



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



In the matter of: )  
 ) ISCR Case No. 12-06419  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Eric H. Borgstrom, Esq., Department Counsel  
For Applicant: Thomas Albin, Esq.  
Christine Huber, Esq.

09/30/2014

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant has struggled financially since 2005, in part due to her divorce and to lower income while on medical leave from work from October 2006 to March 2007. She satisfied a couple of small debts and has paid \$1,566 since February 2014 under a debt management plan (DMP) intended to resolve another \$7,298 in past-due consumer credit debt by December 2016. Applicant paid her delinquent federal taxes for 2007, but she continues to pay the IRS at \$150 per month for past-due taxes of \$3,000 to \$4,000 for 2012 and 2013. She just started repaying a \$20,108 line of credit debt in collection at \$25 a month and a charged-off \$11,034 installment loan debt at \$20 a month. While her financial situation is tight, she intends to continue to make payments on her debts. Clearance is granted.

**Statement of the Case**

On May 30, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, Financial Considerations, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue a security clearance for her. The DOD CAF took the action under Executive Order 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) effective within the DOD on September 1, 2006.

Applicant responded to the SOR allegations on June 17, 2014, and she requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On July 23, 2014, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On August 1, 2014, I scheduled a hearing for August 18, 2014.

I convened the hearing as scheduled. Five Government exhibits (GEs 1-5) and five Applicant exhibits (AEs A-E) were admitted into evidence without objection. A chart, prepared by Department Counsel as an aid to his oral closing argument, was marked as a hearing exhibit (HE 1), but not entered into evidence. Applicant testified, as reflected in a transcript (Tr.) received on August 26, 2014. At Applicant's request and with no objection from the Government, the record was held open for two weeks for post-hearing exhibits. Applicant submitted no additional documents, so the record closed on September 2, 2014.

### **Summary of SOR Allegations**

The SOR alleges under Guideline F that as of May 30, 2014, Applicant owed \$37,719.18 in delinquent debt (SOR 1.a-1.i), including two sizeable consumer loans of \$19,457 (SOR 1.f) and \$11,034 (SOR 1.g) and \$275.18 in federal tax debt for tax year 2007 (SOR 1.i). When she answered the SOR allegations, Applicant denied the debts identified in SOR 1.b (\$181) and 1.i (\$78) in that they were recently paid. Applicant admitted the other debts without explanation.

### **Findings of Fact**

Applicant's admissions to the delinquencies in SOR 1.a, 1.c-1.h, and 1.j-1.l are accepted and incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 58-year-old administrative aide, who has worked for the same defense contractor since July 1983. She dropped out of high school during her junior year and does not have a Graduate Equivalency Diploma (GED). (Tr. 24-26.) Applicant seeks to retain the secret security clearance, which she has held without incident since at least June 2002. (GE 1; Tr. 81.)

Applicant was married from February 1991 to August 2006. (GEs 2, 3.) Applicant and her ex-husband had no children, but during her marriage, she contributed financially to caring for her ex-spouse's children from his prior marriages. (Tr. 38-39.) Early on in her marriage, she stopped contributing to her retirement account at work so that they could have more of her income for household expenditures. She also took withdrawals of \$500 to \$1,000 from her retirement account when she could. (Tr. 39-40.) Applicant also relied heavily on consumer credit during her marriage. Available reports of her credit show that

she opened individually or jointly some 15 consumer credit accounts. Payments were made according to terms on many of the accounts, although a \$25,000 line of credit reached \$26,815 before it was closed by the credit grantor and paid off. In February 2003, she paid off a \$34,000 mortgage through a new home loan of \$110,000. (GEs 3-5.)

Applicant and her ex-husband separated permanently in 2004 (Tr. 29), and she moved into her father's condominium.<sup>1</sup> In November 2004, Applicant was diagnosed with a serious illness. Applicant's then spouse continued to cover her on his medical insurance until they were formally divorced. Applicant received treatment starting in late December 2004, consisting of inpatient intensive radiation and chemotherapy for one week followed by six to seven weeks of outpatient radiation and then another week of inpatient radiation and chemotherapy. (Tr. 28-30.) As of March 2005, Applicant was found to have no evidence of the disease. (AE A.) Applicant was out of work for at least six months.<sup>2</sup> (Tr. 34, 78.) She received disability at 80% of her pay and a union benefit covered the remaining 20%. (Tr. 34.)

