, and 1.e through 1.g, and was in contact with her creditors to resolve SOR ¶¶ 1.k and 1.l. She testified she resolved SOR ¶¶ 1.k and 1.l via lump-sum payments of $892 and $325, respectively. She could not recall the amounts she paid to resolve the other debts or the dates of any payments. The Government conceded AE B sufficiently corroborated the resolution of SOR ¶ 1.e ($58). Despite indicating an intent to do so post hearing, she proffered no documents to corroborate payments, disputes, or other efforts to resolve the remaining five consumer debts. (Ans; Tr. at 32-33; 60-61, 66-68, 70-71, 114-115, 134-136)

Child-Support Debt. The $15,166 debt in SOR ¶ 1.d stems from Applicant's 2012 child-support obligation for her three oldest children. Her March 2020 CBR reflects the alleged amount; and her December 2021 CBR reflects a $11,940 balance. The debt was not reported on her other CBRs. (AE A, B; GE 2-4, 6; Tr. at 86)

Applicant reported the following history. Upon separating from Husband #2 in May 2007, she relocated to a residence outside of her children's school district. As a result, they resided with Husband #2 more than 50% of the time to attend school. She was "an active parent despite the fact that they were with him during the week." She was neither ordered to pay child support pending their divorce nor once it was finalized. Upon being awarded joint custody in their 2007 divorce decree, in lieu of child support, the parties shared equally, and paid directly, all expenses related to their three children. In addition, Husband #2 sent unspecified monthly payments to Applicant for his contribution to the extraordinary living expenses she incurred until Child #3 was able to return to childcare. Child #3 was born prematurely and suffered ongoing hospitalizations and health issues, which rendered him "unable to return to childcare for an extended amount of time." (GE 5, 7; Tr. at 34-35, 40-44, 62-66, 89-96)

Upon remarrying, Husband #2 petitioned the court for sole custody (in about 2009) and child support (in about December 2011). The record did not address the custody disposition. In December 2012, the court ordered Applicant to pay, via a routine income withholding order (IWO), beginning in February 2013: $732 per month for child support; and $150 per month for a $9,516 arrearage plus accruing interest until paid in full. The arrearage dated back to the filing date of the petition. The court also ordered the parties to split the children's "health insurance costs 50/50." The court denied Applicant's request for a deviation from the applicable statutory child support calculations. (GE 5, 7; Tr. at 34-35; 40-44, 62-66, 89-96)

Applicant testified she complied with the court's order via consistent monthly payments of about $900 until she fulfilled her monthly child-support obligation and paid in full the principal amount of the arrearage (on unspecified dates). She acknowledged missing about three payments during unspecified unemployment, which she resolved via a lump-sum payment of about $3,500, upon regaining employment. She attributed SOR ¶ 1.d solely to the interest balance of her arrearage obligation. (Ans; GE 5, 7; Tr. at, 40-44, 62-66, 89-96, 154-155)

Applicant testified she initiated the following actions to resolve SOR ¶ 1.d. To secure a waiver of the interest balance, she consulted three attorneys on unspecified dates, and her state's division of child support enforcement (DCSE) in about July 2023. She was advised the only person who can waive the interest balance is Husband #2, and he refused. With the DCSE agent's assistance, on July 1, 2023, Applicant prepared and submitted a voluntary Support Agreement, signed by both her and Husband #2, proposing a plan to resolve the interest balance through monthly payments of $732 via a new IWO. Her existing IWO was to remain in effect until the court approved the plan, which was expected about a month post hearing. (Tr. at, 40-44, 62-66, 89-96, 155)

At the hearing, Applicant proffered a partial, unsigned copy of the July 2023 agreement, which reflected: a $0 child-support balance; a $963 principal arrearage balance; and a $6,279 interest balance. She testified the principal balance would be imminently resolved via her existing IWO. She planned to resolve the interest balance in accordance with the agreement. Despite indicating an intent to do so post hearing, she did not provide a full, signed copy of the agreement, indicia of the court's approval, or any documents to corroborate payments beyond those reflected by her December 2021 CBR. (AE C; Tr. at, 39, 41, 43-44, 62-66, 89-96, 155)

