



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



In the matter of:)	
)	
SSN:)	ISCR Case No. 08-05372
)	
Applicant for Security Clearance)	

Appearances

For Government: Emilio Jaksetic, Esquire, Department Counsel
For Applicant: *Pro Se*

September 22, 2008

Decision

HARVEY, Mark W., Administrative Judge:

Applicant did not mitigate financial considerations security concerns. Clearance is denied.

Statement of the Case

On December 31, 2007, Applicant submitted an Electronic Questionnaires for Investigation Processing (e-QIP) or Security Clearance Application (SF 86). On June 19, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to her,¹ 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, modified

¹Government Exhibit (GE) 9 (Statement of Reasons (SOR), dated June 19, 2008). GE 9 is the source for the facts in the remainder of this paragraph unless stated otherwise.

and revised.² The SOR alleges security concerns under Guideline F (Financial Considerations). 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.

On July 7, 2008, Applicant responded to the SOR allegations, and elected to request a hearing (GE 10). On August 6, 2008, the case was assigned to me. At the hearing held on September 4, 2008, Department Counsel offered seven exhibits (GEs 1-7) (Transcript (Tr.) 22-23), and Applicant offered Applicant Exhibits (AE) A-H (Tr. 23-26). There were no objections, and I admitted GE 1-7 and AE A-H (Tr. 23, 26-27). I received the transcript on September 12, 2008.

Findings of Fact³

Applicant admitted several of the allegations in the SOR with explanations, and denied four debts (SOR ¶¶ 1.d to 1.g). Her admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant is 64 years old (Tr. 6).⁴ She has almost three years of college (Tr. 6). She majored in business and liberal arts (Tr. 6). She married in June 1966 (Tr. 57). Her sons were born in 1973, 1976 and 1976 (Tr. 58). She has held jobs off and on since 1964 (Tr. 18). Her husband served on active duty to retirement in 1983 (Tr. 18-19). He served in Vietnam and on a remote tour in Alaska (Tr. 18-19). He earned an advanced degree in laser physics (Tr. 19). After he retired from active duty, he and his family moved to Australia, where he worked as a contractor (Tr. 19). Her husband had emotional problems, and abused drugs (Tr. 59). There were various marital separations between 1988 and 1995 (Tr. 19, 59). Sometimes he moved out while she was at work, and did not leave a forwarding address (Tr. 59). These periodic abandonments were emotionally and financially devastating to Applicant. They were divorced in 1995 (Tr. 19, 57). As a result of the divorce, she received \$800 monthly from his retired pay, and child support for their youngest son (Tr. 57, 84). Her share of his retirement has increased to \$1,107 monthly (Tr. 62). She currently receives \$800 monthly from him for alimony,

²On Aug. 30, 2006, the Under Secretary of Defense (Intelligence) published a memorandum directing application of revised Adjudicative Guideline to all adjudications and other determinations made under the Directive and Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program* (Regulation), dated Jan. 1987, as amended, in which the SOR was issued on or after Sep. 1, 2006. The revised Adjudicative Guidelines are applicable to Applicant's case.

³Some details have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits. GE 10 (Response to SOR) is the source for the facts in this section unless stated otherwise.

⁴GE 1 (2007 security clearance application) is the source for the facts in this paragraph, unless stated otherwise.

which decreases by \$100 “as [she] reaches retirement age” (Tr. 61). He did not elect the Survivor Benefit Plan (SBP), so the divorce court ordered him to purchase a \$300,000 insurance policy (Tr. 84-85). Over the years, she has accrued eight or nine years of federal civil service employment (Tr. 63). She worked for a large university from 1995 to July 1, 2008 (Tr. 20, 64). In the last nine years while working at the university she was not laid off (Tr. 82). She does not currently hold a security clearance (Tr. 7). Applicant wanted a clearance so she could get better employment, which would allow her to pay her delinquent IRS debt (Tr. 87).