Applicant opened new credit card accounts over the next few years. In July 2005, Applicant opened an unsecured loan of \$9,999 with the creditor identified in SOR 1.g. Over the next 15 months, she took on loan debt as high as \$11,982 with the lender, as accounts were paid off or refinanced. She made payments until December 2006, when she defaulted on an \$8,453 loan balance. (GEs 3-5.)

In October 2005, Applicant as primary and her father as co-signer took on a second mortgage of \$19,457 for the condominium. (Tr. 51.) In August 2006, Applicant's father died. (Tr. 82.) At the time, Applicant took on a \$16,939 line of credit debt with the lender (SOR 1.f). Available credit information shows no activity on the account after August 2006. (GE 4.) She also took on the responsibility for her 21-year-old brother, who had been born to a family member and adopted by her parents. (Tr. 41-42.) Applicant's mother was a nursing home resident at the time and could not provide for him. (Tr. 36.)

During a follow-up medical appointment in October 2006, Applicant was diagnosed with a recurrence of her illness. She stopped working immediately and then underwent surgery in December 2006. Applicant was out of work for six months. (AE A; Tr. 31-34, 79.) While on short-term disability leave, Applicant was paid 80% of her hourly wages from her defense contractor employment. She had used up her union benefit during her previous medical leave. (Tr. 34-35.) With 20% less income, Applicant was unable to meet all her

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<sup>1</sup> Applicant testified that her father owned a condominium in 2004. She testified that because they intended for her to reside in the condominium eventually, she signed on as primary borrower for a second mortgage on the condominium. Since her name was on the loan, she was held liable for the debt after her father's estate lost the condominium in foreclosure. (Tr. 51.) Applicant testified that she was also on the deed (Tr. 73) and that she lived in the condominium "right after 2006," after her father died, for "maybe a year or two." (Tr. 53.) She later indicated that when she and her ex-husband left their marital home in September 2004, she went to her father's condominium. (Tr. 72.)

<sup>2</sup> Applicant returned to work sometime during the summer of 2005. (Tr. 79.)

financial obligations. (Tr. 35.) Applicant stopped paying on a car repair debt (SOR 1.d) in October 2006 and on an installment loan (SOR 1.g) in December 2006. (GE 4.)

Applicant returned to work in 2007. She made no payments toward several of her financial accounts and did not contact her creditors. (Tr. 85.) When her mother died in November 2007, Applicant contributed around \$700 to pay her mother's funeral expenses. (Tr. 83.)

Applicant and her brother moved out of the condominium into a two-bedroom apartment around August 2008. She had no success in selling the condominium, and the primary lender foreclosed against the home, which was included in her father's estate. (Tr. 51-53, 84.) Around August 2010, Applicant's brother moved out of the apartment he shared with Applicant. She went to a one-bedroom apartment to reduce expenses. (Tr. 43.)

On February 28, 2012, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP) to update her security clearance eligibility. In response to any financial delinquencies involving routine accounts within the last seven years, Applicant disclosed a \$78 past-due balance on a \$276 charged-off debt for a computer (SOR 1.i); a \$142 past-due balance on a \$758 retail clothing store debt written off (SOR 1.k);<sup>3</sup> a \$583 retail charge account debt in collection (SOR 1.e); an \$803 car repair debt (\$998 past due as of February 2012) purchased by another lender (SOR 1.d); a \$627 charged-off credit card debt in collection with a \$920 balance (SOR 1.c); a \$19,457 past-due second mortgage (line of credit) (SOR 1.f); an \$8,453 installment loan written off as of April 2008 (\$10,998 past-due as of January 2012) (SOR 1.g); a \$1,153 MasterCard debt in collection (\$1,378 past-due as of January 2012) (SOR 1.j); a \$662 charged-off credit card debt in collection with a balance of \$1,080 (SOR 1.a); a home improvement retail charge debt of \$725 in collection (SOR 1.h); a \$221 past-due cable services debt in collection (not in SOR); and a federal income tax debt of \$1,600 for tax year 2007 on which she was making \$150 monthly payments (SOR 1.l).<sup>4</sup> Applicant added that her financial problems stemmed from her illness and its recurrence, her divorce, and her parents' deaths. (GE 1.)

