

DATE: January 30, 2007

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In re:

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SSN: -----

Applicant for ADP I/II/III Position

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ADP Case No. 06-15809

**DECISION OF ADMINISTRATIVE JUDGE**

**MARK W. HARVEY**

**APPEARANCES**

**FOR GOVERNMENT**

Ray T. Blank, Jr., Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Forty-two-year-old Applicant had five alleged debts listed in the statement of reasons (SOR). She successfully disputed two SOR debts. Two SOR debts are being resolved with payment plans. The creditor for one SOR debt that was beyond the 3-year South Carolina statute of limitations for debts was unreasonable about arranging a payment plan. For the last three years she lived within her means and has been financially responsible. She has mitigated concerns about financial considerations. Eligibility for an ADP I/II/III position is granted.

**PROCEDURAL RULING**

The Statement of Reasons (SOR) refers to Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program* (Regulation), dated January 1987, as amended, and DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. A memorandum from the Deputy Under Secretary of Defense (Counterintelligence and Security) to Director, Defense Office of Hearings and Appeals (DOHA), dated November 19, 2004 states DOHA shall utilize provisions of the Directive to resolve contractor cases involving trustworthiness determinations. In this case, the pertinent disqualifying and mitigating conditions in the Regulation and the Directive are the same. Paragraph C8.2.1 of the Regulation provides that the procedural rules of the Directive apply for contractor personnel.

**STATEMENT OF THE CASE**

On August 16, 2004, Applicant applied for a public trust position and submitted a Questionnaire for Public Trust Positions (Standard Form (SF) 85P).<sup>(1)</sup> On August 16, 2006, DOHA issued a SOR to her, pursuant to the Directive and the Regulation.<sup>(2)</sup> The SOR alleges security concerns under Guideline F (Financial Considerations). The SOR detailed reasons why DOHA recommends that Applicant's case be submitted to an administrative judge for a determination that Applicant is not eligible for occupying an ADP I/II/III position.

In a notarized answer, received at DOHA on September 15, 2006, Applicant responded to the SOR allegations, and elected to have her case decided at a hearing.<sup>(3)</sup> On October 31, 2006, the case was assigned to me. The hearing was held on November 29, 2006. At the hearing I approved Applicant's request that I hold the record open so she could submit additional documentary evidence (R. 49-50, 63). DOHA received the transcript of the hearing on December 18, 2006. Department Counsel had no objection to my consideration of the evidence Applicant provided, and I admitted her additional evidence (Ex. U) on January 9, 2007.

### FINDINGS OF FACT

As to the factual allegations under Guideline F, Applicant admitted that she was responsible for the debts listed in SOR ¶¶ 1.a, 1.b and 1.c.<sup>(4)</sup> For these three accounts she promised to negotiate a payment plan in the next month. She said the debt in SOR ¶ 1.d was not her account and provided a letter from the creditor that she did not have a current account with the creditor (Ex. 6 at 27). For the debt in SOR ¶ 1.e, she indicated there were unauthorized charges to her account. 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 the same, I make the following additional findings of fact:

Applicant is 42 years old.<sup>(5)</sup> For the last ten years, she has been employed by a United States government contractor, and she is involved with processing sensitive medical records.<sup>(6)</sup> She has no prior military service.<sup>(7)</sup> She attended a technical college for three years, and received two, 2-year degrees.<sup>(8)</sup>

Applicant began financial counseling on December 18, 2006 (Ex. U at 13). Her credit counselor reviewed Applicant's debts. *Id.* They discussed how to settle her debts, possible payment plans and other legal methods of debt resolution. *Id.*

Applicant has never been married, and has one child (born in 1986).<sup>(9)</sup> She is a single parent (R. 31). Her daughter has taken a month off from college and currently lives at home (R. 46). Her daughter's father did not consistently pay his child support payments of \$160 per month, even though she garnished his wages on several occasions (R. 31-32). She obtained his federal tax refund of several thousand dollars in 2001 or 2002 from the Internal Revenue Service (IRS) (R. 32-33). However, after the IRS determined he had not withheld sufficient income to pay his taxes, she returned the money to the IRS (R. 32-33).