Applicant’s ancestors have lived in the United States since the early 1700s (Tr. 17). She said she is a direct descendent of a former president and war hero (Tr. 17). Two ancestors fought at Gettysburg (Tr. 17). Her father served on active duty to retirement and was a prisoner of war in Europe during World War II (Tr. 17). She was raised on military bases (Tr. 17). She is close to her family (Tr. 18). She said, “My family helped to establish and build this country, and in no way would I ever violate the trust of the United States of America” (Tr. 21-22). Applicant is totally loyal to the United States and she is a patriotic American.

Financial Considerations

Applicant owes about \$50,000 in delinquent federal taxes (SOR ¶¶ 1.a and 1.b, GE 10 at 1-2). She learned she had a federal tax problem around 1997 (Tr. 68, 86). She was unable to pay the Internal Revenue Service (IRS) (Tr. 69). Applicant filed for bankruptcy in 2005 and received a release from the IRS for three years of back taxes, but her bankruptcy did not release all of her tax debt (Tr. 20). Starting in 2005, she received some assistance from a certified public accountant (CPA), who provided financial and tax advice without being paid (Tr. 69-70).⁵ The CPA communicated with the IRS about resolution, but she did not know what the IRS said (Tr. 72). She was advised that she had insufficient income to resolve her debts (Tr. 71). She needed a well-paying job to resolve her tax debts (Tr. 72). She could not offer the IRS any payments, so there was little to discuss (Tr. 72).

In 2005, her debts were discharged in a Chapter 7 Bankruptcy (Tr. 70, SOR ¶ 1.h). She listed total liabilities of \$142,234 and \$21,510 in debt was discharged (GE 10 at 4). The IRS declined to release her tax debts for the years she filed late (Tr. 70, GE 10 at 4). She received credit counseling about 17 years ago, when she lived in another state (Tr. 71). She also received some counseling in connection with her bankruptcy (Tr. 94-95).

Three SOR debts pertained to parking tickets: \$205 (SOR ¶ 1.d), \$200 (SOR 1.e), and \$150 (SOR ¶ 1.f). Applicant’s son, KB, is responsible for these three tickets. He is 32 years old (Tr. 50). He lived with his mother until 2000 (Tr. 50). After KB moved out in 2000, Applicant supported him with money for school and money for gasoline (Tr. 54). Currently, KB does not provide financial support to Applicant (Tr. 50). Currently,

⁵ She paid the CPA \$35 to do her annual taxes (Tr. 69).

Applicant occasionally provides groceries for KB, but otherwise she does not provide financial support for him (Tr. 50-51). Applicant provides a car to KB (Tr. 21, 51). The car is registered in Applicant's name, and he has some unpaid parking tickets that are his responsibility (Tr. 21, 51). KB has difficulty paying his own rent (Tr. 52). KB has not made any effort to pay the tickets and recently became unemployed (Tr. 52-53).

For the medical debt for \$50 (SOR ¶ 1.g), she contacted the creditor and asked for information concerning the debt (Tr. 21). She could not remember the address where she contacted the creditor (Tr. 78).

Applicant is receiving a state university pension of \$600 monthly. Her medical insurance and her payment for her \$10,000 life insurance policy are deducted from this state retirement check (Tr. 65, 76-77). In 1997 or 1998, she learned she had a problem with her state taxes (Tr. 66-67). She satisfied two of the state court judgments (Tr. 67). Two tax liens were subsequently combined into a \$10,000 state tax debt (Tr. 67, 85, SOR ¶ 1.c, GE 3-5). The state garnishes \$500 monthly from her state university retirement check (Tr. 20, 68, SOR ¶¶ 1.c and 1.i). She did not know when the garnishment started, or how much she still owed the state (Tr. 68). She thought she still owed the state \$10,000, but conceded she was not sure of the amount she still owed on her state tax debt (Tr. 73, 85-86).

Before deductions her monthly income is \$2,507 (Tr. 77-78). She thought she had about \$3,000 in a 401K account (Tr. 73-74). She took a \$1,000 loan on her 401K account to pay on her taxes (Tr. 73). She has about \$400 in her checking account (Tr. 75). She paid off a car loan 13 years ago (Tr. 75). She pays about \$310 monthly for water and electricity, and \$75 monthly to her homeowners association (Tr. 76). The only garnishment of her wages is the state tax garnishment previously discussed (Tr. 78).

