



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



In the matter of:)
)
 -----) ISCR Case No. 08-08396
 SSN: -----)
)
 Applicant for Security Clearance)

Appearances

For Government: Eric H. Borgstrom, Esquire, Department Counsel
For Applicant: *Pro se*

June 30, 2009

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

From about March 2006 to February 2007, Applicant continued to accept public assistance knowing she was ineligible. She owes about \$50,000 in delinquent debt that she has little prospect of resolving in the foreseeable future. Her failure to fully disclose her indebtedness on her security clearance application was due to misunderstanding and neglect of her financial obligations rather than to an intent to conceal. Financial and personal conduct concerns persist because of her financial irresponsibility and poor judgment in accepting welfare benefits when she was ineligible. Clearance is denied.

Statement of the Case

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on May 14, 2008. On February 3, 2009, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a statement of reasons (SOR) detailing the security concerns under Guideline F and Guideline E that provided the basis for its decision to deny her a security clearance and 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.

Applicant acknowledged receipt of the SOR on February 9, 2009. On February 24, 2009, she responded and requested a hearing. The case was assigned to me on April 2, 2009, 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 April 16, 2009, I scheduled a hearing for May 7, 2009.

I convened the hearing as scheduled. Four government exhibits (Ex. 1-4) and four Applicant exhibits (Ex. A-D) were admitted, and Applicant testified, as reflected in a transcript (Tr.) received on May 14, 2009. The record was held open until May 28, 2009, for Applicant to submit documentation concerning a settlement offer, but nothing was received. Based on a review of the SOR, Answer, transcript, and documentary exhibits, eligibility for access to classified information is denied.

Findings of Fact

DOHA alleged under Guideline F, financial considerations, that Applicant owes delinquent debt totaling \$54,035 (SOR ¶¶ 1.a through 1.t), and that she knowingly and illegally collected about \$8,000 in public assistance (welfare) from about 2006 to early 2008 (SOR ¶ 1.u). Under Guideline E, personal conduct, Applicant was alleged to have falsified her May 2008 e-QIP by failing to accurately disclose her delinquent debts in response to questions 28.a concerning any debts delinquent over 180 days in the last seven years, and 28.b concerning any debts currently delinquent over 90 days (SOR ¶ 2.a), and by failing to disclose a vehicle repossession in the past seven years in response to question 27.b (SOR ¶ 2.b). The alleged illegal acceptance of state welfare benefits was also cross-alleged under Guideline E (SOR ¶ 2.c).

In her Answer, Applicant admitted the debts in SOR ¶¶ 1.b through 1.t and indicated she had been in a mentally abusive relationship with her son's father and assumed bills were being paid until it was too late. She acknowledged that the cable television debt in SOR ¶ 1.a appeared on her credit record but claimed it had been paid by a former roommate. Applicant denied she had knowingly and illegally collected \$8,000 in welfare benefits from 2006 to early 2008. She maintained she was a legal resident when she first received the state entitlements. She moved to a nearby state later in 2006, acquired a job, and the welfare payments ceased in February 2007. Applicant acknowledged she had not included all her delinquent debts or the vehicle repossession on her e-QIP. However, she denied any intentional falsification, and explained that she was "not aware of the amount or delinquency of all items on [her] credit report," and assumed the repossession question referred to land or housing property. After considering the evidence of record, I make the following findings of fact.

Applicant is a 38-year-old single mother with a five-year-old son. She has been employed by a defense contractor in state A since late May 2008 and seeks her first security clearance (Ex. 1, Tr. 40). She had been working in the conformal coating

department (Ex. A). As of May 2009, she was on loan to another department pending her hearing on her clearance eligibility (Tr. 39).

Before her present employment, Applicant held a series of low paying jobs (Ex. 2). She worked as a customer service representative for a paving company and as a greeter for a car dealer. Then in June 2000, she started bartending.¹ In February 2002, she moved to an adjacent state (state B) where she continued to work as a bartender until November 2003. With the exception of a seasonal job with a retailer in late 2003, she was unemployed during her pregnancy and birth of her son (Tr. 46). She was living with her son's father in an apartment in state B (Tr. 46). In August 2004, she began working as a waitress in state B. One year later, she moved with her son to a distant state, but they stayed only until October 2005. On her return to state A, Applicant worked as a cashier at a snack bar, but she left that position in November 2005 because she lost her child care (Ex. 1).

