



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 14-00163

Appearances

For Government: Ray T. Blank, Jr., Esquire, Department Counsel

For Applicant: *Pro se*

06/27/2014

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant has failed to mitigate the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is denied.

Statement of the Case

On May 31, 2011, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application (SF 86).¹ In April 2014 (no date is indicated, although the letter of transmittal (Item 3) is dated April 1, 2014), the Department of Defense (DOD) Consolidated Adjudications Facility - Industry Division (CAF) issued a Statement of Reasons (SOR) to her, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December

¹ Item 4 (SF 86), dated May 31, 2011.

29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD CAF was unable to make a preliminary affirmative finding under the Directive 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.

It is unclear when Applicant received the SOR as the receipt was not completed. In a statement, notarized April 8, 2014, Applicant responded to the SOR allegations, supported by documentation, and elected to have her case decided on the written record in lieu of a hearing.² A complete copy of the Government's file of relevant material (FORM) was provided to Applicant on May 5, 2014, and she was afforded an opportunity, within a period of 30 days 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 Guidelines applicable to her case. Applicant received the FORM on May 21, 2014, and she submitted a response on May 28, 2014. An additional response was submitted on June 2, 2014. By letter, dated June 5, 2014, Department Counsel did not object to the responses. The case was assigned to me on June 20, 2014.

Findings of Fact³

In her Answer to the SOR, Applicant admitted 18 of the factual allegations pertaining to financial considerations in the SOR (§§ 1.a. through 1.r.). Applicant's admissions and other comments are incorporated herein as findings of fact. She denied the two remaining allegations (§§ 1.s. and 1.t.). After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 42-year-old employee of a defense contractor. It is unclear what she does as she described her title merely as "contractor." She first started working for her current employer in July 2008, and claimed she relocated to another state in November 2011 to accompany her husband when he accepted a new job. She stated she reclaimed her position in February 2013.⁴ She was previously employed as a part-time waitress, and full-time secretary.⁵ She was unemployed from May 2008 until July

² Item 2 (Applicant's Answer to the SOR).

³ The facts set forth herein are derived solely from Applicant's SF 86, her Answer to the SOR, her Responses to the FORM, and any other documents submitted either by her or by Department Counsel. Dates and circumstances appear to be inaccurate and various facts seem to be incomplete. There is no Personal Subject Interview, Personal Financial Statement, or a Report of Investigation performed by anyone from the U.S. Office of Personnel Management (OPM).

⁴ Item 4, *supra* note 1, at 13; Item 2, *supra* note 2, at 4; Applicant's Response to the FORM, dated May 28, 2014, at 1.

⁵ Item 4, *supra* note 1, at 14-16.

2008, and from November 2006 until January 2007.⁶ Applicant served in an enlisted capacity with the U.S. Army from June 1992 until August 1996, and received an honorable discharge.⁷ She enlisted in the Army National Guard (ANG) in October 2003, and served until October 2006, when she received another honorable discharge.⁸ Applicant was deployed to Iraq from February 2004 until April 2005.⁹ She claims she is in the process of re-enlisting in the ANG with the goal of becoming a warrant officer.¹⁰

A June 1989 high school graduate, Applicant attended a university for several months, but did not obtain a degree.¹¹ Applicant was married the first time in December 1995, and divorced in March 1998. She married her second husband in September 2010,¹² and they separated in June 2012.¹³ While she refers to her second husband as her ex-husband, it is unclear as to when or if their divorce became final. Applicant has two sons, born in September 1993 and March 1997,¹⁴ but the older son resides with his father.¹⁵ She has never held a security clearance.¹⁶

Financial Considerations

It is unclear when Applicant's finances became so unmanageable that she was unable to maintain her monthly payments, resulting in her accounts becoming delinquent. She acknowledged living beyond her means "in the past," without specifying the period in question. She attributed her problems initially to being a single parent until 2010.¹⁷ Subsequent financial difficulties arose when she took an early disbursement from her 401(k) retirement account, broke her lease, and quit her job to move out of state with her second husband. The relocation expenses were not covered by his new employer, so she paid for them out of her 401(k). She was initially unemployed, and then underemployed, making \$9,000 a year as a farrier's assistant. Also, because of the nature of her second husband's job, he too was frequently unemployed.¹⁸ At some

⁶ Item 4, *supra* note 1, at 14-15.