Applicant's credit report of March 1, 2012, was largely consistent with the information she disclosed on her e-QIP. (GE 4.) On March 8, 2012, Applicant was interviewed about her previously disclosed delinquencies by an authorized investigator for the Office of Personnel Management (OPM). Applicant attributed her financial problems to excessive consumer credit purchases and the stress of her medical diagnosis, her divorce, and the deaths of her parents in 2006 and 2007. Applicant expressed her intent to repay the cable debt (\$220) by March 2012; the computer debt in SOR 1.i (\$80) by April 2012; the credit card debt in SOR 1.a (\$1,080) for household purchases by 2013; the car repair debt (SOR 1.d) by 2014; the debts in SOR 1.e (\$720), 1.k (\$760), and 1.j (\$1,100) by 2015; the credit card debt in SOR 1.c (\$920) by 2016; the installment loan in SOR 1.g (about

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<sup>3</sup> The debt was incurred when her ex-husband's daughter lived with her and had a baby. (Tr. 66.)

<sup>4</sup> Applicant testified that she incurred a tax penalty for early withdrawal from her 401(k) account at work. (Tr. 57-58.)

\$10,990) and the line of credit debt in SOR 1.f (\$19,457) by 2025, and the \$725 debt in collection for household purchases by 2026 (SOR 1.h). Applicant added that she was notified by the IRS of her delinquent federal taxes for 2007 in July 2011, and that she has been paying \$150 per month toward the debt (SOR 1.l). (GE 2.)

Applicant was without a vehicle of her own for about a year in 2012 while her sister used the car. After her sister had an accident that damaged the car beyond its value, Applicant took on a car lease of \$13,400 in September 2013, on which she was making timely payments of \$343. (GE 3; Tr. 75-76, 117.) In November 2013, Applicant took in this sister, who was awaiting acceptance into an assisted living facility. Applicant's electric utility bill increased by around \$100 a month and her cable bill increased \$20. (Tr. 113-16.)

Apart from making payments to the IRS, Applicant did little to resolve her outstanding delinquencies before 2014. She attributed her inaction on her debts to "bad timing," and to hoping that "the investigation would have helped [her] somehow." (Tr. 93-94.) As of December 26, 2013, Experian was reporting outstanding debt of \$1,327 on the account in SOR 1.a and a \$181 previously undisclosed telephone services debt from October 2013 in collection (SOR 1.b).<sup>5</sup> The cable television debt was paid after collection in March 2012. Applicant had three open credit accounts: a mail-order charge opened in June 2011 that had a zero balance; the car lease (GE 3; Tr. 74-75), and a credit card with a \$500 limit opened in July 2011. The credit card account had been 30 days late twice and was past due \$44 on a balance of \$547 by December 2013. (GE 3.)

On January 9, 2014, the DOD CAF asked Applicant to update the status of any efforts on her part to resolve her past-due debts. On February 17, 2014, Applicant acknowledged that she had not paid the debts in SOR 1.a-1.h, and 1.j-1.k. She explained that she intended to make payments on the debts in 1.f, 1.g, and 1.j, but they had been written off. Applicant indicated that she recently stopped contributing to her retirement fund at work, and she intended to lower her cable and cell phone costs, which were \$100 and \$120 monthly. She had paid \$110 on February 14, 2014, to satisfy the computer debt (SOR 1.i). She indicated that her tax debt for 2007 had been paid in 2012 (SOR 1.i). Applicant provided documentation of a February 7, 2014 service agreement with a debt resolution agency. In return for an initial fee of \$75 and monthly payments of \$261 starting February 15, 2014, the debt resolution agency would negotiate with her creditors and make payments to resolve nine of her debts by December 2016: a \$593 credit card debt<sup>6</sup> and the debts identified in SOR 1.a-1.e, 1.h, 1.j, and 1.k. Applicant reported net weekly income of \$620. She estimated her monthly expenses at \$2,054, which did not include the \$261 DMP payment, the \$150 payment to the IRS, a \$63 loan payment to a credit union, and a \$32

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<sup>5</sup> The line of credit debt (SOR 1.f) and the installment loan debt (SOR 1.g) were not included by Experian on Applicant's credit record as of December 2013. (GE 3.) The debts were apparently reported only to Equifax (GE 4), which could explain their exclusion from her credit record with Experian.