While unemployed and living in state A in January 2006, Applicant applied for and began receiving public assistance (transitional aid to families with dependent children and food stamps) from state A. Applicant was then living with her sister and applied using that address. She was eligible for public assistance if she resided in state A and met the income requirements (Tr. 53). She was given transitional aid of \$328.36 in January 2006, and \$342 monthly from February 2006 through July 2006. In August 2006, she was given \$257.32, \$312 in September 2006, and \$162 in October 2006. Applicant received food stamp aid of \$268 in January 2006, \$258 monthly from February 2006 through August 2006, \$203 in September 2006, and \$210 in October 2006 (SOR ¶ 1.u) (Ex. D).

In March 2006, Applicant and her son's father moved into an apartment in state B (Ex. 1, Tr. 49). She did not notify state A that she had moved out of state and she knowingly continued to accept welfare benefits to which she was not entitled through October 2006 because she needed the financial help (Exs. C, D, Tr. 29, 50, 52). Applicant began working as a first-shift bartender in state A, but within the month, the manager gave her the option of taking a waitress position or quitting. Applicant elected to leave the job (Tr. 74-75), and she was unemployed until July 2006, when she started working as a waitress for a bistro in state A (Ex. 1). State A discontinued her transitional assistance effective November 2006, although the state inexplicably gave her \$10 monthly in food stamp aid from December 2006 through February 2007 (Ex. 2, Ex. D, Tr. 50).

In June 2007, she took a waitress position at a country club in state A because it was closer to her residence in state B. In November 2007, she and the father of her son moved in with his mother in state B. In April 2008, Applicant was let go from her job due

¹The e-QIP admitted as Exhibit 1 is missing page 28, concerning her employment between June 2000 and March 2002.

to customer complaints, although she had already applied for work with her present employer (Tr. 76-77).²

With her offer of employment from the defense contractor, Applicant was sent an e-QIP, which she completed at home on her computer on May 14, 2008. She reported that she had been terminated from her last job due to customer complaints, but responded “No” to question 27.b concerning whether her wages had been garnished or whether she had any property repossessed in the last seven years. In response to the financial delinquency inquiries, she answered “Yes” to question 28.a, “In the last 7 years, have you been over 180 days delinquent on any debt(s)?,” and listed a credit card debt of \$1,896 (not alleged in SOR³) from October 2003. She responded “No” to question 28.b, “Are you currently over 90 days delinquent on any debt(s)?” (Ex. 1).

A check of Applicant’s credit on May 24, 2008, revealed Applicant had a vehicle that had been involuntarily repossessed in March 2006 (SOR ¶ 1.t), and several other accounts had been placed for collection. A history of her delinquent accounts is reflected in the following table.

Debt as alleged in SOR	Delinquency history	Status as of May 09
¶ 1.a. Cable television debt in collection \$398	Last activity May 07, for collection \$398 Jun 07, unpaid as of Sep 07 (Exs. 3, 4)	Disputed by Applicant as still owed (Answer)
¶ 1.b. Cable television debt in collection \$56	Last activity Mar 06, \$56 for collection as of Jun 06, unpaid as of Nov 06 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.c. Cable television debt in collection \$79	Last activity Nov 05, for collection Feb 06, \$79 unpaid as of Sep 06 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.d. Credit card debt in collection \$605	Last activity Jan 06, \$605 for collection Jan 07, unpaid as of Apr 07 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid

²The controller at the country club indicates discrepantly that Applicant was a conscientious and loyal employee who left the job in an effort to obtain more hours and better pay and benefits (see Ex. B).

³Applicant’s November 2008 credit report (Ex. 3) indicates that the account had a balance owed of \$1,896 as of December 2002, but it was paid after collection as of December 2006. Applicant testified that she listed it on her e-QIP because she had found documentation about the debt in an old organizer from years ago. It was one of her older debts (Tr. 87-88).

¶ 1.e. Medical debt in collection \$184	Opened Jan 06, for collection Oct 06, \$184 balance as of Oct 08 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.f. Credit card debt charged off \$551	Opened Jun 05, \$551 for collection Nov 05, transferred to current assignee Sep 07, balance \$578 as of Apr 08 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.g. Credit card debt in collection \$566	Opened May 04, high credit \$462, last activity Apr 06, \$500 for collection July 07, \$540 balance as of May 08, \$566 balance as of Nov 08 (Exs. 3, 4)	No contact initiated by Applicant, possibly received settlement offer in late April 2009, plans to send \$25 per month (Tr. 56) ⁴
¶ 1.h. Wireless telephone debt in collection \$401	Last activity Jun 04, \$401 for collection May 06, unpaid as of Nov 08 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.i. Mail order credit account in collection \$1,619	Last activity Mar 02, \$840 high credit, \$1,489 past due balance as of Nov 07, \$1,619 in collection as of May 08 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.j. Installment loan debt in collection \$3,770	Last activity Mar 02, \$2,324 high credit, for collection Dec 05, \$3,770 balance as of Nov 08 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.k. Credit card debt in collection \$458	Opened Jun 04, last activity Apr 06, \$458 in collection as of Jun 07 (Exs. 3, 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.l. Installment debt in collection \$7,260	Opened Dec 01, \$7,260 for collection Feb 05 (Ex. 4)	No contact with creditor (Tr. 55), unpaid

