



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



In the matter of: )  
 )  
 ---- ) ISCR Case No. 12-11067  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Tovah Minster, Esquire, Department Counsel  
For Applicant: *Pro se*

12/31/2015

**Decision**

GALES, Robert Robinson, Administrative Judge:

Applicant 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 29, 2012, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.<sup>1</sup> On September 8, 2014, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued her a set of interrogatories. She responded to the interrogatories on October 27, 2014.<sup>2</sup> On July 16, 2015, the DOD 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; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the

<sup>1</sup> Item 2 (e-QIP, dated May 29, 2012).

<sup>2</sup> Item 3 (Applicant's Answers to Interrogatories, dated October 27, 2014).

*Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December 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 an 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 there is no receipt in the case file. On August 29, 2015, Applicant responded to the SOR allegations and elected to have her case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant on September 23, 2015, 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. According to Department Counsel, Applicant purportedly received the FORM on October 1, 2015, but there is no receipt in the case file to confirm that fact. A response was due by October 31, 2015. On November 4, 2015, Applicant submitted information and documentation which addressed the allegations. Department Counsel did not object to the submitted documents. The case was assigned to me on December 10, 2015.

### **Findings of Fact**

In her Answer to the SOR, Applicant admitted all of the factual allegations pertaining to financial considerations in the SOR (¶¶ 1.a. through 1.g.). Applicant's admissions are incorporated herein as findings of fact. 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 32 years old. Her current employment status is unclear, for since she completed her e-QIP in May 2012, she has changed jobs on several occasions. She held a position as a data entry operator, through a temporary staffing company, with a state agency from February 2012 until June 2012. She also held unspecified positions with two successive companies until sometime before November 2015, and now apparently is unemployed awaiting a security clearance.<sup>3</sup> She has never held a security clearance.<sup>4</sup> A June 2001 high school graduate,<sup>5</sup> Applicant received a bachelor's degree in an unspecified discipline in May 2005.<sup>6</sup> She has never served in the U.S. military.<sup>7</sup> She has never been married.<sup>8</sup> Applicant is a single mother.<sup>9</sup>

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<sup>3</sup> Item 2, *supra* note 1, at 11-12; Item 3 (Personal Subject Interview, dated July 10, 2012), at 1-2; Applicant's Response to the FORM, dated November 4, 2015.

<sup>4</sup> Item 2, *supra* note 1, at 36.

<sup>5</sup> Item 3 (Personal Subject Interview), *supra* note 3, at 1.

<sup>6</sup> Item 2, *supra* note 1, at 11.

## Financial Considerations

Applicant has experienced several periods of unemployment over the years: May 2011 until September 2011 (with the exception of one week in August 2011); April 2010 until October 2010; June 2007 until November 2007; and May 2005 until November 2005. During other periods, she held a number of different jobs or attended school.<sup>10</sup> During her periods of unemployment, Applicant either received unemployment compensation or was supported by her parents or a friend.<sup>11</sup> It is unclear when Applicant first experienced financial difficulties, but in reviewing her June 2012 credit report,<sup>12</sup> as well as her comments to an investigator from the U.S. Office of Personnel Management (OPM)<sup>13</sup> it appears that a number of delinquent accounts existed as far back as 2007. Applicant had student loans, automobile loans, credit cards, multiple cellular telephone accounts, and charge accounts with clothing stores and jewelry stores. Applicant stated her financial problems commenced in 2007 when she became unemployed and had insufficient funds to pay her debts after spending her available funds on “car insurance, rent, cable, cell phone and her credit cards.”<sup>14</sup>

The SOR identified seven purportedly continuing delinquent accounts, totaling approximately \$42,151, which had been placed for collection, charged off, or became judgments. Those debts and their respective current status, according to the June 2012 credit report, an August 2014 Equifax credit report,<sup>15</sup> an April 2015 Equifax credit report,<sup>16</sup> Applicant’s comments to the OPM investigator, her Answers to Interrogatories, her Answer to the SOR, and her Response to the FORM, are described as follows:

SOR ¶ 1.a. – This is a \$2,000 bank line of credit with a high credit of \$2,403 that was placed for collection and charged off in 2008. A subsequent law suit was filed against Applicant, and a judgment in the amount of \$2,443 was entered in 2009.<sup>17</sup> Applicant contends she negotiated with the creditor to pay \$20 per month, but that after purportedly making payments for two to three months, she stopped doing so and chose

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<sup>7</sup> Item 2, *supra* note 1, at 22.

