



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



In the matter of:)	
)	
-----)	ISCR Case No. 08-09585
SSN: -----)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Gina L. Marine, Esquire, Department Counsel
For Applicant: *Pro se*

December 23, 2009

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant and her spouse were granted a discharge of about \$158,320 in debt in a 2003 “no asset” Chapter 7 bankruptcy. They had medical bills and consumer credit obligations that Applicant could not cover on her limited income while her spouse was too ill to stay employed. After she and her spouse permanently separated, Applicant incurred about \$11,457 in unresolved delinquent debt that is only partially attributed to the operation of a business partnership that dissolved in November 2006. Other financial obligations surfaced that took priority over these debts. Financial considerations are not mitigated. Clearance is denied.

Statement of the Case

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on May 29, 2008. On February 13, 2009, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a statement of reasons (SOR) detailing the security concerns under Guideline F, financial considerations, that provided the basis for its preliminary decision to deny her a security clearance and to refer the matter to an administrative judge. The action was taken under Executive Order 10865, *Safeguarding*

Classified Information within Industry (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the revised adjudicative guidelines (AG) effective within the Department of Defense as of September 1, 2006.

On March 16, 2009, Applicant answered the SOR and requested a decision based on the written record. She subsequently elected a hearing. On July 8, 2009, the case was assigned to me to conduct a hearing and to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On July 10, 2009, I scheduled a hearing for July 29, 2009.

I convened the hearing as scheduled. Nine government exhibits (Ex. 1-9) and four Applicant exhibits (Ex. A-D) were admitted without any objections. Applicant also testified, as reflected in a transcript (Tr.) received on August 7, 2009.

At Applicant's request, I held the record open until August 12, 2009, for her to submit additional documentation. On August 11, 2009, Applicant offered three exhibits, which were entered as Exhibits E, F, and G, without any objections.

Findings of Fact

DOHA alleged under Guideline F, financial considerations, that Applicant filed for Chapter 7 bankruptcy in April 2003 listing total liabilities of about \$158,320 and assets of approximately \$48,750, and that her debts were discharged in September 2003 (SOR 1.a). Applicant was also alleged to owe eight delinquent debts totaling \$11,457 as of January 2009 (SOR 1.b-1.h). In her Answer, Applicant attributed the bankruptcy to her spouse's illness and his inability to resume working. She disputed the debt in SOR 1.b, which was for guitar lessons for her children, the cost of which should have been covered by grant monies that were approved but not received due to a filing error by the lesson provider. Applicant denied owing the medical debt in SOR 1.c. She admitted the remaining debts, which she averred were from a failed business partnership. After considering the pleadings, transcript, and exhibits, I make the following findings of fact.

Applicant is a 44-year-old administrative assistant, who has worked for a defense contractor at her present duty location since June 2007. She was a temporary employee until March 2008, when she was hired as a permanent employee (Exs. 1, D, Tr. 46).

Applicant has three children; a daughter born in 1987, and sons born in 1989 and 1993 (Ex. 1). She and her now estranged spouse married in 1990. For the most part, Applicant did not work outside the home when her children were young (Ex. 2, Tr. 46). By January 2000, if not before (Ex. 1, Tr. 46), she was in the workforce, employed full or part-time depending on the job and home responsibilities (Tr. 46-47). She and her spouse legally separated in 2000, after he left her for another woman (Ex. 2). Applicant was awarded child support that he never paid (Ex. 1, Tr. 57). Six to eight months after their legal separation, Applicant took her spouse back into her home (Ex. 2, Tr. 57).

In about 2001, Applicant's spouse became ill with a very painful disease that left him unable to work for an extended period of time (Ex. 2, Tr. 54). Applicant worked part-time while caring for the children and taking her spouse to treatment. He had medical insurance (Tr. 52), and available information indicates that he collected disability for about one year (Ex. 2), but they incurred over \$22,000 in orthopedic surgery and hospital costs for one of the children (Ex. 9).¹ Applicant's income was insufficient to cover their financial obligations, including credit cards, car loan, and medical co-payments (Tr. 49, 53-55).

In about mid-2002, Applicant learned that her spouse had become addicted to pain medication (Ex. 2, Tr. 41). She did not want him around their children because of his drug abuse, so the next time he needed to be hospitalized, she told his doctor that he did not have a home to return to (Ex. 2, Tr. 59).² They have since lived apart (Tr. 59-60). Applicant elected not to file for divorce at that time because she felt that she should bury him properly for their children (Tr. 60).