A friend who lived in her residence wanted to buy a truck, and Applicant co-signed for his vehicle loan (R. 33-34). He failed to make payments as agreed (R. 33-34). She "kicked him out" of her residence (R. 57; Ex. T). In 2002, she returned the vehicle to the dealership, and they sold it at auction, resulting in the deficiency of \$5,176 alleged in SOR ¶ 1.a (R. 35). The creditor obtained a judgment in February 2005 (R. 35). The interest rate was 25.5 percent per year (R. 33).

Applicant's personal financial statement (PFS) prepared in 2005<sup>(10)</sup> indicated her gross salary is \$2,225 per month, and her deductions are \$580 per month. She listed monthly household expenses as follows: lot rent (\$180), groceries (\$300), clothing (\$0), utilities (\$500), car expenses (\$300), and insurance (\$0). She listed a mortgage payment of \$256, and a student loan payment of \$50. She did not list payments to any of the SOR creditors. After deducting all expenses, she had a positive cash flow of about \$60 per month. In 2006 after completing her PFS, her net income increased to about \$1750 per month; her lot rent increased to \$190 per month (R. 46); her mortgage on her mobile home is paid (R. 47-48). She does not have an active credit card and pays for all purchases with cash (R. 36).

The following table provides the amount of each debt as listed in the SOR and the debt's current status:

SOR ¶	Amount in \$	Status
1.a	5,176	Payment plan for judgment entered in November 2005 <sup>(11)</sup>
1.b	1,885	Unable to reach agreement on payment plan for debt charged off in November 2003 <sup>(12)</sup>
1.c	1,484	Payment plan for debt charged off in March 2003 <sup>(13)</sup>
1.d	6,704	Disputed debt deleted from credit report (CR) <sup>(14)</sup>

Applicant's fiancé has known her for five years (R. 52, 54). He described Applicant as responsible, truthful, reliable, ethical, diligent, generous, and loyal to her daughter ( R. 52-56). He believes she will fulfil her promise to work with her creditors to resolve her delinquent debts (R. 52). He corroborated her account of her efforts to obtain child support from her daughter's father, and to pay her debt on the repossessed vehicle described in SOR ¶ 1.a (R. 53). Her performance appraisals, productivity reports and certificates laud her performance, professionalism, courtesy, excellence, productivity, and innovation (Exs. B - D).

### POLICIES

In the evaluation of an Applicant's security suitability for a public trust position, an administrative judge must consider Appendix 8 of the Regulation, which sets forth brief introductory explanations for each guideline, and the adjudicative guidelines, which are divided into Disqualifying Conditions (DC) and Mitigating Conditions (MC).

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 at Appendix 8 of the Regulation. An administrative judge's overarching adjudicative goal is a fair, impartial and common sense decision.

To be eligible for a public trust position, an applicant must meet the security guidelines contained in the Regulation. "The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person's loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security." Regulation ¶ C6.1.1.1.

"The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk." Regulation, Appendix 8. 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 in the Regulation, Appendix 8, at 132: (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.

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 sensitive information is the paramount consideration, the final decision in each case is arrived at by applying the standard that eligibility for a public trust position 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.

The government initially has the burden of producing evidence to establish a case which demonstrates, in accordance with Regulation, Appendix 8, that it is not clearly consistent with national security to approve eligibility for a public trust position. Directive ¶ E3.1.14. If the government meets its initial burden, the Applicant then has the 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. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security." Directive ¶ E2.2.2. These same burdens of proof apply to trustworthiness determinations for ADP positions. Ultimately, in the decision-making process, facts must

be established by "substantial evidence."<sup>(16)</sup>

A person who seeks eligibility for a public trust position 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 eligibility for a public trust position. Decisions include, by necessity, consideration of the possible risk an Applicant may deliberately or inadvertently fail to protect or safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. The scope of an administrative judge's decision is limited. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings.

### 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 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 sensitive government information. Appendix 8 of the Regulation clearly expresses the government's concern regarding financial considerations, stating, "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 sensitive information.

Applicant's actions in failing to satisfy her outstanding financial obligations give rise to Financial Considerations Disqualifying Condition (FC DC) 1, "a history of not meeting financial obligations," and FC DC 3, "inability or unwillingness to satisfy debts." Applicant established that she is not responsible for the debts in SOR ¶¶ 1.d and 1.e, and they were removed from her credit report. The debts in SOR ¶¶ 1.d and 1.e are not substantiated. The debts in SOR ¶¶ 1.a to 1.c became delinquent between 2002 and 2004. They have been delinquent for at least three years.