AB is Applicant's son. AB has a high level security clearance and is employed by a government contractor (Tr. 35). Applicant supported AB until three years ago (Tr. 31-32). AB is now making a good salary and is providing financial assistance to this mother. Applicant rented a townhouse for eight years, and then AB decided to purchase it and rent it back to her (Tr. 30, 33, 36). AB's monthly mortgage payment is about \$1,500 and she pays AB \$800 monthly (Tr. 30-31, 33, 36-37). Applicant pays her own utilities (Tr. 37). AB also provided a car for Applicant to drive (Tr. 36).

Recommendations

AB said Applicant's debts resulted from the termination of her marriage and the care and support Applicant provided to her sons as they grew up and completed their college educations (Tr. 34). She is loyal to her family and friends (Tr. 34). AB recommends approval of her clearance (Tr. 34-35).

CB has held a Top Secret/SCI clearance (AE E). CB met Applicant and her husband in July 1984, when they lived in Australia (Tr. 41). CB and Applicant were good friends (Tr. 42). She has known Applicant about 24 years (Tr. 42). Applicant was

devastated by her divorce (Tr. 44). Applicant's debt was primarily related to her tax problems, and was definitely not caused by "high living" or an extravagant lifestyle (Tr. 45). She does not spend frivolously (Tr. 46). CB indicated Applicant was trustworthy, hardworking and compassionate (AE E). Applicant does not gamble, drink alcohol or use illegal drugs (AE E).

A Reserve Air Force Major and Ph.D. student, EF, met Applicant in 2002 at the university where she worked (Tr. 102-103, 108). EF had frequent professional and personal contact with her (Tr. 105). EF's family lives about two miles from Applicant's residence (Tr. 107). EF and Applicant became friends (Tr. 104). Applicant assisted EF's wife when EF was deployed, and often babysat for EF's two young children (Tr. 104, 109). Applicant is very dependable, loyal, compassionate, reliable, empathetic and trustworthy (Tr. 106-106).

Professor WF was formerly the Department Chair at the university where Applicant was employed.⁶ WF has worked closely with Applicant at the state university for nine years. WF held a Top Secret clearance when he was in the Army. WF described her as highly reliable, trustworthy, responsible and diligent. She was entrusted with very sensitive university matters and always showed appropriate discretion and protected sensitive information. WF was aware of her financial problems and concluded she spent her funds on her family, ensuring the welfare of her sons. She did not spend money frivolously. He recommended approval of her clearance.

Distinguished Professor GR provided a letter strongly supporting approval of Applicant's security clearance (Tr. 83). GR has known Applicant for more than ten years. GR described her as very trustworthy, patriotic and extremely reliable. She provided significant contributions to the university.

Professor and Distinguished Scholar DS worked with Applicant at the state university (AE H). DS' description of her hard work, loyalty, trustworthiness, and dedication to her employer and family were consistent with the statements of Professor WF (AE B), and Distinguished Professor GR (AE A). DS recommended approval of Applicant's clearance (AE H).

JW has had frequent contacts for several years with Applicant and/or Applicant's son when she worked at the state university.⁷ JW is a missionary pastor. JW knew Applicant personally and professionally. JW considers her to be an excellent single parent, who is loyal and patriotic. JW recommends approval of her clearance.

⁶ AE B is the source for the facts in this paragraph and AE A is the source for the facts in the next paragraph, unless stated otherwise.

⁷ AE D and Tr. 80-81 are the sources for the facts in this paragraph and AE C is the source for the facts in the next paragraph, unless stated otherwise.