In April 2003, Applicant and her spouse filed jointly for Chapter 7 bankruptcy. She signed the schedules which he prepared (Exs. 6, 7, 9, Tr. 53). They listed \$149,207.69 in unsecured debt, about \$69,138.08 of which was medical debt. Credit card debt totaled about \$50,700. They listed as miscellaneous a \$7,005.61 debt to a credit union, which was for a camper purchased by Applicant in June 2001 (Ex. 5). They also owed an overpayment of \$2,716.13 to the Social Security Administration.³ They listed one secured debt of \$9,112.36 for a 1998 model-year vehicle (Ex. 9). No assets were available for distribution, and in September 2003, they were granted a Chapter 7 bankruptcy discharge (SOR 1.a) (Exs. 6, 7).

Sometime after they filed for bankruptcy, Applicant's spouse liquidated his retirement account with the state, and he gave her about \$25,000 (Ex. 2, Tr. 66).⁴ She used some of the money to open a nightclub with a business partner in about August

¹Available documentation shows Applicant had health insurance coverage provided by the state from June 1, 1997, through March 30, 2009 (Ex. B), and with a private insurer from July 1, 1998, through June 30, 2004 (Ex. A). It is unclear to what extent her spouse and children were covered under either of these plans. Whether or not the medical debts should have been paid by an insurer as Applicant maintains (Tr. 19), they were apparently discharged in the bankruptcy and were not alleged in the SOR.

²Applicant was unable to provide a specific date for the permanent separation. Presumably, she and her spouse were still together as of the bankruptcy filing in April 2003.

³Applicant testified her spouse was not eligible for social security disability since he worked for the state (Tr. 55). She had told a government investigator in August 2008 that her spouse collected disability for one year before his benefits ran out and he was forced to return to work before he was fully recovered (Ex. 2). He apparently received short term and then long term disability payments paid for by his employer (Tr. 105). Their bankruptcy petition lists an overpayment debt with the Social Security Administration (Ex. 9). It is unclear how this debt was incurred.

⁴Applicant indicated on her e-QIP that she opened her business in August 2003, which would have been after the bankruptcy filing but before the "no asset" discharge. It is unclear whether Applicant and her spouse reported his retirement assets when they filed for bankruptcy. In response to Department Counsel's inquiry as to when she received the \$25,000, Applicant responded it was well after the bankruptcy.

2003 (Exs. 1, 2, Tr. 41, 47, 66-70). They leased an existing business with an option to buy, and they also had to pay rent for the premises. The nightclub did well, and expenses were shared jointly, although Applicant frequently used her credit card accounts to pay for incidentals for the business (Ex. 2, Tr. 70-71), including the account in SOR 1.d (Tr. 71).⁵ Applicant managed to rebuild her credit during the 2004/05 time frame (Tr. 41).

In July 2005, Applicant and her business partner moved into an apartment together. Only Applicant signed the lease (Tr. 72-73, 114). They had plumbing, draft, and mold problems that the landlord attempted but failed to remedy to their satisfaction (Ex. 2). Beginning in about December 2005, Applicant stopped paying the \$1,199 monthly rent, and in February 2006, the landlord began eviction proceedings. In April 2006, the housing court ruled in favor of the landlord, and assessed her back rent at a reduced rate due to the problems with the residence (Tr. 114-19). The landlord was awarded a \$3,895 judgment against her for nonpayment of rent (Ex. 8). Applicant vacated the apartment as ordered but she did not pay the judgment (Ex. 2).

Around 2006, Applicant began receiving notices of federal income tax assessments for unpaid taxes, penalties, and interest for tax years when she was together with her spouse (Tr. 42-43, 103). Over the next two years, she paid between \$4,000 and \$5,000 to the Internal Revenue Service (Tr. 43). In October 2008, she paid \$221.07 to satisfy a state tax debt for tax year 2004 that she learned about in late September 2008 (Ex. 2).

Applicant's business relationship with her partner had soured as their lease was approaching renewal, and they closed operations in November 2006 (Tr. 75). The remaining time on the lease was bought out by another individual for \$5,000 (Ex. 2).⁶ Applicant was left with business-related debts for which her partner would not take any responsibility, including those debts in SOR 1.d-1.g (Answer, Ex. 2, Tr. 42, 49). Applicant collected unemployment from November 2006 until March 2007, when she became a local store manager for a coffee retailer (Exs. 1, 2).⁷

In June 2007, she left the job for a temporary office administrator position with her present employer. Applicant impressed management, and in March 2008, she became a permanent employee (Ex. D, Tr. 46). In May 2008, she applied for a security

⁵The collection agency reported a date of last activity on the account of May 2007 (Ex. 5).

