

DATE: July 31, 2006

In re:

SSN: -----

Applicant for Security Clearance

CR Case No. 05-07441

DECISION OF ADMINISTRATIVE JUDGE

MARK W. HARVEY

APPEARANCES

FOR GOVERNMENT

Daniel F. Crowley, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Forty-year-old Applicant had five alleged debts listed in the SOR. She established one debt was a duplication, and was conscientiously making payments on the duplicated debt. She refuted one debt, and it was removed from her credit report. However, she failed to adequately controvert or pay two debts, even though she had the financial resources to pay them. In August 2004, Applicant completed a SF 86 and falsely answered two questions regarding her financial matters. She has failed to mitigate concerns about financial considerations and personal conduct. Clearance is denied.

STATEMENT OF THE CASE

On August 2, 2004, Applicant applied for a security clearance and submitted a Security Clearance Application (SF 86). (1) On December 23, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to her, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. (2) The SOR alleges security concerns under Guideline F (Financial Considerations) and Guideline E (Personal Conduct). The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for her, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. (3)

In a sworn, notarized answer, dated January 9, 2006, Applicant responded to the SOR allegations, and elected to have her case decided on the written record in lieu of a hearing. (4) A complete copy of the file of relevant material (FORM), dated April 28, 2006, was provided to her on May 8, 2006, and she was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. (5) Any such submissions were due by June 7, 2006. (6) Applicant did not provide additional materials in response to the FORM.. The case was assigned to me on June 26, 2006.

FINDINGS OF FACT

As to the factual allegations under Guideline F, Applicant admitted that she was responsible for paying the judgment, and she was in the process of paying it off (SOR ¶1.a.).⁽⁷⁾ She also admitted the debt in SOR ¶1.d. was correct, but she contended she had paid it in December 2005. The debts in SOR ¶¶ 1.b. and 1.e. were contested. The debt in SOR ¶1.c. was a duplication of the debt in SOR ¶1.a..

In regard to allegations under Guideline E in SOR ¶¶ 2.a. and 2.b., she admitted she provided incorrect information on her SF 86 concerning the existence of an unpaid judgment and debts delinquent over 180 days. However, she denied that she deliberately provided false information. She attributed her erroneous statement to not reviewing her credit report. Her admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 40-year-old⁽⁸⁾ employee of a defense contractor,⁽⁹⁾ She was never unemployed during the last 12 years.⁽¹⁰⁾ From 1996 to 1998, she attended a community college, but was not awarded a degree.⁽¹¹⁾ She has no prior military service.⁽¹²⁾ Applicant moved to an East Coast state about six years ago.⁽¹³⁾ At that time she was not married. She was responsible for two households because a tenant defaulted on a lease. She fell behind in making payments on her debts. She is seeking to obtain a security clearance.

On February 23, 2005, Applicant was interviewed by a security investigator. Her answers were consistent with her response to the SOR, except she stated that the debts of \$234.00 and \$494.00 (described in SOR ¶¶ 1.d. and 1.e., respectively), are a duplication of the same corporate account. Her previous employer paid these debts, and is working on getting the record corrected.⁽¹⁴⁾ In her response to the SOR, she indicated that she owed and paid the debt for \$234.00, and the debt for \$494.00 resulted from a stolen credit card.⁽¹⁵⁾

On February 23, 2005, she provided a personal financial statement (PFS) to the security investigator.⁽¹⁶⁾ The PSF indicates that her gross salary was \$7,230.00 per month, and her husband's⁽¹⁷⁾ net salary was \$4,000.00 per month. After making all payments, including mortgage, vehicle, groceries, car expenses, utilities, credit cards, and miscellaneous, \$4,828.00 per month remained. The debt section of the PSF included her mortgage, a home loan, an automobile loan, and three credit cards, but did not include any of the five debts that were ultimately listed on the SOR.

The five accounts in the SOR, and their current status, are described in greater detail below:

SOR ¶	TYPE DEBT	AMOUNT	CURRENT STATUS
¶1.a.	Judgment ⁽¹⁸⁾	\$6,037.00 ⁽¹⁹⁾	Making monthly payments ⁽²⁰⁾
¶1.b.	Loan ⁽²¹⁾	\$4,290.00 ⁽²²⁾	Disputed debt ⁽²³⁾
¶1.c.	Credit Card ⁽²⁴⁾	\$9,321.00 ⁽²⁵⁾	Duplication of SOR ¶1.a. ⁽²⁶⁾
¶1.d.	Credit Card charged off as a bad debt. ⁽²⁷⁾	\$234.00 ⁽²⁸⁾	Applicant stated she paid debt, but she provided no payment documentation. ⁽²⁹⁾
¶1.e.	Credit Card charged off as a bad debt. ⁽³⁰⁾	\$494.00 ⁽³¹⁾	Disputed debt ⁽³²⁾