RM and his spouse have been Applicant's neighbors for 13 years (Tr. 81-82). RM described her as gracious, considerate and trusted. RM recommends approval of Applicant's clearance. Another neighbor, DL, who has known her even longer, portrayed Applicant in similar and very positive terms (Tr. 80, AE F). DL emphasized Applicant's love of wildlife, humanitarian interests, and support for her church, family and neighbors (AE F). Applicant is loyal, patriotic and eschews illegal and risky behavior (AE F). Another neighbor, EP, who has known Applicant for 11 years, echoed the representations of RM and DL, and recommended approval of Applicant's clearance (Tr. 79, AE G).

Policies

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 over-arching adjudicative goal is a fair, impartial and common sense 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.

In the decision-making process, the Government has the initial burden of establishing controverted facts alleged in the SOR by "substantial evidence,"⁸ demonstrating, 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. Once the Government has produced substantial evidence of a disqualifying condition, the burden shifts to Applicant to produce evidence "to rebut, explain, extenuate, or

⁸ See Directive ¶ E3.1.14. "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). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

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.” Directive ¶ E3.1.15. The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).⁹

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 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* Executive Order 12968 (Aug. 2, 1995), Section 3.

Analysis

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 one relevant security concern is under Guideline F (Financial Considerations). AG ¶ 18 articulates the security concern relating to financial problems:

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.

AG ¶ 19 provides two Financial Considerations Disqualifying Conditions that could raise a security concern and may be disqualifying in this case, “(a) inability or unwillingness to satisfy debts,” and “(c) a history of not meeting financial obligations.” ISCR Case No. 03-20327 at 3 (App. Bd. Oct. 26, 2006) provides, “Applicant’s credit report was sufficient to establish the Government’s prima facie case that Applicant had . . . SOR delinquent debts that are of security concern.” Applicant’s history of delinquent debt is documented in her credit reports (GE 6 and 7), and her SOR response.

⁹ “The Administrative Judge [considers] 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 or her burden of persuasion under Directive ¶ E3.1.15.” ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

However, her denial of responsibility for some SOR debts is sufficient to refute some of the SOR debts.

As indicated in SOR ¶¶ 1.a to 1.c, she admitted she owes about \$50,000 to the IRS, and about \$10,000 to a state for delinquent taxes (GE 10 at 1-2). Her remaining SOR debts total less than \$1,000 and are relatively insignificant. Her 2005 bankruptcy listed \$142,000 in debt (SOR ¶ 1.h). The IRS has not been paid. The government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c).

Five Financial Considerations Mitigating Conditions under AG ¶¶ 20(a)-(e) are potentially applicable:

(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;

(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 circumstances;

(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;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(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.

Applicant's conduct does not warrant full application of AG ¶¶ 20(a) or 20(b) because she did not act more aggressively and responsibly to resolve her delinquent debts. Applicant has not made any progress since 2005 resolving her \$50,000 IRS debt. She has been continuously employed more than 10 years. She did not provide sufficient details to explain why she could not make more progress on her IRS debt. She used her 2005 bankruptcy to avoid paying some of her federal taxes. Her financial problems are not isolated. The ongoing nature of the debt to the IRS is "a continuing course of conduct" under the Appeal Board's jurisprudence. See ISCR Case No. 07-11814 at 3 (App. Bd. Aug. 29, 2008) (citing ISCR Case No. 01-03695 (App. Bd. Oct. 16, 2002)). She receives partial credit under AG ¶ 20(a) because the debt "occurred under such circumstances that it is unlikely to recur and does not cast doubt on the [her] current reliability, trustworthiness, or good judgment." She has been paying her recent taxes. Under AG ¶ 20(b), she receives partial mitigation because her financial situation was

damaged through her divorce. However, she did not provide sufficient information to establish that she acted responsibly under the circumstances.¹⁰ Her divorce was in 1995, and she received substantial benefits from her divorce. Her former spouse has not missed payments because the payments come directly from the Department of Defense. She did not prove that she made sufficient efforts to address her federal tax debts.

AG ¶¶ 20(c) and 20(d) have limited application. Applicant received financial counseling more than ten years ago, and subsequently had financial problems. She received some financial counseling in connection with her bankruptcy, yet, she has not made significant progress resolving her IRS debt. There are not “clear indications that the problem is being resolved or is under control.” There is insufficient information to establish that Applicant showed good faith¹¹ in the resolution of her \$50,000 tax debt.