⁴Applicant testified she believed the recent settlement offer concerned the debt in SOR ¶ 1.g, although she could be mistaken. The record was held open for her to submit evidence of this settlement offer. No documents were received.

¶ 1.m. Utility services debt in collection \$316	Opened Jul 05, \$316 for collection as of Sep 05 (Ex. 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.n. Installment debt in collection \$11,569	Balance \$7,261 when placed with assignee, balance \$11,569 as of May 08 (Ex. 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.o. Medical debt in collection \$2,460	For collection Mar 08, \$2,460, unpaid as of May 08 (Ex. 4) ⁵	Does not recognize (81-82), no contact with creditor (Tr. 55), not on Nov 08 credit report (Ex. 3)
¶ 1.p. Installment debt in collection \$451	Overdraft account opened in '05 in collection Feb 08, \$451 delinquent balance as of Apr 08 (Ex. 4, Tr. 81-82)	No contact with creditor (Tr. 55), unpaid
¶ 1.q. Retail charge debt in collection \$238	Opened Jun 97, last activity Dec 01, \$100 for collection, \$238 balance as of May 07 (Ex. 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.r. Wireless phone debt in collection \$476	\$476 in collection as of Feb 06 (Ex. 4)	No contact with creditor (Tr. 55), unpaid
¶ 1.s. Credit card debt in collection \$578	Same debt as SOR ¶ 1.f	No contact with creditor (Tr. 55), unpaid
¶ 1.t. Auto loan debt charged off \$21,000	Opened May 05, high credit \$21,051, to be repaid at \$503 monthly, last activity Mar 06, involuntary repossession, \$0 balance listed on loan account as of Oct 08 (Exs. 3, 4) but Applicant is receiving bills for about \$21,000 (Tr. 58)	Stopped making payments after nine months because could not afford to continue, no subsequent payments (Tr. 57)

⁵Applicant's November 2008 does not include a \$2,460 medical debt. Among the collection items are four medical debts: \$184 (SOR ¶ 1.e), and \$542, \$67, and \$160 not alleged in the SOR (Ex. 3). Applicant admitted the debt when she answered the SOR, although she now claims to have no recall of any medical debt in that amount (Tr. 83-84).

¶ 1.u. Illegal welfare benefits \$8,000	\$5,628.68 in total benefits Jan 06-Feb 07 (Ex. D), about \$1,196.36 while she was living in state A	Claims the state sent her a letter a few weeks ago requesting restitution of little over \$800, unpaid (Tr. 53)
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On June 27, 2008, Applicant was interviewed by a government investigator about her finances. She attributed her debt to low wages and occasionally living outside of her means. She indicated she was residing with her boyfriend's parents, to whom she pays rent, and that she had nothing left over each month after paying her expenses. Asked about her larger debts, Applicant explained that the vehicle debt (SOR ¶ 1.t) was for a vehicle purchased in May 2005. She stopped making her monthly payment of \$503 after nine payments and the vehicle was involuntarily repossessed. She indicated that she had two credit cards with the same lender, SOR ¶ 1.l used to purchase a stereo for her boyfriend and SOR ¶ 1.n for miscellaneous items.⁶ Applicant explained that the debts in SOR ¶¶ 1.i and 1.j were for items purchased through mail order catalogs. She admitted that she had not contacted any of her creditors in years and that she cannot pay them. As for the welfare benefits, Applicant averred she had illegally collected "about \$8,000 [sic]" in public assistance from state A while she was living in state B, but the payments stopped when the state learned she was not a resident. Applicant was told she would not likely face prosecution given the amount involved. The investigator reported that Applicant told her that she took advantage of the credit extended to her knowing that she did not have the means to repay the debt, and that she did not intend to repay the welfare funds (Ex. 2).