<sup>6</sup> Applicant was past due \$44 on a credit card account with this lender as of December 2013. (GE 3.) As of December 2013, the account balance was \$547. The \$593 debt included in her DMP is likely this debt. Applicant testified that she added the debt to the plan. (Tr. 106.) As of July 2014, Equifax was reporting a \$321 balance on the account (GE 5), and records of her DMP show \$134 had been paid on an account with the creditor. (AE B.)

payment on a retail charge account opened in December 2013. She had no savings on deposit. (GE 2; Tr. 58-60.)

As of July 25, 2014, Applicant had paid \$1,566 to the consumer credit agency handling her DMP. Her \$261 monthly payment is automatically withdrawn from her checking account. (Tr. 63.) Payments had been disbursed under the plan to her creditors totaling \$186 (SOR 1.a), \$138 (SOR 1.c), \$120 (SOR 1.d), \$102 (1.e), \$180 (SOR 1.h), \$270 (SOR 1.j), \$162 (SOR 1.k), and \$134 toward the \$593 credit card debt not alleged in the SOR. (AE B.) The debt resolution agency discovered that the debt in SOR 1.b had been paid, so it was dropped from her plan. (Tr. 87.) Applicant testified at her hearing on August 18, 2014, that the debt in SOR 1.d had been paid. (Tr. 50.) Yet, available records show the debt as covered by her DMP as of July 25, 2014, with disbursement at \$20 a month. (AE B.)

As of July 2014, Applicant owed \$321 on a credit card account opened in July 2011 and \$329 on the retail charge account opened in December 2013. Those accounts were current. She was 30 days past due on her car lease payment in May 2014, although her payments were otherwise on time. The agency collecting the credit card debt identified in SOR 1.a was reporting a past-due balance of \$1,198 with "payments managed by financial counseling program." Equifax had dropped the debts in SOR 1.f, 1.g, and 1.j from Applicant's credit record. (GE 5.)

As of the pay period ending August 9, 2014, Applicant had \$26,756.23 in net earnings for the current year after taxes. (AE C.) About a month ago, overtime became available to Applicant. (Tr. 98.) She is currently working between 40 and 50 hours a week. (Tr. 69.) With her payment to the debt resolution agency, she is on a tight budget. (Tr. 70.) Applicant is making separate payments outside of the plan toward the debts in SOR 1.f and 1.g. On August 12, 2014, the assignee collecting the debt in SOR 1.f (updated balance \$20,108.92) agreed to accept monthly payments of \$25 starting immediately. (AE D.) Applicant intends to increase her monthly payment on that debt after she completes her DMP. (Tr. 61.) On August 12, 2014, Applicant made the first of \$20 monthly payments toward the installment loan debt in SOR 1.g, which she took out to pay some bills. (AE E; Tr. 54, 64.) Applicant has been repaying the IRS \$150 a month for the past year for taxes due for 2012 and now 2013. (Tr. 85-86.) She did not have enough taxes withheld from her wages. (Tr. 86.) She corrected her withholding in 2014. (Tr. 91-92.) About two weeks ago, she withdrew about \$500 from her 401(k) at work, which she paid to the IRS. She was not behind in her tax payments, but she wanted to reduce her debt further. She currently owes between \$3,000 and \$4,000 to the IRS. (Tr. 100.) Applicant has about \$9,000 remaining in her retirement fund at work. She will be eligible to withdraw funds in July 2015. (Tr. 71.) She has \$855 in her checking account as of mid-August 2014. (Tr. 109.) Applicant now pays \$79 a month for cell phone service. (Tr. 112.) Applicant has yet to reduce her cable bill because her sister was living with her until June 2014, when she went into an assisted living residence. (Tr. 113, 115.)

## Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk 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. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## Analysis

### Guideline F, Financial Considerations

The security concern about financial considerations is set forth 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 SOR alleges 11 delinquent consumer credit accounts and a \$275.18 federal tax delinquency for a total of \$37,719.18 in past-due debt as of May 30, 2014. The evidence establishes AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations." Applicant admits that she fell behind on the accounts in the SOR, although the accounts in SOR 1.b and 1.i were satisfied before the SOR was issued. Mitigating condition AG ¶ 20(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," applies to those two debts. As of December 2013, Experian was reporting a \$181 collection balance as of August 2013, but also a last payment date of October 13, 2013. The debt resolution agency handling her DMP verified that the debt had been paid, so the debt was dropped from her plan. Applicant paid the computer debt in SOR 1.i on February 14, 2014. Even so, Applicant's financial problems are more extensive than shown in the SOR in that she owes the IRS \$3,000 to \$4,000 in past-due taxes for 2012 and 2013 due to insufficient withholdings.<sup>7</sup>

Some of the debts have been delinquent since 2006, and several of the debts in the SOR no longer appear on Applicant's credit record. For example, Experian was not reporting her larger debts (SOR 1.f and 1.g, which together exceed \$31,000) on her credit record. However, it appears that collection agencies are still pursuing her for the debts, as she recently arranged to repay SOR 1.f and 1.g at \$25 and \$20 per month. Applicant did not present evidence of negotiated settlement balances for the eight debts in her DMP. Assuming that the creditors are willing to settle for less than the full balances, none of the debts will be paid off before 2016. Furthermore, Applicant has a record of recent delinquency in that a \$543 credit card debt not in the SOR was 60 days past due in January 2014. Her car lease was past due 30 days in May 2014. Mitigating condition AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment," cannot reasonably apply under these circumstances.

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<sup>7</sup> The DOHA Appeal Board has long held that the administrative judge may consider non-alleged conduct to assess an applicant's credibility; to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; to consider whether an applicant has demonstrated successful rehabilitation; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for a whole person analysis under Section 6.3 of the Directive. See, e.g., ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012).



Applicant's financial problems started after she and her spouse separated in 2004. Applicant suffered a serious medical setback that led to intensive treatment starting in December 2004. With her union benefit, she received her full wages during her six months of medical leave. After she returned to work, she opened several consumer credit card accounts. In July 2005, she took on the first of a succession of installment loans with the lender in SOR 1.g. Payments were made and some accounts were closed or refinanced, but she defaulted on an \$8,453 loan balance (SOR 1.g). In October 2005, she took on legal liability for a loan on her father's condominium. When her father died in August 2006, the mortgage account was closed, but she took on a \$16,939 line of credit debt (SOR 1.f). She made little to no effort to make payments on that debt because of decreased income while out of work for treatment of a recurrence of her illness from October 2006 to sometime in 2007. AG ¶ 20(b) is implicated:

(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, or a death, divorce or separation), and the individual acted responsibly under the circumstances.

Yet, AG ¶ 20(b) also requires that an individual act responsibly to deal with financial setbacks. Applicant has been consistently employed since mid-2007 at her full wage. There is scant information in the record before me of the extra costs incurred by Applicant while she was providing a home for her brother for four years, although her decision to rent a two-bedroom apartment for herself and her brother was reasonable. According to Applicant's e-QIP, her brother lived at the same street address, but in a different apartment unit starting in August 2010. Whether or not she was still helping him financially, Applicant had an obligation to at least contact her creditors and attempt repayment arrangements.<sup>8</sup> After she was contacted by the IRS in July 2011, she began repaying her federal tax delinquency at \$150 per month, which took funds that could have been paid to other creditors. However, her federal tax debt does not implicate AG ¶ 20(b) when her insufficient withholdings were not due to factors outside of her control. AG ¶ 20(b) applies, in part, because of the confluence of difficult life circumstances she faced from 2004 to 2007, and the financial strains of providing for her brother until about August 2010 and her sister from November 2013 to June 2014. It does not mitigate the judgment concerns raised by her history of extensive reliance on consumer credit; her delay in correcting her tax withholdings, which led to federal tax delinquency for 2013 as well as 2012; or her inaction before 2014 toward several of her consumer credit accounts. Of the debts in the SOR, Applicant disclosed all but SOR 1.b on her e-QIP, so she knew about them as of February 2012. "Bad timing" does not adequately explain her failure to make timely attempts to contact her creditors.

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<sup>8</sup> The DOHA Appeal Board has held that even an applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside of her control, the judge may still consider whether the applicant has acted reasonably when dealing with the financial difficulties. See 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 to consider is whether Applicant maintained contact with her creditors and attempted to negotiate partial payments in an effort to keep debts current.