AG ¶ 20(e) mitigates her \$50 medical debt and her son’s parking tickets. Although she did not provide “documented proof to substantiate the basis of the dispute” with respect to these debts, I will give her credit for mitigating them because I found her and her son to be credible concerning these debts. See Department Counsel’s argument at 96. I will find For Applicant with respect to SOR ¶¶ 1.d, 1.e, 1.f, and 1.g in the decretal paragraph of this decision.

I conclude Applicant’s overall conduct with the IRS casts doubt on her current reliability, trustworthiness, and good judgment. Her delinquent federal tax debt is about \$50,000 and likely will remain at that level for the foreseeable future. She is an honest, hard-working employee and loving, compassionate mother who has successfully raised three sons with little assistance from their father. Notwithstanding these positive

¹⁰“Even if Applicant’s financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties.” ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)).

¹¹The Appeal Board has previously explained what constitutes a “good faith” effort to repay overdue creditors or otherwise resolve debts:

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

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

attributes, she has not established her financial responsibility and that she has the judgment necessary to hold a security clearance. Based on my evaluation of the record evidence as a whole, I conclude no mitigating conditions fully apply.

Whole Person Concept

Under the whole person concept, the Administrative Judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

The ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept. AG ¶ 2(c).

There is some evidence tending to mitigate Applicant's conduct under the whole person concept. She has three years of college. She is not financially sophisticated. She went through years of periodic abandonment by her husband, followed by a divorce in 1995. She was successful in obtaining a significant share of her husband's military retirement. She is also receiving a good salary and financial support from one of her sons as well as retirement from a state university. She is paying her \$10,000 state tax debt through garnishment. She has a "meaningful track record" of repayment on her state tax debt. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). She reduced her tax debt using the lawful method of Chapter 7 Bankruptcy to discharge a significant portion of her debts. She successfully raised her sons overcoming obstacles and demonstrating her familial dedication and diligence. Applicant's father and her ancestors have provided extraordinary service, contributions and sacrifices for the United States. She is clearly a patriot and is completely loyal to her country. Applicant's record of good employment weighs in her favor. There is no evidence of any security violation. Aside from the delinquent federal taxes and 2005 bankruptcy in SOR ¶¶ 1.a, 1.b and 1.h, (which are civil, non-criminal issues), she is qualified to hold a security clearance. Her other debts are current, being paid, or disputed.

The mitigating evidence under the whole person concept is not sufficient to warrant a clearance at this time. The overall amount of her debt owed to the IRS at about \$50,000 is substantial. She admitted she was aware that she owed the IRS money for years. She initially relied on a Chapter 7 Bankruptcy in 2005 to avoid part of

her federal tax debt to the \$50,000 level. Her use of bankruptcy while lawful also highlights how large her federal tax debt became. Having such a large delinquent tax debt shows some financial irresponsibility and lack of judgment. Failure to pay a fair share of one's taxes shows avoidance of lawful responsibilities as a citizen and tax payer. For the remaining \$50,000 of her IRS debt, she has done little to address that debt. Her only plan is to obtain a clearance and higher paying employment and then use the increased income to pay the IRS. Applicant learned of the security significance of her delinquent debt when she responded to the SOR. Her lack of real effort to resolve her delinquent IRS debt raises security concerns. Her handling of her IRS debt shows lack of responsibility, rehabilitation, and mitigation. After weighing the disqualifying and mitigating conditions, and all the facts and circumstances, in the context of the whole person, I conclude she has not mitigated the financial considerations security concerns.

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 and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under the Guidelines. Applicant has not mitigated or overcome the government's case. For the reasons stated, I conclude she 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
Subparagraphs 1.a to 1.b:	Against Applicant
Subparagraphs 1.c to 1.g:	For Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	For Applicant

Conclusion

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 Applicant's eligibility for a security clearance. Eligibility for a security clearance is denied.

Mark W. Harvey
Administrative Judge