DOHA provided Applicant with a copy of the investigator's report of the June 27, 2008, interview. Applicant responded on November 12, 2008, that the report was incorrect in some aspects. She denied she had obtained credit with an intent to not repay it. She had made payments until she could no longer afford to and it was not her sole purpose to exploit credit cards. As for the welfare benefits, Applicant explained that she collected welfare legally while residing in state A for months before she moved to state B. Applicant added that she intended to make restitution with her creditors, including state A, provided she kept her job with the defense contractor, which she saw as the key to her and her son's futures (Ex. 2).

Applicant has been living off and on with her son's father for the past nine years. They have lived together since August 2007 for convenience reasons and no longer as a couple. Applicant cannot afford to live on her own (Tr. 37). Until about March 2009, they resided most recently with his parents, to whom they paid rent. They were forced to move to an apartment when her son's grandparents decided to vacate the home after another of their tenants entered a nursing home (Tr. 54-55). About \$3,000 of her \$4,800 income tax refund for tax year 2008 went to pay for moving expenses and necessities (oil, groceries) (Tr. 54).

⁶Debt balances and dates of delinquency suggest that SOR ¶¶ 1.l and 1.n may be the same debt, but the evidence is inconclusive.

As of May 2009, Applicant's son's father was paying the \$1,000 monthly rent and utilities (Tr. 36-37). He works as a chef (Tr. 72). She was covering the groceries and \$207 per week in daycare costs for their son (Tr. 37-38). She does not have a car payment and does not have car insurance (Tr. 38).

Applicant has received no credit counseling and has not looked into debt consolidation because she could not afford the likely monthly payment (Tr. 78). She also did not consider bankruptcy because she understood she would have to commit to a certain repayment each month. She is currently living just within her means (Tr. 79). As of early May 2009, her hourly wage was \$12.71, with her wage set to increase by \$1.00 every six months (Tr. 80). With her raise coming at the end of May 2009, Applicant estimated she would have an additional \$30 per week in income. She planned on addressing the smaller debts, such as the delinquent cable bills in SOR ¶¶ 1.b and 1.c, first (Tr. 72, 80).

Applicant proved to be a very dependable employee while working in the conformal coating department for the defense contractor. She was considered an asset to the department working on critical deliverables, and performed well and in a timely manner even under the pressure of deadlines (Ex. A).

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch 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 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 overarching 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. 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 admitted owing all but \$398 (SOR ¶ 1.a) of the \$53,035 in delinquent debt alleged in SOR ¶¶ 1.a through 1.t. However, based on the account numbers, the debt in SOR ¶ 1.s is merely an updated balance of the credit card debt in SOR ¶ 1.f. Applicant claims the \$398 cable television debt (SOR ¶1.a) has been paid, and she has no knowledge of the \$2,460 medical debt in SOR ¶ 1.o. While the medical debt does not appear on her most recent credit report, the cable television debt is listed as unpaid on her November 2008 credit report. Applicant did not furnish documentation of payment or otherwise satisfy 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,” with regard to SOR ¶¶ 1.a and 1.o. Concerning SOR ¶¶ 1.l and 1.n, Applicant told a government investigator that she had two delinquent accounts with the same original creditor. Even discounting SOR ¶¶ 1.a, 1.f, and 1.o, her delinquent debt still totals more than \$49,000. She also has to repay state A at least \$800 for public assistance granted to her when she was ineligible. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” AG ¶ 19(b), “a history of not meeting financial obligations,” and ¶ 19(e), “consistent spending beyond one’s means, which may be indicated by excessive

indebtedness, significant negative cash flow, high debt-to-income ratio, and other financial analysis,” are implicated.

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 financial breaches of trust,” also must be considered in this case. Applicant applied for, and was granted, public assistance benefits in state A in January 2006. Unemployed at the time and living with her sister in state A, Applicant qualified for those benefits. However, in March 2006, she moved to state B and no longer met the residency requirement. She withheld her relocation from the office of transitional assistance, knowing it was wrong to do so, and she continued to collect welfare benefits of about \$4,402.32 through October 2006 before her assistance was terminated. Her fraudulent acceptance of welfare is not extenuated by the fact that she needed the aid (Tr. 29).

Mitigating condition 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,” cannot reasonably be applied. Her financial problems are extensive and ongoing despite her steady employment with the defense contractor over the past year and the financial assistance provided by her son’s father.

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 circumstances,” cannot be dismissed outright given her history of low-wage employment, but her financial difficulties are also attributable to her own poor financial choices. She denies that she exploited her creditors by taking on debt that she had no intent to repay, but she admits that she made purchases at times, including a stereo for her boyfriend (SOR ¶ 1.I), that she could not readily afford. Her fraudulent acceptance of welfare benefits is further indication of irresponsible behavior. Although she had to leave some jobs in the past due to transportation/daycare issues, she quit at least one job because she did not want to wait tables. AG ¶ 20(b) has very limited applicability in this case.