The record did not specify Applicant's other monetary contributions to her six children's expenses. She testified generally, "I make sure they can play sports and make sure they have new school shoes for the school year . . . as much as I can;" and

> [regarding her three eldest children] I paid for all travel, all transportation expenses. I did all the pickup and drop-offs. I paid for half of school supplies, half of medical, half of sports. I paid all of the stuff I was ordered to pay, and more . . . because I took them school shopping. (Tr. at 64, 173)

Medical Debts. SOR ¶¶ 1.i and 1.j involve $320 and $420 bills from a hospital and private medical provider, respectively, as reflected on Applicant's March 2020 and April 2021 CBRs. Neither appeared on her other CBRs. (AE A, B; GE 2-4, 6; Tr. at 68-70, 128)

On Applicant's 2020 SCA, she asserted she submitted the bills underlying the debts (referencing both creditors by name) to the U.S. Department of Veterans Affairs (VA) and assumed the VA paid them. During her 2020 SI1, she denied knowing the specific medical services involved. She did not understand why any medical bills would be sent to collections, as she was entitled to full medical coverage through the VA due to a service-related disability. She planned to contact the VA to investigate. In her Answer, she indicated she was unable to "research" the debts since they no longer appeared on her CBR. During the hearing, she indicated she did not intend to pay either debt, while acknowledging she had not yet contacted either the VA or the creditors to verify the underlying debts had been paid by the VA. Despite indicating an intent to do so post hearing, she did not provide any documents to corroborate payments or other efforts to resolve the debts. (Ans; GE 1, 5; Tr. at 68-70, 128)

Federal Student Loans. SOR ¶¶ 1.m through 1.r, totaling $28,462 are U.S. Department of Education (USDOE) student loans. Applicant's March 2020 CBR indicates they were either opened or assigned for collection between about 2002 and 2008. None were reported on her other CBRs, to which Applicant attributed the age of the debts. (AE A, B; GE 2-4, 6; Tr. at 75-76)

Applicant proffered the following history. She obtained the loans in about April 2001 while she was on active duty and attending University A. The military paid 75% of her University A expenses. She applied the loans to the remaining 25% and miscellaneous other expenses she and Husband #2 "needed to pay around the house." As "two lower-end military [members]," their combined income was insufficient to meet their necessary expenses, including daycare for two children. Husband #2 agreed to help

repay the loans. However, once they divorced, he refused. Since the loans were opened in Applicant's individual name, they were assigned to her in their 2007 final divorce decree. She made timely monthly payments of about $132 in compliance with her repayment obligation until 2012, when she defaulted due to her layoff. (GE 5; Tr. at 123-124, 158-159)

Applicant reported her loans in delinquent status on her 2020 SCA, explaining she was "not in a position to pay [them] back yet." During her 2020 SI1, she proffered a plan to contact the USDOE to set up a repayment plan. When she contacted the USDOE within the week following her 2020 SI1, she was unable to do so because of the pandemic. As of her Answer, she had not yet arranged to repay her loans. She attributed the delay to a lack of available means; initially, due to not having gainful employment; and then, due to prioritizing other debts with her new income. Since 2020, she contacted the USDOE one time on an unspecified date in 2023, and was advised the loans remained in deferment status due to the pandemic. (Ans; GE 1, 5, 7; Tr. at 71, 129)

As of the hearing, Applicant had not reached back out to the USDOE, including after learning (on an unspecified date) the pandemic deferment would end in September 2023. She planned to do so post hearing. She did not know the amount of her monthly payment obligation beginning in October 2023, but she was "looking into it." She maintained, since becoming gainfully employed, she worked toward establishing a repayment plan by attempting to "track down" the current collection company (to no avail since the loans had been transferred so many times); and researching information on the USDOE website and through her memberships in two financial education groups. (Tr. at 71-76, 123-132)

Applicant believed her loans were eligible for discharge through the USDOE's Borrower's Defense (BD) program. Upon learning the BD program was accepting applications on July 31, 2023, she immediately started working on one, but did not finalize it due to University A's closure for summer and fall break. She planned to do so post hearing and continue "keeping any eye" out for other relief programs. If she does not obtain a discharge, she plans to fulfill her loan obligation through a repayment plan. Despite indicating an intent to do so post hearing, she did not provide any documents to corroborate any payment history or other efforts to repay her USDOE loans. (Tr. at 71-76, 123-132)

Attorney's Fees Debt. SOR ¶ 1.s is a $21,825 collection account involving Attorney A's fees for the custody matter initiated by Husband #2, as reflected on Applicant's April 2021 CBR. It does not appear on her other CBRs. (Ans; AE A, B; GE 1-7; Tr. at 76-77, 94-95, 149-152).