As noted above, on August 2, 2004, Applicant signed her SF 86. In it there were two questions of particular significance pertaining to financial matters. Question 37 asked: "In the last 7 years, have you had any judgements against you that have not been paid?" Question 38 asked: "In the last 7 years, have you ever been over 180 days delinquent on any debt(s)?"⁽³³⁾ She responded "no," to both questions and certified that her response was true, complete, and accurate.⁽³⁴⁾

They were not. In her affidavit of February 23, 2005, Applicant discussed her debts and the judgment, but did not elaborate on why she answered "no" to these two questions. In her response to the SOR on January 9, 2006, she denied the allegations of deliberate falsification. In regard to the judgment she explained, "I didn't request a copy of my credit file until May 2004. When I completed the application[,] the information was unbeknownst to me. I had no knowledge that the debt was listed as a judgment." (35) In regard to the debts delinquent over 180 days, she stated, "at the time of my application, I had no knowledge of anything being 180 days late." (36) At the time she completed her SF 86, she was aware that she had a state court judgment against her dated September 11, 2003. According to a credit report dated fifteen days after she signed her SF 86, three debts identified on the SOR were not over 180 days delinquent, (37) and two debts were delinquent over 180 days. The two debts delinquent over 180 days were not paid. (38)

POLICIES In their evaluation of an Applicant's security suitability, an administrative judge should consider Enclosure 2 of the Directive, which sets forth adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into Disqualifying Conditions (DC) and Mitigating Conditions (MC). An administrative judge may consider relevant DCs to deny or revoke and MCs to grant an Applicant's eligibility for access to classified information.

These adjudicative guidelines are not inflexible ironclad rules of law. Instead, recognizing the complexities of human behavior, an administrative judge should apply these guidelines in conjunction with the factors listed in the Adjudicative Process provision in Section E2.2., Enclosure 2, of the Directive. An administrative judge's overarching adjudicative goal is a fair, impartial and common sense decision.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," an administrative judge should consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision. Specifically, an administrative judge should consider the nine Adjudicative Process factors listed at E2.2.1 of the Directive: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guidelines most pertinent to an evaluation of the facts of this case:

Financial Considerations - Guideline F: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

Personal Conduct - Guideline E: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, pertaining to this adjudicative guideline are set forth and discussed in the Conclusions section below.

Since the protection of the national security is the paramount consideration, the final decision in each case is arrived at by applying the standard that the issuance of the clearance is "clearly consistent with the interests 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

In the decision-making process, the government initially has the burden of producing evidence to establish a case which demonstrates, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an Applicant's access to classified information. If the government meets its initial burden, the Applicant then has a heavy burden of persuasion, that is to present evidence in refutation, explanation, extenuation or mitigation sufficient to overcome the doubts raised by the government's case, and ultimately to demonstrate it is clearly consistent

with the national interest to grant or continue the Applicant's clearance. ⁽³⁹⁾

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship 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 under this Directive include, by necessity, consideration of the possible risk an Applicant may deliberately or inadvertently fail to protect or 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.

The scope of an administrative judge's decision is limited. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides industrial security clearance decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the [A]pplicant concerned." Security clearance decisions cover many characteristics of an Applicant other than allegiance, loyalty, and patriotism. 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.

CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to the the allegations set forth in the SOR:

Guideline F (Financial Considerations)

The government has met its initial burden under Guideline F. Applicant's failure to pay her debts is of concern, especially in light of her desire to have access to the nation's secrets. The Directive clearly expresses the government's concern regarding financial considerations in provision E2.A6.1.1. (*An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.*). A person who fails or refuses to pay long-standing debts or is financially irresponsible may also be irresponsible or careless in his or her duty to protect classified information.

Applicant's actions in failing to satisfy her outstanding financial obligations give rise to Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1. (*history of not meeting financial obligations*) and FC DC E2.A6.1.2.3. (*inability or unwillingness to satisfy debts*). Each of the five debts listed on SOR ¶¶ 1.a. to 1.e. will be discussed briefly below.

For SOR ¶ 1.a., Applicant admitted the debt and acknowledged she fell behind in her payments. She had a monthly payment of \$356.00, was \$1,255.00 past due, and she owed \$9,321.00. ⁽⁴⁰⁾ The judgment in the amount of \$6,037.00 on September 11, 2003, further documents this debt. FC DC E2.A6.1.2.1. is established by her initial failure to meet her financial obligations.