⁷ Item 4, *supra* note 1, at 20.

⁸ Item 4, *supra* note 1, at 20.

⁹ Item 4, *supra* note 1, at 10-11.

¹⁰ Applicant's Response to the FORM, *supra* note 4, at 2.

¹¹ Item 4, *supra* note 1, at 11-12.

¹² Item 4, *supra* note 1, at 22-24.

¹³ Applicant's Response to the FORM, *supra* note 4, at 1.

¹⁴ Item 4, *supra* note 1, at 25-26.

¹⁵ Applicant's Response to the FORM, *supra* note 4, at 2.

¹⁶ Item 4, *supra* note 1, at 33-34.

¹⁷ Item 2, *supra* note 2, at 3.

¹⁸ Applicant's Response to the FORM, *supra* note 4, at 1-2; Item 2, *supra* note 2, at 3.

point, because of insufficient money to continue making all of her monthly payments, and even some of her second husband's monthly payments, some of their accounts became delinquent, placed for collection, or were charged off. One vehicle was repossessed.

The SOR identified 20 purportedly delinquent debts totaling \$29,309 that had been placed for collection or charged off, as generally reflected by a June 2011 credit report¹⁹ and a January 2014 credit report.²⁰ Some accounts listed in the credit reports have been transferred, reassigned, or sold to other creditors or collection agents. Other accounts are referenced repeatedly in the credit reports, in some instances duplicating other accounts listed, either under the same creditor name or under a different creditor name. Several accounts are listed with only partial account numbers. Those debts listed in the SOR and their respective current status, according to the credit reports, evidence submitted by the Government and Applicant, and Applicant's comments regarding the same, are described below.

(SOR ¶ 1.a.) There is a bank credit card account with a credit limit of \$300 and a past-due balance of \$571 that was placed for collection and eventually charged off in the amount of \$589.²¹ As of April 2014, Applicant has made no payments, and there is no evidence to indicate that she has ever attempted to contact the creditor to set up repayment arrangements. The account has not been resolved.

(SOR ¶¶ 1.b., 1.c., 1.f., and 1.m. through 1.o.) There are six medical accounts that were opened by Applicant when her son underwent shoulder surgery. The combined unpaid accounts, totaling \$4,013, were placed for collection.²² With the exception of one such account (SOR ¶ 1.n.) which she later identified as belonging to her first ex-husband, and which he paid off in the amount of \$98 in May 2014,²³ as of April 2014, Applicant has made no payments, and there is no evidence to indicate that she has ever attempted to contact the various creditors to set up repayment arrangements. The account in SOR ¶ 1.n. has been resolved; the remaining accounts have not been resolved.

(SOR ¶¶ 1.d., 1.g., 1.i., and 1.j. through 1.l.) There are six telephone or cable/Internet accounts with various unpaid balances, totaling \$2,166, that were placed for collection.²⁴ As of April 2014, Applicant has made no payments, and there is no

¹⁹ Item 5 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 24, 2011).

²⁰ Item 6 (Experian Credit Report, dated January 6, 2014).

²¹ Item 5, *supra* note 19, at 6; Item 6, *supra* note 20, at 1.

²² Item 5, *supra* note 19, at 6,14; Item 6, *supra* note 20, at 1-3; Item 2, *supra* note 2, at 1-3. Although Applicant initially indicated that all the medical accounts were related to her son's surgery, she subsequently stated that one of the accounts was actually her first ex-husband's medical account.

²³ Letter, dated May 28, 2014, attached to Applicant's Response to the FORM, *supra* note 4, at 2.

²⁴ Item 6, *supra* note 20, at 2-3.

evidence to indicate that she has ever attempted to contact the various creditors to set up repayment arrangements. The accounts have not been resolved.