Applicant reported this debt on her 2020 SCA. She asserted the following during her 2020 SI1. She made regular payments of $75 per paycheck to Attorney A, per an established agreement, until she became unemployed in June 2018. She had no opportunity to contact Attorney A since becoming employed by Sponsor. She planned to contact Attorney A to make arrangements to begin repaying her debt with her next

paycheck. However, when she attempted to contact Attorney A within the week following her 2020 SI1, she was advised its offices were closed due to the pandemic. (GE 1, 5)

In her 2021 Answer, Applicant stated she was "working with [a collection company (CC1)]" to establish an affordable payment plan. In her 2022 FORM response, she stated she contacted CC1 after receiving a copy of the FORM, and was advised the debt had been transferred to CC2. She proffered a CC2 statement, dated December 23, 2021, requesting the $21,825 debt be paid in full or via monthly payments of at least $36. She asserted she established a plan with CC2 and made "an initial payment." (GE 7)

During the hearing, Applicant acknowledged she prioritized resolving her USDOE loans over SOR ¶ 1.s. She proffered the following testimony. She paid Attorney A about $100 per month "for a while" until she could no longer afford to do so due to "really struggling financially." Attorney A "tacked on" an unspecified amount to her original bill before transferring the debt to CC1. She paid CC1 about $75 or $100 per month "for a while" until her 2012 layoff. Her most recent contact with CC2 was sometime "last year." Since then, the debt had been transferred "twice more." She planned to "track down" the current collection company post hearing to negotiate a settlement. Despite indicating an intent to do so, she proffered no documents to corroborate payments or other efforts to resolve SOR ¶ 1.s. (Tr. at 76-77, 94-95, 132, 151-152)

Financial History

Applicant reported the following assets as of the hearing: a retirement account balance of about $20,000, accumulated since working for Sponsor; "a couple of checking accounts through two different banks," with balances totaling about $1,200; and a savings account balance of about $2,000 to $3,000. (Tr. at 79)

Applicant reported the following income history. From December 2010 to October 2012 with Employer A, she earned about $14 to $16 per hour. From October 2014 to June 2018 with Employer B, her annual take-home pay, after about $12,000 was deducted for child support, was about $28,000 as a trainee, and "probably $30,000" as a manager. From January 2019 to January 2020 with Employer C, she earned $48,000 annually, which was "40% less" than her Employer B salary. She accepted the pay cut to "get back into the field." From January 2020 through present with Sponsor, she has earned an annual salary, which increased from about $84,000 upon hire to about $98,000 as of the hearing, plus bonuses – "quite literally the highest income I have ever made in my life." She did not receive bonuses in 2020 or 2021 for reasons unrelated to her performance. Her March 2022 and March 2023 net bonuses were about $6,000 and $8,000, respectively. Her monthly VA disability pay increased from $685 (as of an unspecified date) to $2,600 (as of about late spring 2022). (Tr. at 20, 31-32, 98, 103, 105-107)

Applicant reported the following expense history. She paid: $150 for X's services (Tr. at 55); $250 for "about four hours" of Y's services in August 2023 (Tr. at 117); $2,500 cash to Attorney B for the child-support matter initiated by Husband #2 (Tr. at 94); $500 to $600 per month for gas for her 2005 truck (Tr. at 138); unspecified cash amount to

Attorney C for her divorce from Husband #5 (Tr. at 150); unspecified amount to resolve a credit-card account opened sometime after 2014 (GE 5 at 5-6; GE 3 at 9); unspecified amount for a July 2023 cruise to Country X for herself and two eldest sons as a "goodbye brother trip" before one son left for the military (Tr. at 80); unspecified amount for two plane tickets to State Y for herself and eldest daughter so she could "see her [daughter] off" as her daughter traveled from State Y to an overseas duty station (Tr. at 81); and an unspecified amount for two plane tickets to State Z for herself and one son for his spring break trip. (Tr. at 82) She stated she used her bonus for a $4,243 lump-sum cash payment to pay off a 2010 car loan in March 2021, despite earlier stating she received no bonus that year. (GE 3 at 9; Tr. at 33, 105-107, 111)