FC DCs 1 and 3 apply to her failure to meet her financial obligations, and her admission that she was unable to pay the debts in SOR ¶¶ 1.a to 1.c (totaling \$8,545), which then became delinquent and remained delinquent. The government produced substantial evidence of these two disqualifying conditions, and the burden shifted to Applicant to produce evidence and prove a mitigating condition. The burden of disproving a mitigating condition never shifts to the government.<sup>(17)</sup>

I considered Financial Considerations Mitigating Condition (FC MC) 1, "the behavior was not recent;" FC MC 2, "it was an isolated incident;" FC MC 3, "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);" FC MC 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 6, "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts."

The Regulation does not define "recent," and there is no "bright-line" definition of what constitutes "recent" conduct. Based on my evaluation of the record evidence as a whole,<sup>(18)</sup> I conclude FC Cs 1 and 2 do not apply because Applicant had three valid, delinquent SOR debts at the time the SOR was issued. Initiation of payment plans for the debts in SOR ¶¶ 1.a and 1.c in November and December 2006, well after she received the SOR is simply too recent to merit application of FC MC 1.

FC MC 3 partially applies to the SOR debts in ¶¶ 1.a to 1.c because these three debts became delinquent in part because her daughter's father failed to pay his child support when due, causing financial problems that may be "largely beyond the person's control." Applicant, however, does not receive full credit for FC MC 3 because she waited until November

and December 2006 to begin making payments on the debts in SOR ¶¶ 1.a and 1.c, and she has not provided her plan to resolve debt in SOR ¶ 1.b. There is a paucity of evidence showing how she endeavored to pay or resolve her SOR debts over the last two years, and she has not established a connection from the lack of child support after her daughter reached 18 years of age (two years ago) to her delinquent debts. However, her recent initiation of a payment plan for the SOR debt in ¶ 1.c, even though it is not collectible because of the 3-year South Carolina statute of limitations warrants some credit, which will be applied in the whole person analysis, *infra*.<sup>(19)</sup> Based on the sincerity of her testimony, and the other record indicia of improved financial knowledge (through counseling) and self-discipline, I am confident that she is on the right track now towards maintenance of her finances.

She received financial counseling, and receives partial credit under FC MC 4 because there are clear indications (especially since December 2006) that the problem is being resolved and under control. In regard to application of the statute of limitations, FC MC 6 does not apply because there is insufficient information to establish that Applicant showed good faith in the resolution of her debts.<sup>(20)</sup> S.C. Code. Ann. § 15-3-530 lists the statute of limitations for various debts, including those in SOR ¶¶ 1.b and 1.c.<sup>(21)</sup> In *Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 175-76, 609 S.E.2d 548, 552 (S.C. Ct. App. 2005), the court succinctly explained the societal value of application of the statute of limitations:

Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs. The cornerstone policy consideration underlying statutes of limitations is the laudable goal of law to promote and achieve finality in litigation. Significantly, statutes of limitations provide potential defendants with certainty that after a set period of time, they will not be hailed [sic] into court to defend time-barred claims. Moreover, limitations periods discourage plaintiffs from sitting on their rights. Statutes of limitations are, indeed, fundamental to our judicial system.

*Id.* (internal quotation marks and citations omitted). Elimination of the potential debt in SOR ¶ 1.b through the statute of limitations has reduced the possibility of her potential vulnerability to improper financial inducements because she is no longer legally required to pay this debt. Of course, her past conduct in failing to resolve this debt over the last three years is relevant to security concerns.