⁶No evidence was presented to show which business-related expenses, if any, were covered by the \$5,000.

⁷Applicant testified discrepantly that she was unemployed until June 2007 (Tr. 77). She is unlikely to have listed the store manager job on her e-QIP if she had not held the job. The available record is silent about her income from that job, however.

clearance, executing an e-QIP on which she disclosed her bankruptcy, a wireless telephone debt of \$1,232.89,⁸ and a credit card debt of \$992.65 (SOR 1.d) (Ex. 1).

On April 5, 2008, a collection agency offered to settle a delinquent credit card balance of \$1,685.57 (not alleged in SOR). Applicant opened the account in November 2004, and made no payments after July 2007 (Ex. 5). The creditor was willing to accept \$1,349 to settle the debt on payment of \$1,000 on or before April 7, 2008, and \$349 on or before May 7, 2008. Applicant made the payments and the debt was settled as of June 2008 (Exs. 2, 5, Tr. 42, 78).

A check of Applicant's credit on June 19, 2008, revealed that she was past due 30 days on her automobile loan for a 2003 model-year sedan taken out in October 2004 for \$10,857. Also reported were several outstanding collection balances: \$1,217 on a credit card account opened in November 2003 with no activity since July 2007 (SOR 1.g), \$1,316 for an unpaid music program debt from 2006 (SOR 1.b),⁹ \$432 for dental services from September 2007 (SOR 1.c), \$2,185 on the credit card account listed on her e-QIP (SOR 1.d), \$506 on a telephone landline account opened in May 2006 and unpaid since September 2007 (SOR 1.f), and \$1,492 in wireless phone costs charged off in February 2008 (SOR 1.e) (Ex. 5).

On August 20, 2008, Applicant was interviewed by a government investigator about her bankruptcy and subsequent financial problems. Applicant explained that her financial problems started when her spouse left her for another woman, and then after they reconciled, he became seriously ill. After they separated permanently, Applicant received no financial support from him, and she was forced to raise their three children on her own. Applicant disputed the dental debt on the basis that the children were still under the dentist's care and she had not been notified of a delinquent balance. Applicant explained that her former business partner stopped paying her share of some credit obligations incurred for the business. Applicant expressed her intent to resolve the undisputed delinquent consumer credit accounts in her name (SOR 1.b and 1.d-1.g) as well as the judgment awarded her former landlord (SOR 1.h). She described her financial situation as tight but improving, and volunteered that she had been paying her other financial obligations on time. Applicant indicated that \$400 was being directly deposited into savings every two weeks, and the money was to pay down existing debt. Applicant denied owing any delinquent taxes (Ex. 2).

A check of Applicant's credit on November 5, 2008, showed no progress toward resolving the debts in the SOR, but also no new delinquent debts (Ex. 4). On December 18, 2008, in response to a request from DOHA for evidence of repayment of the debts in the SOR, Applicant provided documentation showing that she had unexpected car expenses in 2008 totaling about \$868.65, which together with the IRS tax obligation,

⁸DOHA alleged in SOR 1.d, and Applicant does not dispute owing a wireless telephone debt of \$1,492. This is likely the cellular phone debt listed on her e-QIP, although the account numbers do not match.

⁹Applicant testified that she had qualified for a grant for the lessons that should have covered the entire cost (Tr. 97), but she provided no documentation confirming the grant. Applicant has not disputed the debt with the credit bureaus but she would like to challenge it in court (Tr. 98).

prevented her from making payments on her other debts. She indicated that she could now concentrate on her past due accounts. She estimated a monthly net remainder of \$1,262.34 that did not include any debt payments. Her parents had lowered her rent to \$400 per month to enable her to catch up on her obligations. Applicant planned to pay off her car loan balance of \$3,000 with her expected income tax refund, and to put the \$253 she had been paying on her car loan toward her other debts (Ex. 2). As of January 2009, the delinquent balances alleged in the SOR had not been paid (Ex. 3).

In early January 2009, Applicant filed for divorce (Tr. 61). She did not seek any child support for their minor child still living at home because she expected nothing from her spouse, who was unemployed and had not provided support in the past (Tr. 61-62). Applicant provides some financial support for their 20-year-old son, who is in college. She has no tuition obligations but covers some of his living expenses (food, clothing) (Tr. 88).