(SOR ¶ 1.e.) There is a child support account with an original balance of \$1,836 and an unpaid balance of \$1,446 that was placed for collection.²⁵ One of Applicant's sons resided with Applicant's mother from 1999 until 2007. A judgment and child support order was not issued until May 26, 2010, and when it was, Applicant was deemed to be in arrears and was unable to make her payments. Applicant's mother refused to have the account closed.²⁶ Applicant started making payments in January 2013, and before the wage garnishment actually commenced, she had paid \$740.²⁷ Her wages were garnished in April and May 2014, and the outstanding balance of \$1,088 was finally paid in full.²⁸ The account has been resolved.

(SOR ¶ 1.h.) There is an apartment lease that Applicant broke when she moved out of state with her second husband leaving an unpaid balance of \$2,195 and a past-due balance of \$2,444 that was placed for collection.²⁹ As of late May 2014, Applicant has made no payments, and although she claimed that she called the collection agent in March 2014 and the two ensuing months to determine the exact unpaid balance and to work on a repayment schedule, no response has yet been received.³⁰ She has submitted no documentation to support her contentions, and in the absence of such documentation, it is difficult to determine the true status of the account. The account has not been resolved.

(SOR ¶ 1.t.) There is an automobile loan with a high credit of \$10,389 that was placed for collection, and the vehicle was repossessed.³¹ The vehicle was apparently auctioned off, bringing in \$6,214, and the remaining \$4,174 was charged off.³² The account was subsequently transferred or sold. Applicant was initially unaware of the identity of the creditor or collection agent,³³ but later realized the nature of the account. She contends that her second ex-husband paid the account in full in May 2014,³⁴ but she has submitted no documentation to support her contentions. In the absence of such

²⁵ Item 6, *supra* note 20, at 1.

²⁶ Item 4, *supra* note 1, at 37-38; Earnings Withholding Order, dated March 22, 2014, attached to Applicant's Response to the FORM, *supra* note 4, at 2.

²⁷ Applicant's Response to the FORM, *supra* note 4, at 1.

²⁸ Personal and Check Information, various dates, attached to Applicant's Response to the FORM, *supra* note 4, at 2.

²⁹ Item 6, *supra* note 20, at 2.

³⁰ Applicant's Response to the FORM, *supra* note 4, at 1.

³¹ Item 6, *supra* note 20, at 4.

³² Item 6, *supra* note 20, at 4.

³³ Item 2, *supra* note 2, at 3-4.

³⁴ Applicant's Response to the FORM, *supra* note 4, at 1.

documentation, it is difficult to determine the true status of the account. The account has not been resolved.

(SOR ¶¶ 1.p. through 1.s.) There are four separate student loans addressed in the SOR, all from the same lender. The June 2011 credit report contains 36 listings of student loans in various stages with a variety of identified creditors, including lenders, loan holders, guaranty agencies and collection agencies. The January 2014 credit report contains 26 listings of student loans in various stages with a variety of identified creditors, including lenders, loan holders, guaranty agencies and collection agencies. The four student loans appearing in the SOR are all alleged to have been placed for collection with no payments made as of April 2014.

Stafford loan # 1577, with a current balance of \$7,183.73, including principal and interest, has been in a repayment status, rather than a collection, forbearance, deferred, or default status, since December 2013. Applicant's payment schedule calls for monthly payments of \$83.82, and she has been making higher payments of \$85 or \$90 since January 2014.³⁵ Consolidated loans # 9581, with a current balance of \$7,909.14, including principal and interest, has been in a repayment status, rather than a collection, forbearance, deferred, or default status, since December 2013. Applicant's payment schedule calls for monthly payments of \$50, and she has been making higher payments of \$60 or \$65 since January 2014.³⁶ Stafford loan # 8581, with a current balance of \$14,101.71, including principal and interest, has been in a repayment status, rather than a collection, forbearance, deferred, or default status, since December 2013. Applicant's payment schedule calls for monthly payments of \$160.23, and she has been making those or higher payments of \$165 since January 2014.³⁷ The last loan has been "rehabilitated" because Applicant has made nine consecutive payments, and the adverse credit bureau entry reported is to be removed.³⁸ The student loan accounts are in the process of being resolved.

