KET WORD. Financial, reisonal Conduct
DIGEST: Applicant's past financial problems raise security concerns because of her delay in resolving her debts. While she has now demonstrated she has made a good-faith effort to resolve several of her long-standing debts, even more debts remain outstanding. She presented no plan as to when she might address them even though she has sufficient income. She never sought counseling to resolve the debts though she promised to do so in 2004. Thus, she has failed to demonstrated that she has sufficiently reformed her financial practices. However, she mitigated security concerns over her personal conduct because she had special circumstances and had no intent to falsify. Clearance is denied.
CASENO: 04-06360.h1
DATE: 03/20/2006
DATE: March 20, 2006
In Re:
<b></b>
SSN:
Applicant for Security Clearance
ISCR Case No. 04-06360
DECISION OF ADMINISTRATIVE JUDGE
KATHRYN MOEN BRAEMAN

**APPEARANCES** 

#### FOR GOVERNMENT

Sabrina Redd, Esquire, Department Counsel

FOR APPLICANT

Pro Se

#### **SYNOPSIS**

Applicant's past financial problems raise security concerns because of her delay in resolving her debts. While she has now demonstrated she has made a good-faith effort to resolve several of her long-standing debts, even more debts remain outstanding. She presented no plan as to when she might address them even though she has sufficient income. She never sought counseling to resolve the debts though she promised to do so in 2004. Thus, she has failed to demonstrated that she has sufficiently reformed her financial practices. However, she mitigated security concerns over her personal conduct because she had special circumstances and had no intent to falsify. Clearance is denied.

#### STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant on March 21, 2005. The SOR detailed reasons why the Government could not make the preliminary positive finding that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. The SOR alleges specific concerns over finances (Guideline F) and personal conduct (Guideline E). Applicant responded to these SOR allegations in an Answer notarized on May 13, 2005, and requested a hearing. She denied subparagraph 1.a., 1.b., 1.c., 1.f., 1.g., 1.l., 1.m., 1.n., 1.s., 2.a., and 2.b.

After Department Counsel stated the case was ready to proceed on July 27, 2005, the case was assigned to me on August 1, 2005. On August 2, 2005, DOHA issued a Notice of Hearing and set this case to be heard on September 9, 2005, in a city near where Applicant lives and works.

At the hearing the government offered eight exhibits (Exhibits 1-8) which were admitted into evidence without objection. Applicant testified and offered one exhibit (Exhibit A) which was admitted into evidence without objection.

As Department Counsel did not object, I granted her two weeks until September 23, 2005, to submit additional evidence
and the government until September 30, 2005, to respond. (TR 24-25, 83) On September 26, 2005, Applicant submitted
Exhibit B; as Department Counsel did not object, Exhibit B was admitted into evidence. The transcript (TR) was
received on September 21, 2005.

## **FINDINGS OF FACT**

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following findings of fact:

Applicant, 27 years old, has been employed by Defense Contractor #1 as an administrative assistant since June 2003. When she completed her Security Clearance Application (SF 86) in January 2003, she was working for Contractor #2. Applicant does not believe she needs a security clearance for her current job, but her company still has an active request for a security clearance for her; however, she did not complete a new (2) SF 86. (Exhibit 1; TR 48, 67-74)

Applicant received her college degree in December 2001. (Exhibit 1; TR 46) Applicant initially lived with her fiancee in May 2002; she married him in May 2003 and took her current name. She has a child born in November 2002. (Exhibit 2)

#### **Personal Conduct**

When her employer gave her the SF 86 to complete, she was told she had to return it within 24 hours so she did not research her credit problems. (TR 44-45) In response to Question 38 on financial delinquencies over 180 days, Applicant acknowledged only one student loan debt of \$5,500 from 1997. She answered "No" to Question 39 on debts 90 days delinquent. She denies she had any intent to falsify by these answers. (Answer; Exhibit 1) She explained at the time she completed her SF 86 she had just moved and her son was only two months old. She failed to take the time to clarify her debts, but had no intent to falsify. (TR 28-29)