In February or March 2009, Applicant received another tax bill from the IRS for \$169 from when she and her spouse filed joint returns (Tr. 83, 111). She paid it off (Tr. 111). Applicant received an income tax refund of about \$2,100 for tax year 2008 that she put toward her car loan (Tr. 65). She paid off her 2003 model-year car in early June 2009 (Ex. G, Tr. 78-79). As of late July 2009, Applicant was setting aside \$200 per week in a savings account to pay off her old debts. The savings account had a \$1,002 balance (Tr. 80-81). She recently returned to work after being on short term disability at 55% of her salary for six weeks because of shoulder surgery. She did not set any money aside toward her old debts during those six weeks (Tr. 82). Her plan is to pay off the debts in lump sums, starting with the judgment debt in SOR 1.h (Tr. 79-80). She has had no contact with the creditor in SOR 1.b in the last year or two (Tr. 96), and has not contacted the creditors in SOR 1.d-1.f or 1.h. In July 2009, Applicant learned that she needed about \$400 in repair work done to her car (Tr. 90).

Because of a recent 6 percent increase in her wages, Applicant's gross salary from her employment is now \$53,000 (Tr. 91-92). She keeps to a budget but has had no formal credit counseling (Tr. 99).

As of August 2009, Applicant was seeking to have the pediatric dental debt in SOR ¶ 1.c removed from her credit report since her estranged spouse had signed the dentist's payment policy, agreeing to be responsible for balances not covered by insurance (Exs. E, F). She was seeking "insured spouse relief" from the IRS, which if approved, she would be rebated half of the tax penalties already paid (Ex. E, Tr. 102). As of August 11, 2009, she had arranged to settle her telephone debt for half of the balance, and planned to pay it that week (Ex. E). It is unclear whether she had arranged to settle both the delinquent wireless (SOR 1.e) and landline (SOR 1.f) debts or just one of them.

As a member of her office management team, Applicant is responsible for managing the facility's contractors and budget. She manages and maintains the office's corporate credit line. She has given the facility's security officer (Ex. C) and her

supervisor (Ex. D) no reason to doubt her competency or her work ethic. Her supervisor has found her to be dedicated and dependable (Ex. D).

Policies

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

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

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

Analysis

Guideline F, Financial Considerations

The security concern about finances 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.

Applicant's financial problems started in 2000 when her spouse left her and their children. After she took him back into their home, he had health problems that prevented him from working for significant periods. Applicant's income was insufficient to cover their obligations, and they resorted to a Chapter 7 bankruptcy in 2003 to relieve themselves of the burden of \$158,320 in debt, about \$69,000 of which was for medical services. Apparently after they filed for bankruptcy, but before the discharge, Applicant was given \$25,000 from her spouse. She used at least a portion of those funds to start a nightclub business with a partner in August 2003. While the business did well, and Applicant paid most of her obligations on time in 2004 and 2005, she exercised questionable financial judgment in starting a business when she and her spouse were in bankruptcy proceedings seeking liquidation of sizeable consumer credit debt, and when she could not count on receiving child support payments from her spouse. Furthermore, disputes over her responsibility for paying for guitar lessons for her children, and over the condition of her apartment, led to the debts in SOR 1.b and 1.h in 2006. After she closed her business in November 2006, Applicant did not pay credit card charges incurred in her name for the business (SOR 1.e and 1.g), and she fell behind in the payments for a telephone landline (SOR 1.f). In August 2008, she learned that her children's dentist had placed a debt balance of \$432 for collection (SOR 1.c). AG ¶ 19(c), "a history of not meeting financial obligations," applies. AG ¶ 19(a), "inability or unwillingness to satisfy debts," is implicated to the extent that she did not have the funds to make timely payments on those obligations.

Furthermore, there is substantial evidence that Applicant and her spouse were spending beyond their means before the bankruptcy, given that they owed over \$50,000 in credit card debt when they filed. AG ¶ 19(e), "consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant cash flow, high debt-to-income ratio, and/or other financial analysis," also must be considered. Since all the bankruptcy schedules were not made available for review, it is unclear whether they reported his retirement assets on the Chapter 7 petition. The evidence falls short of establishing AG ¶ 19(d), "deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, income tax evasion, expense account fraud, filing deceptive loan statements, and other intentional financial breaches of trust."

Concerning potential factors in mitigation, Applicant has not resolved the debts in the SOR despite a gross salary of at least \$50,000 annually since she became a full-time permanent employee in March 2008. Under the circumstances, AG ¶ 20(a), “the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment,” does not apply.