<sup>8</sup> Item 2, *supra* note 1, at 24.

<sup>9</sup> Applicant’s Response to the FORM, *supra* note 3.

<sup>10</sup> Item 3 (Personal Subject Interview), *supra* note 3, at 2-3; Item 2, *supra* note 1, at 15-16, 18.

<sup>11</sup> Item 3 (Personal Subject Interview), *supra* note 3, at 2-3; Item 2, *supra* note 1, at 15.

<sup>12</sup> Item 6 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 8, 2012).

<sup>13</sup> Item 3 (Personal Subject Interview), *supra* note 3.

<sup>14</sup> Item 3 (Personal Subject Interview), *supra* note 3, at 5-6.

<sup>15</sup> Item 5 (Equifax Credit Report, dated August 19, 2014).

<sup>16</sup> Item 4 (Equifax Credit Report, dated April 30, 2015).

<sup>17</sup> Item 6, *supra* note 12, at 5, 8; Item 4, *supra* note 16, at 1; Item 3 (Personal Subject Interview), *supra* note 3, at 6, 8.

to direct her available funds to pay her car loan and car insurance.<sup>18</sup> Applicant failed to submit any documentation to support her contention that she had a repayment agreement or that she made any payments to the creditor. On November 4, 2015, approximately six years after the judgment was entered, Applicant sent an e-mail to the creditor offering to make monthly payments of \$25 until the account is paid.<sup>19</sup> There is no evidence of a reply being received or a payment having been made. The account has not been resolved.

SOR ¶ 1.b. – This is a medical account with an unpaid balance of \$386 that was placed for collection in August 2012.<sup>20</sup> Applicant acknowledged that when she was paying her medical bills she overlooked this particular one. She intended to contact the creditor to resolve the account.<sup>21</sup> She contended she recently entered into repayment arrangements with the creditor,<sup>22</sup> but she failed to specify the arrangements or submit any documentation to support her contentions or any possible payments. The account is still listed in her November 2015 TransUnion credit report.<sup>23</sup> The account has not been resolved.

SOR ¶¶ 1.c. and 1.e. – Applicant obtained student loans from various sources that were eventually serviced by organizations other than the original lending institutions. While Applicant was enrolled in school at least half-time, or during periods of unemployment, loan repayment deferments were authorized to temporarily stop payments on the loans. During periods when she incurred temporary problems repaying her student loans but was not eligible for deferment for reasons such as financial hardship and illness, she could apply for forbearance to reduce or postpone payments. Some of her student loan deferments expired and various loans were placed for collection.

One such loan, opened with SallieMae, now known as Navient, in December 2004 in the original amount of \$31,474.73 (SOR ¶ 1.c.), became delinquent in August 2008. By August 2014, the unpaid balance had increased to \$34,895, and the amount past due was \$15,740.<sup>24</sup> By April 2015, the unpaid balance had increased to \$36,113, with a past-due balance of \$17,387. The creditor eventually charged off \$21,106.<sup>25</sup>

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<sup>18</sup> Item 3 (Personal Subject Interview), *supra* note 3, at 6.

<sup>19</sup> E-mail, dated November 4, 2015, attached to Applicant's Response to the FORM.

<sup>20</sup> Item 5, *supra* note 15, at 2.

<sup>21</sup> Item 1 (Applicant's Answer to the SOR, dated August 29, 2015), at 2.

<sup>22</sup> Applicant's Response to the FORM, *supra* note 3.

<sup>23</sup> TransUnion Credit Report, dated November 4, 2015, at 3-4, attached to Applicant's Response to the FORM.

<sup>24</sup> Item 5, *supra* note 15, at 1.

<sup>25</sup> Item 4, *supra* note 16, at 2. The SOR erroneously alleged the charged-off amount as \$36,113, but the credit report reported the amount as \$21,106.