Applicant added the following context to her expense history. Because she and Husband #3 never resided together, they each paid their own living expenses and individual debts. Husband #4 paid their living expenses, but not her child support or other debts. He told her "living in the house" was "payment of being a stay-at-home mom." He also "refused" to give her gas money, which she paid with her VA disability income. Between June 2018 and January 2019, she used her savings to pay for living expenses, which she reduced to a "very low" amount by moving to an apartment on an unspecified date. (Ans; Tr. at 102) Once she and Husband #5 moved in together in October 2018, he began helping with her living expenses, but not her child support or other debts. (Tr. at 30, 89, 99, 104) From January 2019 to January 2020, her salary from Employer C was "enough for living expenses," but not sufficient to resume debt repayment. (Ans; Tr. at 33, 102-104)

Applicant reported the following ongoing expenses. She pays $498 monthly for the sole car she owns. She purchased it in new condition in May 2022 for about $50,000 or $60,000, to replace her 2010 car, which was totaled in a November 2021 accident. She paid the dealership about $18,000 cash to keep the loan payment "under $500 a month," and financed $28,582 via a 72-month loan. The cash came from her bonus, savings, about $2,500 from sale of her 2005 truck, and "just over $5,000" from the accident insurance payout. (AE B at 15; GE 6 at 5; Tr. at 20, 78, 138-140) She sends her parents about $500 per month "to help them," because they are in their sixties, and to "try and repay them for what they did for me" both monetarily and non-monetarily following her 2016 divorce. Her parents have never loaned her money. (Tr. at 77-78) She pays an unspecified monthly fee for one television streaming service. (Tr. at 81-82) She pays $5.99 monthly for her car's satellite radio service, pursuant to a three-year contract she signed when she purchased her new car, considering it "a pretty good deal." (Tr. at 82) She rarely spends money on restaurant meals due to her dietary restrictions. (Tr. at 81) She pays unspecified rent, utilities, and other household expenses for herself and three youngest children who reside primarily with her. (GE 1; Tr. at 20, 36, 42-43, 170, 175) She has no ongoing medical costs because the VA "covers all of my medical needs." (Tr. at 156)

Applicant's recent CBRs revealed she opened 22 new accounts between April 2021 and April 2023, including her new car loan, a line of credit, a secured loan, four unsecured loans, and 15 credit cards – all reported in good standing. She asserted she used the new credit cards solely to pay discretionary expenses. She maintained she

never used them to pay bills or other "necessity" expenses, which she always paid from her salary. She explained she opened six of the credit cards, with high credit totaling $9,332, to build credit (A); a retail credit card, in April 2023, to purchase herself an Apple-brand $1,635 touchscreen tablet computer for school (B); an airline credit card, in February 2023, with high credit of $3,147, to take advantage of mileage points and other benefits when purchasing airline tickets for personal and work use (C); a retail credit card, in September 2022, to take advantage of a 55% discount for a $500 purchase related to her son's prom (D); and one retail credit card, in May 2022, to purchase a $4,810 washer dryer (E). Her July 2023 CBR reflected balances of $3,750 (A); $1,423 (B); $3,147 (C), which she stated related solely to personal tickets as any work tickets had been fully reimbursed; $205 (D); and $4,773 (E). Her credit score increased from 535 to 652 between her April 2021 and July 2023 CBRs. (AE B; GE 6; Tr. at 137-148; 169-170)

Applicant testified she does her best to incur new debt only after "a lot of thought" and analysis of "all of the facets." She waited over six months to purchase her new car to be "100 percent confident" with her decision. The purchase price of the new car included an $8,000 extended warranty, which she felt was necessary to shield her from future repair and rental car costs since she is unable to rely on financial assistance from anyone else. For those reasons, she chose what she believed was the most reliable car she could afford. (GE 7; Tr. at 170, 174-176)