In May 2011, Applicant indicated that she was working with a credit repair company to assist her in re-establishing her credit.³⁹ She has submitted no documentation to identify the particular company or to indicate what, if any, actions have been taken by it to address her delinquent accounts or improve her financial situation. There is no evidence to indicate that Applicant ever received financial counseling.

³⁵ Stafford Loans Borrower Tools – Account Detail, dated June 27, 2014, attached to Applicant's Response to the FORM, *supra* note 4.

³⁶ Stafford Loans Borrower Tools – Account Detail, dated June 27, 2014, attached to Applicant's Response to the FORM, *supra* note 4.

³⁷ Stafford Loans Borrower Tools – Account Detail, dated June 27, 2014, attached to Applicant's Response to the FORM, *supra* note 4.

³⁸ Letter, dated May 30, 2014, attached to Applicant's Additional Response to the FORM, dated June 2, 2014.

³⁹ Item 4, *supra* note 1, at 38.

It is not known what Applicant's financial resources may be because she did not submit a personal financial statement to indicate her net monthly income, her monthly rent, debt, or household expenses, or whether or not she has any funds remaining at the end of each month for discretionary use or savings. Nevertheless, Applicant contends she is current with all of her other accounts.⁴⁰ Because of the limitation on her available funds, Applicant is unable to resolve all of her delinquent accounts at one time, but intends to address one account at a time.⁴¹

Work Performance and Character References

The regional manager of Applicant's employer is very supportive of her application for a security clearance. He characterized her as showing exceptional initiative while working independently; she is quick to volunteer; she has an exemplary attitude; she performs her tasks beyond the standard; and she is considered a great asset.⁴² Various ANG colleagues have commented about her civic involvement on behalf of military personnel and their families, as well as her significant performance of duties in dealing with sensitive information. Applicant is considered reliable, trustworthy, mature, and punctual, and has a high degree of integrity.⁴³

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."⁴⁴ 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."⁴⁵

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

⁴⁰ Applicant's Response to the FORM, *supra* note 4, at 2.

⁴¹ Applicant's Response to the FORM, *supra* note 4, at 1.

⁴² Character Reference, dated May 28, 2014, attached to Applicant's Response to the FORM, *supra* note 4.

⁴³ Character References, various dates, attached to Applicant's Response to the FORM, *supra* note 4.

⁴⁴ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁴⁵ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

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."⁴⁶ 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.⁴⁷

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."⁴⁸

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."⁴⁹ 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

⁴⁶ "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).

⁴⁷ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴⁸ *Egan*, 484 U.S. at 531

⁴⁹ See Exec. Or. 10865 § 7.

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

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an *inability or unwillingness to satisfy debts* is potentially disqualifying. Similarly, under AG ¶ 19(c), a *history of not meeting financial obligations* may raise security concerns. Applicant has had a long-standing problem with her finances which generally predate her 2010 issues. She routinely found herself with insufficient funds to continue making her routine monthly payments and various accounts became delinquent, and were placed for collection, or charged off. A vehicle was repossessed. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where *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*. Also, under AG ¶ 20(b), financial security concerns may be mitigated where *the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances*. Evidence that *the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control* is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows *the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*.⁵⁰

⁵⁰ 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

AG ¶ 20(b) partially applies, AG ¶ 20(d) minimally applies, and AG ¶¶ 20(a) and 20(c) do not apply. The nature, frequency, and relative recency of Applicant's continuing financial difficulties since before 2010 make it difficult to conclude that it occurred "so long ago" or "was so infrequent." Applicant's financial problems were in some measure caused by irresponsible spending, and she has acknowledged spending beyond her means. Some of her financial problems were beyond Applicant's control. Since 1998, she has gone through two divorces and a separation, two periods of unemployment, a period of underemployment, and an unreimbursed relocation (along with a broken lease) to reside with her husband in another state, who himself was frequently unemployed. She generally referred to herself as a single parent of two children, but one of those children resides with his father, and the other child resided with Applicant's mother from 1999 until 2007.