### **Finances**

Initially, Applicant explained that the majority of the debts were incurred when she was in college on limited income. (Exhibits 2, 3; TR 26) She was making \$40,000 per year in June 2003 and had limited money to resolve her debts except for her student loans. (TR 48-49) When interviewed by the Defense Security Service (DSS) in March 2004, Applicant explained that she had defaulted on one student loan as she left school in 1998; when she failed to file for a deferment, it went into default in fall 1999. She was making \$200 monthly payments with that lender. When questioned about accounts on her credit report, she explained that she would contact her creditors and set up payment plans. She stated she was not aware of certain debts, but said she would contact those creditors and clarify their status. She thought her father had paid her medical expenses when she was a student, but in 1998 her father stopped providing any funds to her. She wanted to resolve her debts, so that she and her husband could purchase a home. (Exhibit 2) In August 2004 she again stated she was then "able to pay off bad debt and correct those financial mistakes of my past." (Exhibit 3) Applicant did not take any significant steps to do so even though she and her husband had monthly take-home pay of \$6,568; they had expenses which totaled \$3,120, and debts or loan payments totaling \$1,210 with a net monthly remainder of \$2,238 to resolve her debts. (Exhibit 2)

In 2005 Applicant made \$52,000 per year. (TR 27, 59) Her September 2005 budget reflected Applicant and her husband had monthly take-home pay of \$6,402, expenses included a mortgage payment of \$3,500 and other expenses which left a net monthly remainder of \$902 to resolve her debts. Her current budget includes no documented plans to make debt payments or otherwise resolve the remaining debts. (Exhibit B) She explained the following concerning that status of her past debts:

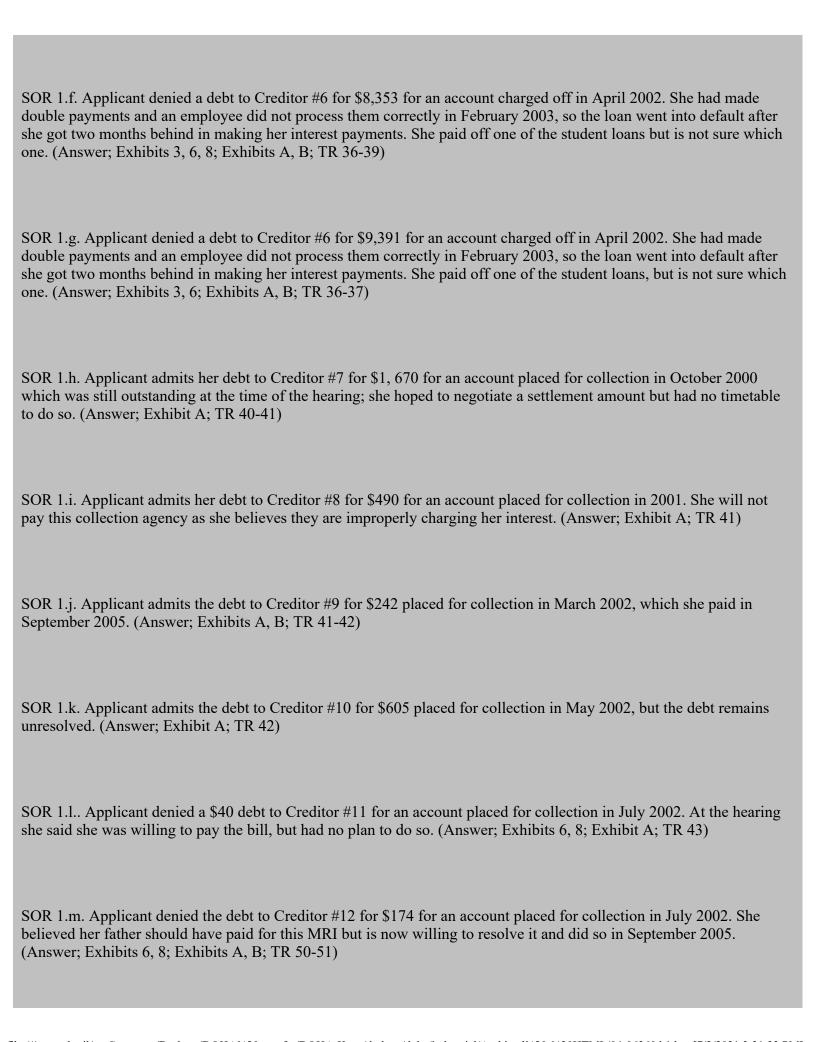
SOR 1.a. Applicant denied a \$922 debt to Creditor #1 and was investigating it. However, she has not disputed the debt on her credit report. (Answer; Exhibits 5, 6; Exhibit A; TR 30-31)