As of May 2009, Applicant had made no payments toward her delinquent debts, including to state A in restitution of the welfare benefits. She had not contacted any of her creditors to make payment arrangements. Nor had she responded to a recent settlement offer because she lacks the funds to make the payments, despite the financial assistance of her son’s father, who pays the rent and utilities. Neither 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,” nor AG ¶20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” apply in the absence of any meaningful effort to address her past due financial obligations. AG ¶ 20(e), *supra*, has only very limited applicability in this case, to SOR ¶ 1.f. The updated balance of that debt is in SOR ¶ 1.s. The extra \$30 per week in income is insufficient for Applicant to resolve her extensive debt in the near future.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, untrustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The government alleged that Applicant was not fully forthcoming about her delinquencies on her e-QIP completed on May 14, 2008 (SOR ¶¶ 2.a and 2.b). Applicant admits she failed to list all of her delinquent accounts on her security clearance application. However, since she disputes the knowing and intentional concealment, the burden is on the government to prove the intent required under AG ¶ 16(a), "deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities."

Applicant explained that she responded negatively on the e-QIP to whether she had any property repossessed within the last seven years because she thought the question pertained to "land, housing, a mortgage" (Tr. 63). A layperson may conceivably consider "property" to pertain to real estate and not appreciate that the scope of the inquiry covers personal property such as a car. As for her negative response to question 28.b (any debts currently over 90 days delinquent), Applicant credibly explained that she thought it pertained to her current accounts and those were not past due over 90 days.

Applicant responded "Yes" to whether she had any debts over 180 days delinquent in the last seven years, but she disclosed only one credit card debt. While Applicant knew she had several past-due obligations, she explained she did not have the account information available. She had discarded bills in her various moves knowing she would receive more (Tr. 60-61). As for the information about the debt disclosed, Applicant had checked "Not Applicable" with regard to date satisfied. Her November 2008 credit report shows the debt as a paid collection debt as of December 2006 (Ex. 3). Her failure to accurately report that debt as paid supports her testimony that she found the account information in an old organizer (Tr. 88) and she was unaware what she owed and to whom. Applicant's deliberate disregard of her financial obligations (throwing away bills, making no payments) has negative implications for her financial judgment (see Guideline F), but the evidence falls short of proving the intent required under AG ¶ 16(a).

Applicant's fraudulent acceptance of welfare benefits implicates the general personal conduct concerns under AG ¶ 15, and is untrustworthy behavior of the type contemplated within AG ¶ 16(d), "credible adverse information that is not explicitly

covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information.”

Concerning potential factors in mitigation, Applicant understands that what she did was wrong, and there has been no recurrence of any similar untrustworthy behavior in over two years. AG ¶ 20(d), “the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur” cannot be applied, however, given she has made no effort to make restitution. She testified that following an investigation, she is not likely to be prosecuted, but that she also received a letter a few weeks ago indicating that she has to repay a little over \$800 (Tr. 53). None of the other mitigating conditions are pertinent.

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.

Under AG ¶ 2(c), 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.

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 he has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has ‘ . . . established a plan to resolve his 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). Applicant remains under a substantial debt burden that she has taken no steps to resolve. It is unrealistic to expect her to put her creditors ahead of providing basic necessities for herself and her son, but the concerns in this case go beyond the day-to-day struggles of living on a relatively low income. Applicant has raised considerable concerns about her

judgment and reliability because of her history of consumer credit abuse and her continued acceptance of welfare benefits when she knew she was ineligible. She has been an asset to her defense contractor employer. Yet doubts persist about whether she can be counted on to put her fiduciary obligations ahead of her personal interests in light of her handling of her financial matters, including the welfare issue.

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
Subparagraph 1.i:	Against Applicant
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	Against Applicant
Subparagraph 1.l:	Against Applicant
Subparagraph 1.m:	Against Applicant
Subparagraph 1.n:	Against Applicant
Subparagraph 1.o:	Against Applicant
Subparagraph 1.p:	Against Applicant
Subparagraph 1.q:	Against Applicant
Subparagraph 1.r:	Against Applicant
Subparagraph 1.s:	Duplicate of ¶ 1.f
Subparagraph 1.t:	Against Applicant
Subparagraph 1.u:	Against Applicant

Paragraph 2, Guideline E: AGAINST APPLICANT

Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant
Subparagraph 2.c:	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