#### "Whole Person" Analysis

In addition to the enumerated disqualifying and mitigating conditions, I have considered the general adjudicative guidelines related to the whole person concept under the Regulation, Appendix 8, at 132. As noted above, Applicant's lengthy history of failing to meet her financial obligations, and inability or unwillingness to satisfy her debts raise serious trustworthiness concerns. She is currently 42 years old. She was sufficiently mature to be fully responsible for her conduct. Her actions in generating or failing to resolve her debts in a timely fashion were knowledgeable and voluntary. Her debt problems resulted from voluntary decisions to purchase items. However, her inability to repay her debts resulted in part from the failure of her daughter's father to pay his child support. There is some evidence of rehabilitation, positive behavior changes, and improved circumstances as indicated by self-discipline and the complete absence of new delinquent, unpaid debt over the last three years (the judgment in SOR ¶ 1.a resulted from a debt that became delinquent in 2002). Moreover, potential increased income through annual raises shows signs of financial improvement in the future. The potential for pressure, coercion, exploitation, or duress is low. Applicant has no car or mortgage payments. She began making payments on the debts in SOR ¶¶ 1.a and 1.c, and paid these creditors a total of \$475 in November and December 2006. She is negotiating in good faith with the creditor for the debt in SOR ¶ 1.b. However, if negotiations are unsuccessful with the creditor for the debt in SOR ¶ 1.b, she has no legal liability because of the applicability of the 3-year South Carolina statute of limitations. Greater awareness of financial responsibilities from her counseling will result in a continuously improving trend of financial circumstances. Moreover, stability in her employment, increases in her income, and reduction in her debt load should increase her net worth and establish a financial foundation for her future. In sum, the likelihood of recurrent debt problems is low.

In ISCR Case No. 04-07360 (App. Bd. Sep. 26, 2006), the Board noted that two SOR debts were paid through judgment and garnishment, one SOR debt was paid through settlement, and one SOR debt was never paid. Indeed, for one SOR debt the applicant did not even contact the creditor about payment. Nevertheless, the applicant showed that he reduced his overall debt by 95% and the Board affirmed the decision to grant that applicant a clearance.

Applicant's financial case is similar to ISCR Case No. 04-07360. She has three valid SOR debts. One the three SOR debts is barred by the South Carolina's 3-year statute of limitations. She is making payments on the other two SOR debts. As such, the concern about current financial pressure that may result in illegal activity is significantly lower because she no longer has any delinquent debts. After weighing the disqualifying and mitigating conditions, and all the facts and circumstances, in the context of the whole person, I conclude she has mitigated the trustworthiness concerns pertaining to financial considerations.

Substantial evidence supports Applicant's trustworthiness eligibility and suitability. I take this position based on the law, my "careful consideration of the whole person factors"<sup>(22)</sup> and supporting evidence, as well as my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities. For the reasons stated, I conclude Applicant is eligible for a public trust position.

### **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

Subparagraphs 1.a to 1e: For Applicant

### **DECISION**

In light of all 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 public trust position. Eligibility for an ADP I/II/III position is granted.

Mark W. Harvey

Administrative Judge

1. Exhibit (Ex.) 1 (Questionnaire for Public Trust Positions, Standard Form (SF) 85P) is dated August 16, 2004 on the last page. There is no SOR allegation of falsification of this SF 85P.
2. Ex. 4 (Statement of Reasons (SOR), dated August 16, 2006). The SOR is the source for all the factual assertions in the remainder of this paragraph.
3. Ex. 5 (Applicant's notarized response to SOR, dated September 12, 2006).
4. The source for all factual assertions in this paragraph is Ex. 5, *supra* n. 3, unless stated otherwise.
5. Ex. 1, *supra* n. 1, at 1 (date of birth); R. 6.
6. *Id.*, question 11 at 3 (employment); R. 7-8.
7. *Id.*, question 16, at 6 (military service).
8. *Id.*, question 10, at 2 (education); R. 6-7.
9. *Id.*, questions 14 and 15, at 5 (marital status and relatives); R. 20.
10. Ex. T at 1-2 (statement to investigator from the Office of Personnel Management (OPM) on August 30, 2005). This paragraph is derived from Applicant's Personal Financial Statement and R. 42-48.
11. Applicant admitted responsibility for this debt (Ex. 5 at 3), and provided documentation showing a judgment was entered against her in November 2005 for \$5,176 (Exs. I and J). There was a dispute over the interest rate to be paid on

the judgment amount, which delayed her payments (R. 27-28). On November 27 and December 27, 2006, Applicant made payments of \$200 (Ex. I at 6; Ex. U at 4-6). The judgment may be enforced for ten years under South Carolina law. *See* S.C. Ann. §15-3-600.