Many of her accounts became delinquent, placed for collection, or were charged off, and one automobile was repossessed. Although Applicant was gainfully employed by her current employer from July 2008 until she quit in November 2011, and resumed her current employment in February 2013, it was not until December 2013 that she took action to address any of her delinquent accounts. To date, she has ignored a delinquent credit card account, five delinquent medical accounts, six telephone or cable/Internet accounts, and a broken apartment lease. She acknowledged that, with the exception of her apartment lease collection agent, she has not made any efforts to contact the other creditors or collection agents. One medical account was resolved by her ex-husband. According to Applicant, the vehicle repossession deficiency balance was purportedly resolved by her ex-husband, although she has submitted no documentation to support her contentions. While Applicant made some small child support payments, the child support arrearage was brought current, not by her voluntary payments, but rather because of a garnishment forced by the court. The one positive action by Applicant was related to her student loans, and they are no longer in a default status and have moved into a repayment status.

As noted above, Applicant had previously indicated that she was working with a credit repair company to assist her in re-establishing her credit, but she failed to submit any documentation to identify the particular company or indicate what, if any, actions have been taken by it to address her delinquent accounts or improve her financial situation. Furthermore, there is no evidence to indicate that Applicant ever received financial counseling. It is not known what Applicant's financial resources may be, or if she has any funds remaining at the end of each month for discretionary use or savings. Applicant claims she intends to address one delinquent account at a time.

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. June 4, 2001)).

Applicant has not acted responsibly in failing to address the majority of her delinquent accounts and by making little, if any, efforts of working with her creditors.⁵¹ While she finally focused on her student loan accounts and resolved them by bringing them from a default status to a repayment status, it is unclear what her exact strategy may be with respect to the other accounts. Despite her assertion that her current accounts are routinely paid on time, there are clear indications that, for an extensive period, Applicant has not been addressing her delinquent accounts, and her financial problems are not close to being under control. Applicant's actions under the circumstances confronting her cast doubt on her current reliability, trustworthiness, or good judgment.⁵²

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. 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.⁵³

There is some evidence in favor of mitigating Applicant's conduct. She has honorably served with the U.S. Army and ANG, and was deployed to Iraq. With the exception of some periods of unemployment, Applicant has generally been employed in either part-time or full-time positions. She is involved with various civic programs, and is

⁵¹ "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

⁵² See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁵³ 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).

well thought of by her colleagues. Some of her financial problems were beyond Applicant's control. Her student loans are no longer in a default status and have moved into a repayment status. She has repeatedly declared her intention of resolving her delinquent accounts once she has the funds to do so.

The disqualifying evidence under the whole-person concept is more substantial. While the divorces, separation, relocation expenses, unemployment, and reduced earnings were circumstances beyond her control, once she was gainfully employed, she made little, if any, efforts to pay her creditors, generally ignoring them. Her long-standing failure to repay creditors, at least in reasonable amounts, or to arrange payment plans, reflects traits which raise concerns about her fitness to hold a security clearance. Because of her failure to furnish a personal financial statement, it is not known what Applicant's financial resources may be, or if she has any funds remaining at the end of each month for discretionary use or savings. Thus, there are no indications that Applicant's financial problems are under control. Applicant's actions under the circumstances confronting her cast doubt on her current reliability, trustworthiness, or good judgment. Considering the relative absence of debt resolution and elimination efforts, Applicant's financial issues are likely to remain.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁵⁴

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 has demonstrated an essentially negative track record of debt reduction and elimination efforts, with minor exceptions, generally ignoring them until she is financially able to address her delinquent debts, or forced to do so by garnishment, or because of the scrutiny of the security clearance review process.

⁵⁴ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Overall, the evidence leaves me with 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 AG ¶ 2(a)(1) through AG ¶ 2(a)(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
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	Against Applicant
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	Against Applicant
Subparagraph 1.l:	Against Applicant
Subparagraph 1.m:	Against Applicant
Subparagraph 1.n:	For Applicant
Subparagraph 1.o:	Against Applicant
Subparagraph 1.p:	For Applicant
Subparagraph 1.q:	For Applicant
Subparagraph 1.r:	For Applicant
Subparagraph 1.s:	For Applicant
Subparagraph 1.t:	Against Applicant

Conclusion

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

ROBERT ROBINSON GALES
Administrative Judge