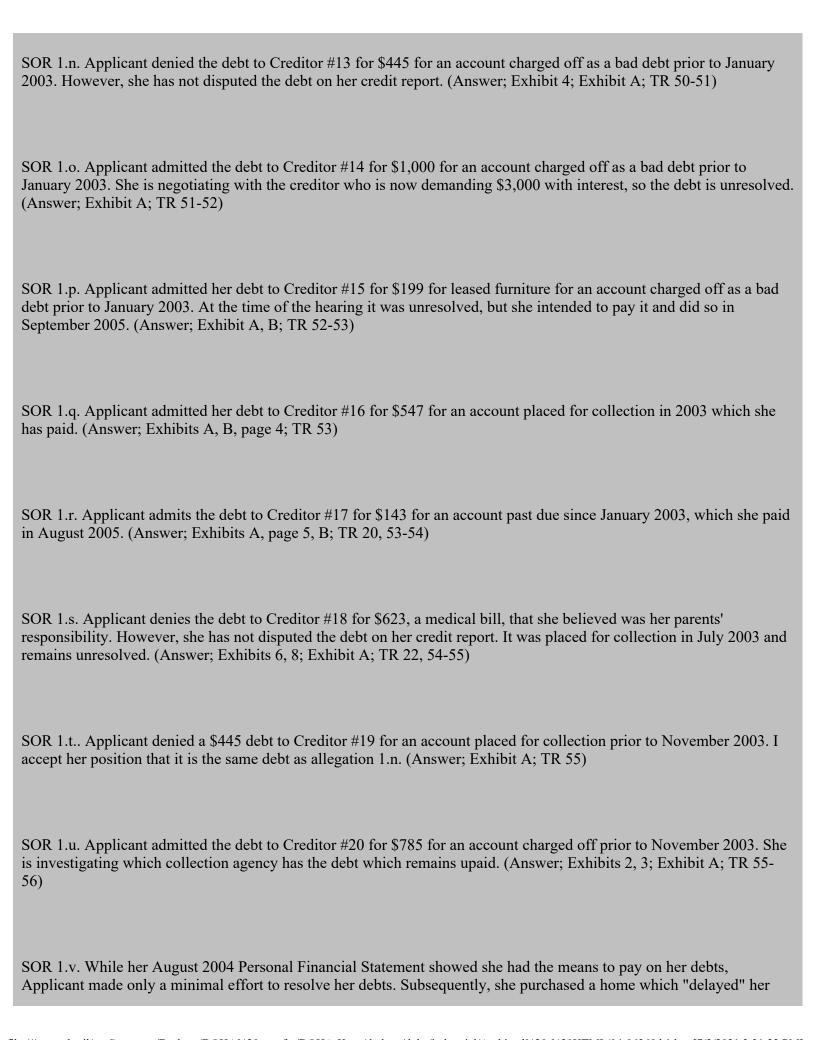
SOR 1.b. Applicant denied the debt to Creditor #2 for \$732 and contacted the creditor six months ago. However, she has not disputed the debt on her credit report. (Answer; Exhibit 6; Exhibit A, TR 31-32, 34)