Debt Resolution Efforts

Applicant actively sought a higher paying position to resolve her consumer and other delinquent debts, to which she attributed financial instability that began with her 2007 divorce and continued until she obtained gainful employment in January 2020. She lives "a modest life" within her means and has worked hard to improve her financial situation. She remains committed to resolving her delinquent debts within her available means. She does not intend to incur future indebtedness. (GE 5, 7)

According to Applicant, her debt resolution efforts were not prompted by the SOR; but rather, the timing of her "available income" happened to coincide with the security clearance process. She was unable to make progress addressing her delinquent debts prior to obtaining gainful employment for various reasons including unemployment, underemployment, her child-support obligation, the financial and emotional abuse of her marriage to Husband #4, the emotional and financial distresses associated with being a single mother and sole provider, and her chronic medical condition and attention deficit hyperactivity disorder (ADHD). Moreover, she endured high-risk pregnancies with her three youngest children (born 2009, 2010, and 2019, respectively), each of which required extended bed rest. The bed rest did not impact her financially until the last four months of her 2019 pregnancy, when Employer C "halved" her income by reclassifying her employee status from salaried to hourly and restricting her to four-hour work days. (Ans; GE 1, 5, 7; Tr. at 19-20, 42-46, 152-153, 169)

Applicant prioritized other financial responsibilities for her family and her child-support obligation. Given her tenuous relationship with Husband #2, she feared jail time could be imposed should she fall behind with her child-support payments. She attributed

"the really long time" it took her to accumulate the necessary funds to leave her abusive fourth marriage in large part to her child-support debt. Husband #4 ensured she had to financially depend solely on him, which he "used" as a "means [of] control." In 2014, she mustered the "courage" and finances (from secretly cleaning houses while he was away working) to flee their marital home to escape the abuse. She was in "survival mode" and "left with nothing but a laundry basket and my children. And I had to restart my life. I was homeless, I was jobless, and I was vehicle-less." She was able to rebuild her life with the help of the financial and emotional support of her parents, a VA program for homeless veterans that provided her with vouchers for childcare so she could start working, and "a couple years in therapy." (Ans; GE 1, 5; Tr. at 19-20, 30-31, 42-46, 86-89, 100, 171-172)

Applicant learned about managing her finances through a social media group called "Credit 750," which she sought out to improve her credit score, resolve her delinquent debts, and buy a home. She remained a member of the group as of the hearing. Her debt repayment plan involves periodically obtaining a new CBR as a guide to systematically resolve her debts, one by one, by using the "Dave Ramsey method" of paying small debts first, and then moving on to the larger ones. She maintains a written budget due to her ADHD, which requires she write things down to remember them. She considered engaging the services of a debt resolution company to assist in her efforts, but decided against it after speaking with a "couple" of them, due to the high fees required. She planned to investigate additional options for financial counseling and debt management post hearing. (Tr. at 20, 33, 35, 60-61, 66-68, 70-71, 82-83, 112, 134, 146-147)

Applicant testified that, at times, she sought removal of a debt from her CBR without making a payment, but she did not indicate any of the SOR debts were resolved in that manner. She recalled successfully disputing one debt, but could not recall the date of her dispute, the specific debt, or whether the debt was alleged in the SOR. She recalled only that it was a debt she viewed on one of her CBRs. None of her CBRs reflect any disputes. (AE A; GE 2, 3, 4, 6; Tr. at 61, 68, 110)

Applicant attributed her inability to provide corroborating documents, beyond those indicated above, to "poor recordkeeping," prioritizing payments over maintaining records of payments, and being "very, very, very busy" with "a lot on my plate" as a full-time student, full-time employee, and single mother of three young children. She was told by one or more creditors that proof of payment was not possible given the age of the debts. (Ans; GE 7; Tr. at 35-37, 60-61, 66-68, 70-71, 134-136, 169, 171)

Whole Person

Applicant was never terminated or charged with wrongdoing by an employer. She has not had disciplinary issues or negative remarks on her performance reviews in connection with her current employment. She stated,

> . . . I'm in a constant state of improvement and still trying to overcome . . . what happened in my past. It haunts you for a very long time unfortunately. And I am just determined to make it [and] continue to improve my life. I'm at

the best place I've ever been in my entire life. I've never been independent like this. (GE 7; Tr. at 146-147, 37)