The SOR also alleged a separate student loan, opened in January 2010 (approximately five years after Applicant had already received her degree) with a high credit of \$31,474 (SOR ¶ 1.e.), that became delinquent in December 2014. By April 2015, the unpaid balance had increased to \$34,251, with a past-due balance of \$407.<sup>26</sup> By November 2015, the unpaid balance had increased to \$34,967, with a zero past-due balance.<sup>27</sup>

A closer inspection of the “two” student loans reveals that they are, in fact, one student loan as reflected during different time periods as reported by the lending institution and the servicing company. On October 28, 2015, the servicing company verified that the student loan with the original amount of \$31,474.73, and a current principal balance of \$34,967.06 was placed into forbearance from September 1, 2015, until December 31, 2015.<sup>28</sup> Upon the termination of the forbearance period, within a matter of days from this Decision, Applicant will be expected to start making her monthly payments on this and the other two student loan accounts that are currently in forbearance. For reasons discussed below, it is unclear if Applicant will be able to start resolving the alleged student loan account.

SOR ¶ 1.d. – This is a national clothing store charge account with a credit limit of \$200 that was placed for collection and charged off for \$710 in March 2011.<sup>29</sup> The account was sold to another lender, identified in the SOR. The debt purchaser increased the past-due balance to \$887.<sup>30</sup> Applicant acknowledged using the account to purchase clothing, but found herself unable to maintain her payments. During her July 2012 OPM interview, she stated she would resolve the account within the next two years.<sup>31</sup> She failed to do so. The account has not been resolved.

SOR ¶ 1.f. – This is a cellular telephone account that Applicant opened in her name for the benefit of her aunt and two cousins. At some point, they failed or refused to pay their share of the expenses and the account, with a past-due balance of approximately \$1,572, became over 120 days past due, and was placed for collection.<sup>32</sup> The account was subsequently sold to a debt purchaser.<sup>33</sup> In May 2012, Applicant stated she would “work on arranging some form of payment plan with the collector

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<sup>26</sup> Item 4, *supra* note 16, at 3.

<sup>27</sup> TransUnion Credit Report, *supra* note 23, at 3.

<sup>28</sup> Letter, dated October 28, 2015, attached to Applicant’s Response to the FORM.

<sup>29</sup> Item 6, *supra* note 12, at 11.

<sup>30</sup> Item 4, *supra* note 16, at 2.

<sup>31</sup> Item 3 (Personal Subject Interview), *supra* note 3, at 7.

<sup>32</sup> Item 3 (Personal Subject Interview), *supra* note 3, at 7, 9; Item 6, *supra* note 12, at 7; Item 1, *supra* note 21, at 3.

<sup>33</sup> Item 6, *supra* note 12, at 12.

soon,<sup>34</sup> but as of July 2015, the account remained delinquent. The account has not been resolved.

SOR ¶ 1.g. – This is another cellular telephone account that Applicant opened in her name for the benefit of her cousin. At some point, her cousin failed or refused to pay her share of the expenses and the account, with a past-due balance of approximately \$341, became over 120 days past due, and was placed for collection.<sup>35</sup> The account was subsequently sold to a debt purchaser.<sup>36</sup> In May 2012, Applicant stated she would “work on arranging some form of payment plan with the collector soon,”<sup>37</sup> but as of July 2015, the account remained delinquent. In August 2015, Applicant claimed to be trying to work out payment arrangements,<sup>38</sup> but she failed to indicate with whom those efforts were being made. The account has not been resolved.

In October 2014, Applicant furnished a personal financial statement. Her net monthly income was approximately \$2,136; her monthly household expenses totaled \$2,347; and her monthly debt payments were zero, leaving her with a monthly deficit of approximately minus \$211.<sup>39</sup> Applicant’s financial situation has deteriorated since she submitted her personal financial statement because she now has a child and is unemployed. Thus, while she now receives financial assistance under the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC),<sup>40</sup> she no longer receives a salary. In October 2014, Applicant wrote a financial advisor to inquire about the services that could be provided to improve her credit situation.<sup>41</sup> There is no evidence that the financial advisor ever responded to the inquiry, or that Applicant ever received financial counseling. As recently as her response to the FORM, Applicant offered little evidence to indicate that her financial problems are now under control.

## 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.”<sup>42</sup> As Commander in Chief,

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<sup>34</sup> Item 2, *supra* note 1, at 41.

<sup>35</sup> Item 3 (Personal Subject Interview), *supra* note 3, at 10, 12; Item 6, *supra* note 13, at 8; Item 1, *supra* note 21, at 3.

<sup>36</sup> Item 6, *supra* note 12, at 12.