12. Applicant opened this credit card account in 1999 or 2000 (R. 35-36). She charged approximately \$600 on the credit card (R. 36). She was concerned about excessive or unwarranted late fee charges (R. 37). She was unable to negotiate a suitable payment plan with the creditor because the creditor wanted payment in full (Ex. 3 at 3-4; Ex. J; R. 28-29; 38-39). She thought the creditor had recently sold the account to a different creditor (Ex. U at 13). This debt is beyond the South Carolina 3-year statute of limitations for such debts. *See* pages 7-8, *infra*.

13. Applicant accepted responsibility for this debt (Ex. 5 at 3), and established a payment plan in which she agreed to pay the creditor \$75 payments each month for six months (Ex. K; R. 29-30; 39-41). After six months, Applicant and creditor will review the situation and renegotiate the payment plan (R. 29). She is paying 20 percent per year interest (R. 40). On December 1, 2006, she paid creditor \$75 (Ex. P; Ex. U at 7).

14. In her response to the SOR, Applicant provided a detailed description of her attempts to dispute her responsibility for this account (Ex. 5 at 4). She said she was not responsible for this debt (Ex. 4 at 27; Ex. O). She also provided a letter from a credit reporting (CR) company indicating they researched the account and deleted it from her credit file (Ex. G at 1; R. 26-27).

15. In her response to the SOR, Applicant provided a detailed description of her attempts to dispute her responsibility for this account (Ex. 5 at 4). She said she was not responsible for this debt, and provided a letter from the creditor indicating she was not responsible for it (Ex. U at 8-9; R. 29-30). She also provided a letter from a CR company indicating they researched the account and deleted it from her credit file (Ex. G at 1; R. 26-27).

16. "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "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).

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

18. *See* ISCR Case No. 03- 02374 at 4 (App. Bd. Jan. 26, 2006) (citing ISCR Case No. 02-22173 at 4 (App. Bd. May 26, 2004)). When making a recency analysis for FC MC 1, all debts are considered as a whole.

19. S.C. Code. Ann. § 15-3-120 provides that an oral promise is insufficient to circumvent the statute of limitations, however a signed written promise to pay is binding, and "payment of any part of principal or interest is equivalent to a promise in writing."

20. The 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 Financial Considerations Mitigating Condition 6, 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) in order to claim the benefit of Financial Considerations Mitigating Condition 6.

(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)). In ISCR Case No. 99-9020 at 6 (App. Bd. Dec. 1, 1999), the Appeal Board specifically addressed application of the statute of limitations, stating a "person who decides not to honor his or her

debts may be able to avoid paying those debts until they are legally uncollectible because the statute of limitations has run. Reliance on the running of a statute of limitations would be a legally permissible course of action. However, it would not demonstrate a good-faith effort to resolve one's debts that would fall under the meaning of Financial Considerations Mitigating Condition 6." *See* ISCR Case No. 03-10880 (App. Bd. June 24, 2005); ISCR Case No. 01-09691 (App. Bd. Mar. 27, 2003) (stating an applicant must do more than merely cite the statute of limitations to obtain the full benefit of FC MC 6). *See also* ISCR Case No. 01-09691 at 3 (App. Bd. Mar. 27, 2003) ("[E]ven if a delinquent debt is legally unenforceable under state law, the federal government is entitled to consider the facts and circumstances surrounding an applicant's conduct in incurring and failing to satisfy the debt in a timely manner."); ISCR Case No. 98-0349 at 2-3 (App. Bd. Feb. 3, 1999) (even though an applicant's delinquent debts were not legally collectible because of the statute of limitations, that fact did not preclude the Administrative Judge from considering the applicant's failure to resolve the delinquent debts before the statute of limitations ran). *Cf.* ISCR Case No. 01-04425 at 3-4 (App. Bd. May 17, 2002) (adverse Guideline F conclusions possible where applicant chose not to pay her delinquent debts, waited until her creditors ceased trying to collect those delinquent debts, and they were eventually dropped from her credit report.).

21. *See* ISCR Case No. 04-07360 at 2 (App. Bd. Sept. 26, 2006) (stating partial credit was available under FCMC 6 for debts being resolved through garnishment).

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