In March 2012, Applicant told an OPM investigator that she would pay the cable debt (\$220) by March 2012; the computer debt in SOR 1.i (\$80) by April 2012; the credit card debt in SOR 1.a (\$1,080) for household purchases by 2013; the car repair debt (SOR 1.d) by 2014; the debts in SOR 1.e (\$720), 1.k (\$760), and 1.j (\$1,100) by 2015; the credit card debt in SOR 1.c (\$920) by 2016; the installment loan in SOR 1.g (then about \$10,990) and the line of credit debt in SOR 1.f (then \$19,457) by 2025, and the \$725 debt in collection for household purchases by 2026 (SOR 1.h). Clearly, Applicant did not appreciate the concerns of the Government about her delinquencies, for she showed no urgency about resolving the debts. She did not pay the minor computer debt until February 2014, and she gave a 2026 date for final satisfaction of the loan in SOR 1.h. However, on being asked directly by the DOD CAF in January 2014 about any efforts to pay on her debts, Applicant arranged to repay the debts in SOR 1.a, 1.b (later dropped because it had been paid), 1.c, 1.d, 1.e, 1.h, 1.j, and 1.k through a DMP. Between February 7, 2014, and July 25, 2014, Applicant paid \$1,566 under the plan. The debts covered by the plan will be paid off within two years, provided Applicant continues to make her payments. Her debt repayment plan is a credible effort to resolve some of her delinquencies, and establishes AG ¶ 20(c), “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,” and AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” as to those debts covered by the plan. Favorable findings are returned as to the debts that have been paid and the debts being paid under the plan.

However, Applicant’s largest debts (SOR 1.f and 1.g) are excluded from the plan. In August 2014, Applicant paid the first of \$25 monthly payments under terms agreed by the assignee collecting the \$20,108.92 balance of the debt in SOR 1.f and the first of \$20 monthly payments promised toward the debt in SOR 1.g. A single payment is insufficient to apply either AG ¶ 20(c) or AG ¶ 20(d) in mitigation.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).<sup>9</sup>

Applicant’s excessive reliance on consumer credit over the years raises some concerns about her financial judgment generally. Yet, in her favor, she managed to make her payments according to terms acceptable to her creditors before she was faced with stressful life circumstances. Between 2004 and 2007, she underwent a marital separation

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<sup>9</sup> The factors under AG ¶ 2(a) are as follows:

- (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.

and divorce, was twice diagnosed with a serious illness, and lost both parents. From August 2006 to August 2010, she provided a home for her brother, who is now out on his own. More recently, she lent her vehicle to her sister, who crashed her car around September 2012. She allowed her sister to reside with her from November 2013 to June 2014, while her sister awaited placement in an assisted-living facility. To a greater or lesser extent, each of these circumstances affected her personal finances.

Having benefitted from the credit extended to her, Applicant had an obligation to her creditors. She understandably gave priority to her IRS debt, although as a consequence of her delay in correcting her tax withholdings, she still owes the IRS between \$3,000 and \$4,000. At \$150 a month, she will be paying on that debt for the next 20 months, if not longer. With \$261 per month committed to her DMP through December 2016, Applicant has little discretionary income available to accelerate payments on her \$31,000 in approximate past-due debt outside of the plan. Her financial situation is tight, as shown by the fact that she was 30 days past due on her auto lease payment in May 2014. She has only about \$855 in checking account deposits, although she has \$9,000 in her 401(k), which she will be able to access in 2015.

In making the whole-person assessment required under the Directive, the DOHA Appeal Board has held that an applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). The salient issue is whether Applicant's financial situation presents an unacceptable security risk. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9<sup>th</sup> Cir. 1990). At the same time, her financial situation cannot be viewed in isolation from the difficult life circumstances that negatively impacted her finances. Applicant would certainly have a stronger case in mitigation had she arranged for the DMP in 2012 or even 2013, but she was making payments on her federal tax debt. Applicant's debt burden is substantial. She just started repaying her two large loan debts. Yet, she is making those payments that she can reasonably afford on her income. Applicant is not seen as likely to jeopardize the employment that she needs to maintain to be able to meet her present financial obligations and to address her delinquencies. For the reasons noted above, I conclude that it is clearly consistent with the national interest to continue Applicant's security clearance eligibility at this time.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant

Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	For Applicant
Subparagraph 1.k:	For Applicant
Subparagraph 1.l:	For Applicant

### **Conclusion**

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

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Elizabeth M. Matchinski  
Administrative Judge