Applicant came from a poor family and was never taught about finances or "how to be an adult." She "learned everything in my life by trial and error and educating myself." She is "constantly trying" to work "really hard to change my life and overcome the circumstances I've dealt with" because "I want my kids to be better than I am . . . They deserve way more opportunities than I was ever given in my life." She believes her career "will be hindered" if she is not granted a security clearance because "[i]t is going to pigeonhole me into jobs that won't have as much advancement." (Tr. at 170-173)

Policies

"[N]o 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." (*Egan* at 527). The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." (EO 10865 § 2)

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines 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 and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that 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 made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." (EO 10865 § 7). Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. (*Egan* at 531). "Substantial evidence"

is "more than a scintilla but less than a preponderance." (*See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994)). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. (ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016)). 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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. (ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005))

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)). "[S]ecurity clearance determinations should err, if they must, on the side of denials." (*Egan* at 531; AG ¶ 2(b))

Analysis

Guideline F: Financial Considerations

The concern under this guideline 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 . . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. (ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012))

I, *sua sponte*, took administrative notice of the following facts from U.S. government sources: (1) a government shutdown occurred between about September 30 and October 17, 2013, but not in 2012 (this discrepancy did not affect the relative positions of the parties or my decision); and (2) the USDOE provided emergency relief for federal student loans due to the pandemic, including the suspension of loan payments and collections on defaulted loans, from March 2020 through September 2023. (AX 1-2)

Defaulting on any loan is security significant, but defaulting on a federal student loan is of particular concern when seeking a federal benefit. However, the record established Applicant's student loans were in deferment status due to the USDOE's pandemic relief as of the date of the SOR, and not in delinquent status as alleged. Accordingly, I find SOR ¶¶ 1.m through 1.r in Applicant's favor. Nevertheless, her student loans remain relevant to mitigation and the whole-person concept.

The record evidence and Applicant's admissions establish the following disqualifying conditions set forth in AG ¶ 19 under this guideline as to the remaining non-student loan allegations: (a) inability to satisfy debts; (c) a history of not meeting financial obligations; and (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.

I considered each of the factors set forth in AG ¶ 20 that could mitigate the alleged concerns under this guideline and find the following warrant discussion:

> (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;
>
> (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue; 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.

Applicant did not deliberately disregard her TY 2018 federal income tax obligations. She presented a reasonable plan in her SCA to resolve her 2018 tax issues, and credibly testified about the various responsible actions she took to follow through with her plan. The fact that she did not provide evidence to corroborate the resolution of her

2018 tax issues precludes mitigation based upon the application of AG ¶¶ 20(b), 20(d), or 20(g). Given the passage of time and the nature of her 2018 tax issues, I find SOR ¶¶ 1.a and 1.b in her favor based upon the application of AG ¶ 20(a). I do not find sufficient evidence in the record to conclude Applicant's self-reported post TY 2018 tax filing history involved an intentional disregard of her filing obligations.

Applicant fulfilled her monthly child-support obligation, and she demonstrated meaningful progress toward resolving her arrearage obligation. As of July 2023, she paid all but $963 of the principal arrearage and $6,279 of the interest balance. The IWOs through which she made payments were not punitive. Based upon her track record of payments and responsible actions, I conclude she will follow through with her plan to fully resolve her arrearage obligation. By proffering sufficient corroborating documentary evidence, she met her burden to establish AG ¶¶ 20(a), 20(b), and 20(d) as to SOR ¶ 1.d, which I find in her favor.

Because Applicant sufficiently corroborated the resolution of her $58 consumer debt within a reasonable period of obtaining gainful employment, I find SOR ¶ 1.e in her favor based upon the application of AG ¶¶ 20(a), 20(b) and 20(d). She proffered a reasonable basis to dispute the two medical debts alleged in SOR ¶¶ 1.i and 1.j. By failing to take action to resolve the dispute through the credit bureau agencies or directly with her creditors, she did not meet her burden to establish AG ¶¶ 20(b), 20(d), or 20(e). Nevertheless, it is unlikely future medical debts will arise. Given the amounts involved and nature of the debts, I find SOR ¶¶ 1.i and 1.j in her favor based upon the application of AG ¶ 20(a).