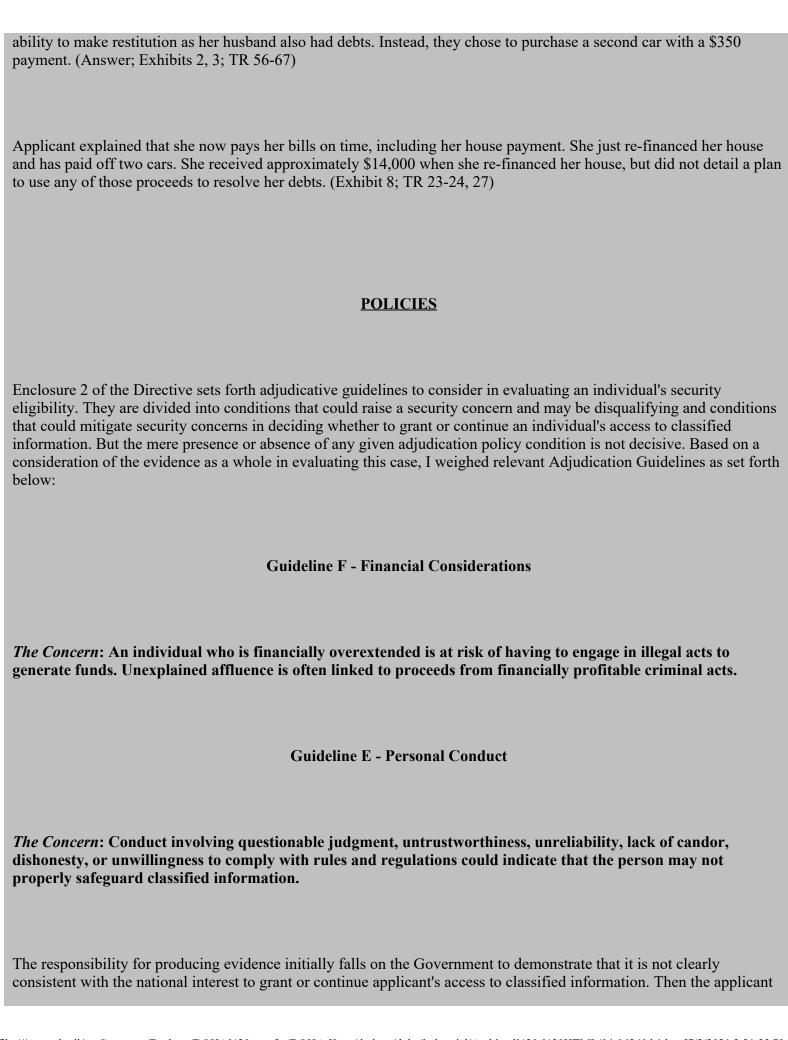
SOR 1.c. Applicant denied the debt to Creditor #3 for \$700 for an account placed for collection in 1998. However, she has not disputed the debt on her credit report. (Answer; Exhibit 6; Exhibit A; 33-34)

SOR 1.d. Applicant paid the debt to Creditor #4 for \$52 in August 2005 after she re-financed her house. (Answer; Exhibit; TR 34)

SOR 1.e. Applicant explained the debt to Creditor #5 for \$8,034 for a 1997 student loan which was placed for collection in June 2000. She received \$4,000 and forfeited the remaining \$4,000 when she did not return to school. She learned of this debt when she purchased her home in November 2004 and looked at her credit report. However, she has not contacted the university to clarify the status of the loan or resolve it. (Answer; Exhibit A; TR 35-36, 58)







presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance. Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

#### **CONCLUSIONS**

#### **Financial Considerations**

The Government established disqualifying conditions that could raise a security concern and may be disqualifying including Applicant's (1) history of financial problems and her (3) inability or unwillingness to satisfy all of her debts. Even after her college debts, she developed additional debts that remain largely unresolved. While Applicant had some challenging circumstances, she did not demonstrate that the conditions that resulted in the behavior were largely beyond her control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation). While she promised in her 2004 DSS interview and again in response to interrogatories that she would investigate and resolve her debts, she took no action until after the SOR was issued. Even then she resolved only some of the debts and showed no willingness to develop a plan to resolve the remaining debts.

While she was able to purchase a house and re-financed it recently, she used the proceeds to resolve only one of her student loan debts and other small debts. While she disputed several debts that were on her credit report, she took no action to investigate them or dispute them with the credit reporting agencies. She has had several substantial raises; however Applicant failed to develop a plan to resolve all her debts. Thus despite some efforts, she has failed to mitigate (3) a significant portion of these financial concerns as too many of the debts remain unresolved. Thus, Applicant has still failed to demonstrate sufficiently that she is financially responsible as she submitted no plan to resolve the remaining debts. Further, Applicant did not show that she has received or is receiving counseling for the problem. While she now has developed a budget, there are not yet clear indications that her financial problems are being resolved or are under control. In sum, Applicant initiated a good-faith effort to repay only a portion of her overdue debts.

After considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant under subparagraphs 1.d., 1.f., 1.j., 1.m., 1.p., 1.q., 1.r., 1.t., but against her under SOR Paragraph 1 as she failed to mitigate the allegations in SOR subparagraphs 1.a., 1.b., 1.c., 1.e., 1.g., 1.h., 1.i., 1.k., 1.l., 1.n., 1.o., 1.s., 1.u., and 1.v.