<sup>37</sup> Item 2, *supra* note 1, at 41.

<sup>38</sup> Item 1, *supra* note 21, at 3.

<sup>39</sup> Item 3 (Personal Financial Statement, undated).

<sup>40</sup> Item 1, *supra* note 21, at 3.

<sup>41</sup> Item 3 (E-Mail, dated October 24, 2014).

<sup>42</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

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.”<sup>43</sup>

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.

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.”<sup>44</sup> 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.<sup>45</sup>

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.

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<sup>43</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>44</sup> “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 (4<sup>th</sup> Cir. 1994).

<sup>45</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

Furthermore, “security clearance determinations should err, if they must, on the side of denials.”<sup>46</sup>

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.”<sup>47</sup> Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure 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 started as early as 2007. She had insufficient funds to continue making her routine monthly payments. Various accounts became delinquent, and were placed for collection, charged off, or went to judgment. 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

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<sup>46</sup> *Egan*, 484 U.S. at 531.

<sup>47</sup> See Exec. Or. 10865 § 7.



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.”<sup>48</sup>

AG ¶¶ 20(a), 20(c), and 20(d) do not apply. AG ¶ 20(b) minimally applies. The nature, frequency, and recency of Applicant’s continuing financial difficulties since about 2007 make it difficult to conclude that it occurred “so long ago” or “was so infrequent.” Applicant attributed her financial problems generally to being periodically unemployed and recently added the fact that she is now a single mother. She offered no explanations as to why she had so many automobile loans, credit cards, and charge accounts with clothing stores and jewelry stores. She did explain why she had multiple cellular telephone accounts for the benefit of various family members, but she failed to demonstrate what actions she has taken to obtain the necessary funds from them to pay her accounts. Applicant did offer evidence that she notified the creditor regarding her delinquent student loans, because they were placed into forbearance from September 1, 2015, until December 31, 2015. I have credited her with mitigating her student loan debt because it was in forbearance until this week. Applicant has offered no documentary evidence of a good-faith effort to resolve any of her other delinquent debts. She essentially ignored them, and seemingly continues to do so.

There is no evidence to indicate that Applicant ever received financial counseling. Based on what she reported in her personal financial statement in October 2014, Applicant had a monthly deficit of minus \$211. The overwhelming evidence is that Applicant’s financial problems are not under control, and that her financial situation has deteriorated even more since she submitted her financial statistics. Applicant has not acted responsibly by failing to address her delinquent accounts while employed and by making limited efforts of working with her creditors.<sup>49</sup> Applicant’s actions under the

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<sup>48</sup> The Appeal Board has previously explained what constitutes a good-faith effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the “good-faith” mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant’s debts. The Directive does not define the term “good-faith.” However, the Board has indicated that the concept of good-faith “requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.” Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy [or statute of limitations]) in order to claim the benefit of [the “good-faith” mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

<sup>49</sup> “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-

circumstances confronting her cast doubt on her current reliability, trustworthiness, and good judgment.<sup>50</sup>

### **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.<sup>51</sup>

There is little evidence in favor of mitigating Applicant's conduct. She has declared her intentions of bringing her accounts current and repaying them.

The disqualifying evidence is more substantial. Applicant has repeatedly declared her intentions of bringing her accounts current and repaying them, but to date, she has not. Instead, Applicant has continued to ignore those delinquent accounts; and, while still employed, she had a monthly budget deficit of minus \$211. Applicant offered no evidence as to her reputation for reliability, trustworthiness, and good judgment. Applicant's long-standing failure over the years to voluntarily repay her creditors, even in the smallest amounts, or to arrange even the most reasonable payment plans, reflects traits which raise concerns about her fitness to hold a security clearance. There are clear indications that Applicant's financial problems are not under control. Applicant's actions under the circumstances cast doubt on her current reliability, trustworthiness, and good judgment. Considering the absence of confirmed debt resolution and elimination efforts, Applicant's financial issues are likely to remain.

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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.

<sup>50</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

<sup>51</sup> 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).

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>52</sup>

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 voluntary debt reduction and elimination efforts, generally ignoring her delinquent debts. Overall, the evidence leaves me with substantial questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has failed to mitigate the security concerns arising from her financial considerations concerns. 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:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant

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<sup>52</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

## **Conclusion**

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

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ROBERT ROBINSON GALES  
Administrative Judge