Applicant disputed the debt in SOR ¶ 1.b., stating that she was challenging the credit bureau report that contained the debt. The most recent credit bureau report did not contain any mention of this debt. ⁽⁴¹⁾ The debt in SOR ¶ 1.b. is not established.

The debt alleged in SOR ¶ 1.c. is a valid, unpaid debt. However, it is a duplication as it was sold and became part of the SOR ¶ 1.a. debt. ⁽⁴²⁾ SOR ¶ 1.c. is resolved in Applicant's favor.

The evidence establishes that the debts alleged in SOR ¶¶ 1.d. for \$234.00, and 1.e. for \$494.00 were reported on three credit bureau reports. Applicant said she was working to resolve them. She also said she paid the SOR ¶ 1.d. debt in December 2005, and would provide a check to verify the payment. Department Counsel in the FORM subsequently reminded her that she had not provided the check as promised or other information necessary to refute or resolve these debts. ⁽⁴³⁾ She did not provide the check or other evidence to support her contentions. In regard to these two debts FC DC E2.A6.1.2.1. and FC DC E2.A6.1.2.3. are established.

Once the government produced substantial evidence of a disqualifying condition, the burden shifted to Applicant to produce evidence and prove a mitigating condition under E3.1.15. *(to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision)*. The burden of disproving a mitigating condition never shifts to the government.⁽⁴⁴⁾

I considered Financial Considerations Mitigating Condition (FC MC) E2.A6.1.3.1. *(the behavior was not recent)* and FC MC E2.A6.1.3.2. *(it was an isolated incident)*. However, these two mitigating conditions are not established because of the number of debts (three--SOR ¶¶ 1.a., 1.d., and 1.e.) that are recent (all currently not paid or otherwise resolved).

The information Applicant provided concerning the two households and the expensive move to an East Coast state, which occurred about five years ago, supported consideration of FCMC 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))*. Applicant's financial difficulties remain largely unexplained. There is little evidence to explain why the debts alleged in SOR ¶¶ 1.a., 1.d., and 1.e. became or remained delinquent. Applicant remained gainfully employed throughout the entire period. She had more than sufficient time over the last five years, especially with her ample income after her marriage, to pay her delinquent debts. Her failure to pay or resolve these three debts, which totaled about \$3,500 when she applied for her clearance, are not caused by lack of income, or other events beyond her control. They are caused by her apparent unwillingness to pay or resolve her debts. FCMC E2.A6.1.3.3. is not established for SOR ¶¶ 1.a., 1.d., and 1.e..

Applicant conscientiously made monthly payments on the debt alleged in SOR ¶ 1.a., from May 13, 2002 until February 5, 2006, reducing the amount of the debt to \$1,693.92 on February 5, 2006. Indeed, she made payments for more than two years before she applied for her security clearance. She also sought the assistance of a debt management company, and has assiduously complied with her payment plan. These facts establish FC MC E2.A6.1.3.4. *(the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control)* and FC MC E2.A6.1.3.6. *(the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts)*.

None of the mitigating conditions are applicable to the debts alleged in SOR ¶¶ 1.d. and 1.e. Applicant stated she paid the debt in SOR ¶ 1.d. in December 2005, and said her cancelled check was attached. However, she never provided any documentary evidence that this debt was paid, even after Department Counsel suggested that she should do so. She has not shown that she has made a good faith effort to pay this debt. She refused to accept responsibility for the debt in SOR ¶ 1.e., and failed to provide any documentation to show what she was doing to dispute or resolve the debt.

After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude she has not mitigated the security concerns pertaining to financial considerations.

Guideline E (Personal Conduct)

The government has met its initial burden under Guideline E. Examination of her actions reveals conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. Such conduct could indicate that the Applicant may not properly safeguard classified information. E2.A5.1.1. Her actions fall within Personal Conduct Disqualifying Condition (PC DC) 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)*.

On August 2, 2004, Applicant completed a SF 86, and incorrectly answered two questions regarding her financial matters. The SF 86 asked her whether in the last seven years she had any unpaid judgments which have not been paid, and whether in the last seven years she had been over 180 days delinquent on any debts. She answered "no," to both questions, when her answers should have been "yes," to both.

She subsequently admitted that she had a judgment against her eleven months before she signed her SF 86 indicating otherwise. Similarly, she admitted that she had some debts that were unpaid. ⁽⁴⁵⁾ She nevertheless denied that the falsification was deliberate, indicating that she was unaware that the judgment and debts would appear on her credit report.