#### **Personal Conduct**

The government established its Personal Conduct concerns under Guideline E under Disqualifying Condition E2.A5.1.2.2. The deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant failed to disclose all of her debts on her SF 86 even though she had a duty to do so.

On the other hand, the record evidence as a whole must be considered to determine whether Applicant's overall conduct can be mitigated. Thus, I have evaluated her conduct and conclude that she had no intent to falsify. She was under pressure to complete the form quickly and failed to take the time to list all of her debts. In addition, I have considered the following factors:

E.2.21.1. The nature, extent, and seriousness of the conduct; E2.2.1.2. The circumstances surrounding the conduct, to include knowledgeable participation; E2.2.1.3. The frequency and recency of the conduct; E2.2.1.4. The individual's age and maturity at the time of the conduct; E2.2.1.5. The voluntariness of the participation; E2.2.1.6. The presence or absence of rehabilitation and other pertinent behavioral changes; E.2.2.1.7. The motivation for the conduct; E.2.2.1.8. The potential for pressure, coercion, exploitation, or duress; and E.2.2.1.9. The likelihood of continuation or recurrence. (E.2.2. Adjudication Process)

Thus, Applicant has demonstrated she was under pressures as a new, single mother and credibly established she did not intend to falsify her security form. Thus she has mitigated the security concern under Personal Conduct. After looking at the whole person and considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant on subparagraph 2.a. and 2.b. under SOR Paragraph 2.

## **FORMAL FINDINGS**

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

# Paragraph 1. Guideline F: AGAINST APPLICANT Subparagraph 1.a.: Against Applicant Subparagraph 1.b.: Against Applicant Subparagraph 1.c.: Against Applicant Subparagraph 1.d.: For Applicant Subparagraph 1.e.: Against Applicant Subparagraph 1.f.: For Applicant Subparagraph 1.g.: Against Applicant Subparagraph 1.h.: Against Applicant Subparagraph 1.i.: Against Applicant

Subparagraph 1.k.: Against Applicant

Subparagraph 1.1.: Against Applicant

Subparagraph 1.m.: For Applicant

Subparagraph 1.n.: Against Applicant

Subparagraph 1.o.: Against Applicant

Subparagraph 1.p.: For Applicant

Subparagraph 1.q.: For Applicant

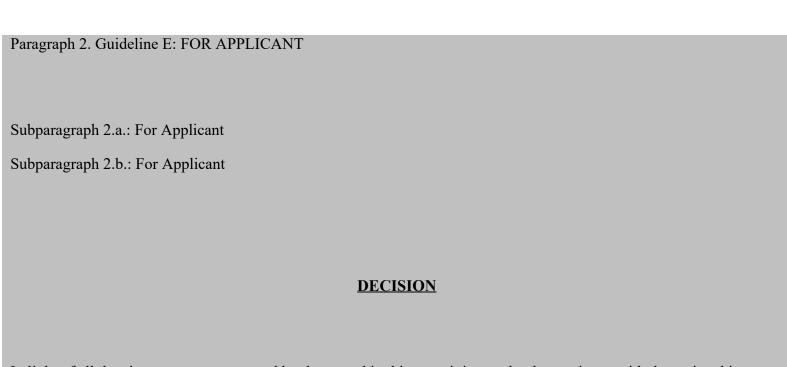
Subparagraph 1.r.: For Applicant

Subparagraph 1.s.: Against Applicant

Subparagraph 1.t.: For Applicant

Subparagraph 1.u.: Against Applicant

Subparagraph 1.v.: Against Applicant



In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for the Applicant. Clearance is denied.

# Kathryn Moen Braeman

# Administrative Judge

- 1. This procedure is required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated January 2, 1992 (Directive), as amended by Change 4, April 20, 1999.
- 2. Department Counsel's request to investigate whether there was an additional SF 86 submitted was granted; however, she subsequently advised there was no additional documentation. (TR 68-69, 80, 82)
- 3. Conditions that could mitigate security concerns include: E2.A6.1.3. 3. The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation); E2.A6.1.3. 4. . . . there are clear indications that the problem is being resolved or is under control; and E2.A6.1.3. 6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.