Conversely, Applicant failed to sufficiently corroborate payments with documentary evidence or otherwise demonstrate meaningful progress in resolving her remaining indebtedness. I considered the challenges of accessing certain financial documents due to the age of the debts. However, that does not relieve her of the obligation to substantiate her mitigation claims. The Appeal Board has previously noted it is reasonable for a judge to expect applicants to present documentation about the resolution of specific debts. *See*, *e.g.*, ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). The mere disappearance of a debt from a credit report does not establish it was paid or otherwise resolved. The CC2 statement confirms her December 2021 contact with CC2 but does not establish either an agreed payment plan or payments toward resolving SOR ¶ 1.s.

Applicant's unresolved consumer debts totaling less than $3,000 are not of security significance alone. Were it not for the substantial amount involved, the attorney's fees resulting from circumstances beyond her control might lack security significance. However, I am unable to view these two debts either in isolation from the other or the record as a whole. She failed to meet her burden to establish payment or other resolution of these debts. Similarly, she failed to demonstrate a meaningful track record of regular and timely payments for a significant federal loan obligation. The deferred status of her loans from March 2020 through September 2023 resulted from the USDOE's pandemic relief, not to any demonstrated action on her part. The record did not indicate whether she applied for, or received, any deferments while enrolled at University B. The pandemic relief and circumstances beyond her control provide some mitigation as to her periods of

nonpayment between her 2007 divorce through September 2023, including her nonpayment between January 2020 and March 2020, which was reasonable given the recency of her employment and new income. Nevertheless, neither the extent to which she has been temporarily absolved from making payments nor the possibility of a successful discharge at some point in the future obviates her responsibility to USDOE for student loans dating back to the early 2000s.

Security clearance adjudications are not debt-collection proceedings. The AGs do not require an applicant to immediately resolve or pay every debt alleged in the SOR, to be debt free, or to resolve first the debts alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. She proffered a reasonable plan to resolve her remaining indebtedness. However, despite nearly doubling her salaried income and quadrupling her disability income, she failed to demonstrate meaningful progress in following through with that plan. In the last two years, she opened 22 new accounts and demonstrated questionable judgment in her discretionary spending. She had not yet finalized either her BD application or lined up a viable repayment option for her student loans despite the imminent end of the pandemic deferment. Promises, however sincere, are not a substitute for a corroborated track record of paying debts in a timely manner and otherwise acting in a financially responsible manner.

The efforts Applicant made to address her tax issues, child support, and a single consumer debt are steps in the right direction. She is to be commended for taking proactive actions to improve her finances and create a better life for herself and her children, despite extraordinary challenges. However, although she raised the potential applicability of one or more mitigating conditions as to the remaining five consumer debts and attorney's fee debt, she failed to meet her burdens of production and persuasion to establish mitigation of the Guideline F concerns. While she may be able to overcome these concerns at some future date, based upon the existing record, I am unable to conclude her indebtedness is not likely to recur and no longer casts doubt on her reliability, trustworthiness, or good judgment. AG ¶ 20(a) through (e) have not been established as to SOR ¶¶ 1.c, 1.f, 1.g, 1.k and 1.l, and 1.s.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the adjudicative guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). The lack of corroborating documentation and her failure to avail herself of the opportunity to expand the record with respect to her debt resolution efforts after the hearing undermined mitigation. After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude that Applicant has not mitigated the security concerns raised by her indebtedness. Accordingly, I conclude Applicant has not carried her burden of showing it is clearly consistent with the interests of national security to grant her eligibility for access to classified information.

Formal Findings

Formal findings 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 – 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraphs 1.d and 1.e:	For Applicant
Subparagraphs 1.f – 1.g:	Against Applicant
Subparagraph 1.h:	Withdrawn by the Government
Subparagraphs 1.i – 1.j:	For Applicant
Subparagraphs 1.k – 1.l:	Against Applicant
Subparagraphs 1.m – 1.r:	For Applicant
Subparagraph 1.s:	Against Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for access to classified information. Clearance is denied.

Gina L. Marine
Administrative Judge