When a falsification allegation is controverted, Department Counsel has the burden of proving falsification. ISCR Case No. 02-12586 at 3 (App. Bd. Jan. 25, 2005). Proof of an omission, standing alone, does not establish or prove an applicant's state of mind when the omission occurred. *Id.* An administrative judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning an applicant's state of mind at the time the omission occurred. *See* ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004) (explaining holding in ISCR Case No. 02-23133 at 5 (App. Bd. Jun. 9, 2004)). Applicant did not present any persuasive evidence to explain the omissions. All she provided was her written statement that she did not intend to deliberately lie. She did not describe the source of any belief that the SF 86 did not need to include a judgment or debts if they were on a credit report.

I considered Personal Conduct Mitigating Condition (PC MC) E2.A5.1.3.2. (*The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily*), and PC MC E2.A5.1.3.3. (*The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts*). Applicant falsified her SF 86 on August 2, 2004, which is recent. Applicant did not address the false information in her SF 86 until an investigator confronted her about the security concerns. PC MC E2.A5.1.3.2. and PC MC E2.A5.1.3.3. are not established.

In addition to the enumerated disqualifying and mitigating conditions, I have considered the general adjudicative guidelines related to the whole person concept under Directive provision E2.2.1. As noted above, Applicant's history of failing to meet her financial obligations, unwillingness to satisfy debts and omission of relevant and material facts on her security questionnaire are a serious violation of the law. E2.2.1.1. Her actions were knowledgeable and voluntary. E2.2.1.2. She was 40 years old, sufficiently mature to be fully responsible for her conduct. E2.2.1.4. The likelihood of recurrence cannot yet be determined because she has not yet paid three debts and the corroborating evidence of a change is sparse. E2.2.1.9. After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude she has not mitigated the security concerns pertaining to financial considerations and personal conduct.

The evidence leaves me with grave questions and doubts as to Applicant's security eligibility and suitability. I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my "careful consideration of the whole person factors" ⁽⁴⁶⁾ and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under Enclosure 2 of the Directive. She has failed to mitigate or overcome the government's case.

For the reasons stated, I conclude Applicant is not eligible for access to classified information.

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.: For Applicant

Subparagraph 1.b.: For Applicant

Subparagraph 1.c.: For Applicant

Subparagraph 1.d.: Against Applicant

Subparagraph 1.e.: Against Applicant

Paragraph 2., Guideline E: AGAINST APPLICANT

Subparagraph 2.a.: Against Applicant

Subparagraph 2.b.: Against Applicant

DECISION

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 Applicant. Clearance is denied.

Mark W. Harvey

Administrative Judge

1. Item 4 (Electronic Security Clearance Application (SF 86)), is dated April 22, 2004 on page 1. Item 5, an Electronic SF 86, is dated April 22, 2004 on page 1. Applicant's signature on the last page of Item 5 is accompanied by a warning about the application of 18 U.S.C. Sec. 1001 for false statements. The signature page is dated August 2, 2004.
2. Item 1 (Statement of Reasons (SOR), dated December 23, 2005) at 1-2.
3. *Id.*
4. Item 3 (Applicant's response to SOR with supporting documentation, notarized January 18, 2006, but dated on the first page, January 9, 2006).
5. Defense Office of Hearings and Appeals (DOHA) transmittal letter, dated May, 2, 2006.
6. *Id.* The DOHA transmittal letter informed Applicant that she had 30 days after receipt to submit information.
7. Item 3, *supra* note 4, at 3-4 is the source for all factual assertions in the next two paragraphs.
8. Item 5, *supra* note 1, question 1., at 1.
9. From January 3, 2002 to August 2, 2004 (the date of her SF 86), she has been employed in senior technical support for a defense contractor. Item 5, *supra* note 1, questions 6.1., at 1. For the previous seven years, she worked as a project manager for two defense contractors. *Id.* questions 6.2. and 6.3., at 2. The quality of her employment performance was not characterized.
10. *Id.*, questions 6.1 to 6.3., at 1-2.
11. *Id.*, question 5., at 1.
12. *Id.*, question 11., at 3.
13. Item 7, Applicant's sworn written statement, dated February 23, 2005, at 1-2 is the source for the factual assertions in the remainder of this paragraph.
14. *Id.*
15. Item 3, *supra* note 4, at 4.
16. Item 8, Form 154, Personal Financial Statement, dated February 23, 2005.

17. On May 18, 2002, Applicant married. The name on the caption of this case and the SOR is her maiden name. Item 5, *supra* note 1, question 8.1., at 2.