There is evidence of mitigating circumstances that implicate AG ¶ 20(b), “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstance.” Concerning the debts discharged in bankruptcy, her spouse’s illness left them without the financial resources to satisfy their financial obligations. Then, after Applicant and her business partner decided to cease operations, Applicant was left with business-related expenses when she was unemployed. Over the past two years, she has repaid between \$4,000 and \$5,000 in assessed federal income tax debt with no help from her estranged husband. As of the fall of 2008, she was still paying state taxes owed from when she and her spouse had filed jointly. Then in February or March 2009, she was assessed another \$169 in federal taxes. Applicant testified credibly that the tax debts came as a surprise to her, and they hampered her ability to repay her other obligations. More recently, she was out of work for six weeks following shoulder surgery. Her temporary disability pay was only 55% of her salary. However, AG ¶ 20(b) does not completely mitigate the financial judgment concerns in this case, including her questionable decisions to put all or part of \$25,000 into a business that had no guarantee of success and to stop paying her rent starting in December 2005. The housing court found some merit to her complaints about the premises, but did not completely eliminate her responsibility for back rent.

AG ¶ 20(e), “the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue,” has not been satisfied, despite the evidence submitted after the hearing which indicates that Applicant’s estranged spouse signed the pediatric dentist’s payment policy. First, the payment policy was signed on March 20, 1998 (Ex. F), well before their marital separation. The debt in SOR 1.c was not incurred until January 2007 (Ex. 4). Applicant and her spouse were legally separated, the children were living with her, and the debt remains on her credit record. Applicant also did not successfully disprove her responsibility for the guitar lessons debt (SOR 1.b) in the absence of any documentation showing that the provider received the grant monies that she submits were approved.

Around early June 2008, Applicant paid \$1,349 to settle a credit card debt that was not alleged in the SOR. Yet, despite efforts to put away \$200 per week since August 2008, she had not paid the debts in the SOR by July 2009 because of ongoing income tax and car repair obligations. Applicant has not had any financial counseling of the type contemplated in AG ¶ 20(c), “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being

resolved or is under control.” While she has a plan in place to resolve her debts, it would be premature to fully apply AG ¶ 20(c).

Applicant has demonstrated good faith by paying off the IRS and state tax assessments without any help from her estranged spouse, who was jointly responsible for the debts. But she would have a stronger case in mitigation had she used her 2008 income tax refund to pay off one or more of the debts in the SOR rather than her car loan. Although she expressed a credible intent to save the funds that would enable her to make lump sum payments in satisfaction or settlement of the debts in the SOR, she had only \$1,200 to put toward the \$3,895 judgment as of her hearing. Reduced income following recent shoulder surgery is a factor that could mitigate her failure to make payments over the summer of 2009, but she put her interest ahead of her creditors by paying off her car loan early. As of August 2009, Applicant had made arrangements to settle one or both of her telephone debts but she had yet to make the payments. Considering her financial situation as a whole, AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” cannot fully apply in mitigation.

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 conduct and all the circumstances in light of 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.

Applicant suffered financially because of her spouse’s infidelity, his serious illness, and then his failure to support their children. But she also made poor financial decisions in the past that cannot fairly be attributed to factors outside of her control. Even if her spouse incurred much of the approximate \$50,000 in credit card debt discharged in the bankruptcy, she took out a loan of more than \$7,000 for a camper in June 2001. She stopped paying rent in December 2005 because of her dissatisfaction with conditions in her apartment, even though her landlord apparently tried to make repairs.

Despite temporary and then permanent employment with a defense contractor since June 2007, Applicant has not satisfied those debts in the SOR. The DOHA Appeal Board has addressed a key element in the whole-person analysis in financial cases stating, in part, “an applicant is not required, as a matter of law, to establish that [she]

has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that [she] has ‘ . . . established a plan to resolve [her] financial problems and taken significant actions to implement that plan.’” ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted). While Applicant expressed an intent to resolve those debts in the SOR for which she is liable, and she testified that she had been saving \$200 per week from August 2008 until about June 2009 to put toward her delinquencies, she had made no progress toward resolving the debts in the SOR as of her hearing, despite an annual salary of about \$50,000 and monthly rent of only \$400. Evidence of recent payments for car repairs, medical costs, and income taxes, does not approach the \$8,000 that Applicant would have saved by June 2009 if she had been setting aside \$200 every week. Applicant may well have had other nondiscretionary expenses that prevented her from settling her debts, but she did not present evidence of any such obligations. There is no indication of recent extravagance (she drives a 2003 model-year sedan) or of abuse of consumer credit that could call into question her current spending habits. Yet, based on the evidence before me, I am unable to conclude at this time that it is clearly consistent with the national interest to grant Applicant a security clearance.

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:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant

Conclusion

In light of 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.

ELIZABETH M. MATCHINSKI
Administrative Judge