18. Item 6, Credit Report, dated August 17, 2004, at 1; Item 9, Credit Report, dated September 23, 2005, at 1; Item 10, Credit Report, dated April 27, 2005, at 1; Item 11, Lexis printout of state court judgment, dated September 11, 2003.

19. *Id.*

20. Applicant's debt management company provided a written statement that from May 13, 2002 to December 15, 2005, she had made payments from \$160.00 to \$187.00 every month, reducing the debt amount to \$1693.92. Item 3, *supra* note 4, at 3, 7-9.

21. Item 6, *supra* note 18, at 3.

22. Item 9, *supra* note 18, at 2.

23. Applicant said she requested her credit file in May 2004, and first learned of this debt. Item 3, *supra* note 4, at 3-4. She denied that she opened this account, and thought that her mother may have opened the account. She and her mother asked the creditor for evidence. The first two credit reports include this debt. Item 6, *supra* note 18, at 3; Item 9, *supra* note 18, at 2. The third and most recent credit report does not include this debt. Item 10, *supra* note 18.

24. Item 6, *supra* note 18, at 4; Item 9, *supra* note 18, at 2.

25. Item 1, *supra* note 2, ¶1.c. at 1; Item 6, *supra* note 18, at 4.

26. Item 3, *supra* note 4, at 3-4, 10. Applicant provided a credit report showing that this debt was transferred and became the SOR ¶1.a. debt. *Id.* at 10. The most recent credit report indicates a zero debt, zero past due amount, and includes a notation that the account is transferred or sold. Item 10, *supra* note 18, at 2.

27. Three credit reports list this debt, and indicate no action on the account since March 2001. Item 6, *supra* note 18, at 2; Item 9, *supra* note 18, at 2; Item 10, *supra* note 18, at 2.

28. *Id.*

29. In January 2006, she stated she paid this debt in December 2005. She concluded, "I'm attaching a copy of the cancelled check that I retained for my records." Item 3, *supra* note 4, at 4. A cancelled check, however, was not attached. Department Counsel informed Applicant: (1) her check was not attached; (2) she had the burden of demonstrating evidence of refutation, extenuation, or mitigation; and (3) such evidence was due in 30 days. FORM, *supra* note 36, at 4, 6. Applicant did not provide any additional information.

30. Three credit reports list this debt, and indicate no action on the account since October 2000. Item 6, *supra* note 18, at 2; Item 9, *supra* note 18, at 2; Item 10, *supra* note 18, at 2.

31. *Id.*

32. Item 3, *supra* note 4, at 4. On February 23, 2005, Applicant made a sworn statement that her previous employer paid this creditor, "and is working to get it resolved." Item 7, *supra* note 13, at 2. In January 2006 Applicant stated, "The account in question is a corporate account from a previous employer. This account is under investigation. The card was stolen and reported stolen. I've been working with [creditor] for nearly 48 months to fix the problem." Item 3, *supra* note 4, at 4. Department Counsel noted in the FORM that Applicant lived in the vicinity of her previous corporate employer and should be able to obtain documentation to support her report of the stolen credit card and the investigation or payment by her former employer. He also informed her that she had 30 days to provide such information. FORM, *supra* note 36, at 7. Nevertheless, she did not provide supporting documentation.

33. Item 5, *supra* note 1.

34. *Id.*

35. Item 3, *supra* note 4, at 4.

36. *Id.* at 5.

37. The judgment described in SOR ¶1.a. did not specify how long it was delinquent. *See supra* note 25. The debt in SOR ¶1.c. was delinquent for less than 180 days. Item 6, *supra* note 18, at 3 and Item 9, *supra* note 18, at 2 (both describing a monthly payment of \$356.00, and a past due amount of \$1,255.00). The debt in SOR ¶1.d. was a personal loan with a monthly payment of \$109.00 per month, and \$182.00 was the amount past due. Item 6, *supra* note 18, at 3.

38. *See* notes 27 and 30, *supra* (noting dates of last action on these accounts).

39. "The Administrative Judge [] consider[s] the record evidence as a whole, both favorable and unfavorable, evaluate[s] Applicant's past and current circumstances in light of pertinent provisions of the Directive, and decide[s] whether Applicant ha[s] met his burden of persuasion under Directive ¶ E3.1.15." ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

40. Item 6, *supra* note 18, at 4.

41. *See* note 30, *supra*.

42. *See* note 33, *supra*.

43. *See* notes 36 and 39, *supra* (discussing SOR ¶¶ 1.d., and 1.e. debts).

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

45. The two debts in SOR ¶¶ 1.d. and 1.e. were both over 180 days delinquent when she signed her SF 86. *See supra* notes 44 and 45.

46. *See* ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).