



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



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

Appearances

For Government: Eric Borgstrom, Esquire, Department Counsel
For Applicant: Timothy B. Shea, Esquire

July 10, 2009

Decision

HARVEY, Mark, Administrative Judge:

Applicant's statement of reasons (SOR) lists 14 debts totaling about \$40,000. All of her debts are satisfactorily resolved, disputed or in payment plans. There were also several duplicated debts. Applicant mitigated financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On July 11, 2008, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) or security clearance application (SF-86) (Government Exhibit (GE) 1). On March 9, 2009, the Defense Office of Hearings and Appeals (DOHA) issued an SOR to Applicant (GE 8), pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. The revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, are effective within the Department of Defense for SORs issued after September 1, 2006.

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 Applicant, and recommended referral to an administrative judge to determine whether Applicant's clearance should be granted, continued, denied, or revoked.

On March 30, 2009, DOHA received Applicant's response to the SOR (GE 9). Department Counsel was prepared to proceed on April 22, 2009. On May 15, 2009, the case was assigned to me. On May 15, 2009, DOHA issued a hearing notice (GE 10). The hearing was held on May 26, 2009. Department Counsel offered six exhibits (GE 1-6) (Transcript (Tr.) 18-20), and Applicant offered eleven exhibits (Tr. 63, 97; AE A-K). There were no objections, and I admitted GE 1-7 (Tr. 21), and AE A-K (Tr. 63-64, 97). Additionally, I admitted the Notice of Hearing, SOR, and response to the SOR, as well as a demonstrative exhibit (GE 7-10). I received the transcript on June 2, 2009. I received 12 post-hearing exhibits, which were admitted without objection as AE L-X. Applicant's cover letter was admitted as AE L1, and the court record she designated as AE L was admitted as AE L4. Applicant's counsel's cover letter was admitted as AE X. The description of Applicant's other post-hearing exhibits is at AE L3.

Procedural Matters

Department Counsel conceded at the outset of the hearing that there was no SOR ¶ 1.n (Tr. 13). He also agreed with Applicant that SOR ¶¶ 1.i (\$1,503) and 1.m (\$1,503) are the same debt (Tr. 13).

Applicant affirmatively waived her right to 15-day's notice of the date, time and location of the hearing (Tr. 129-131).

Findings of Fact¹

In Applicant's SOR response, she admitted responsibility for her 2001 bankruptcy and the debts in SOR ¶¶ 1.b to 1.e, 1.j and 1.l. She denied and/or disputed the debts in SOR ¶¶ 1.f to 1.i, 1.k, 1.m, 1.o, and 1.p.

Applicant is a 58-year-old human systems engineer for a government contractor (Tr. 22; GE 1). Her bachelor's and master's degrees are in English (Tr. 23-24). She taught high school for 15 years (Tr. 24). In 1993, she was unemployed for about six months (Tr. 66-67). She earned a Juris Doctor degree, but did not pass the bar examination (Tr. 110). She earned a Ph.D in Management Information Systems (Tr. 23). She has focused in human factors in industrial systems engineering (Tr. 23). She has been a federal employee for several years (Tr. 24). She has never served in the U.S. military (GE 1). She had employment with a government contractor that paid an annual wage of \$124,000 (Tr. 25). In November 2005, she moved to a different state, and her

¹Some details have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

annual income was reduced to \$93,000 (Tr. 26). She became unemployed on July 1, 2006 (Tr. 26-27). She sent out hundreds of resumes a month (Tr. 104). She was mostly unemployed for the next two years (Tr. 27). For example, she tried to become an arbitrator and an administrator. However, she was unsuccessful at obtaining employment (Tr. 104-105). She had some part-time work as a substitute teacher (Tr. 27).

Applicant married in 1972 and divorced in 1976 (Tr. 109). She has not remarried (Tr. 109-110). Her twins were born in October 2004 (Tr. 28). She has not sought or received any child support payments from the father of her children (Tr. 110, 114).

Financial Considerations

Applicant's debts of about \$40,000 were discharged through a Chapter 7 Bankruptcy in 2001 (Tr. 32, 66; SOR ¶ 1.a). Her security clearance application indicates she traveled to Italy and Israel for religious reasons in the summer of 2000 (GE 1; Tr. 69-70). She filed for bankruptcy three months later (Tr. 69-70). She explained the trip to Italy and Israel was fairly inexpensive with the airfare costing about \$300 (Tr. 71).

Applicant cited her personal financial problems in connection with the failure of her incorporated business as the primary reason for her 2001 bankruptcy. Applicant started an internet business, which she incorporated (Tr. 33-36; AE C). She invested about \$20,000 in the business, which she charged on her credit cards (Tr. 64, 66). She thought she would receive financing for the business from her partner (Tr. 33). Ultimately, the business was dissolved. She also had some non-business related expenses. For example, she borrowed money for school/education expenses (Tr. 68).

SOR ¶ 1.b (2002 judgment for \$1,592; AE D) possibly relates to a former landlord seeking additional rent (Tr. 36-39). She thought the creditor was asserting that Applicant did not pay all of her rent (Tr. 36). The number on the credit report did not match the number on the judgment information she received from the clerk of court (Tr. 72-76). However, the names of the creditors on the documentation are similar (Tr. 76). Applicant believed she paid her rent (Tr. 36). The creditor she thought held the debt did not respond to her inquiry (Tr. 77). The state court record indicates there was a filing by the creditor but no judgment (Tr. 36-39; AE D at 2). The record indicates non-suit. *Id.* She assumes at this point the debt is resolved and she is not paying anything on this judgment (Tr. 76, 79). The file does not contain a copy of the judgment itself. Applicant also looked for the judgment and was not able to find it (Tr. 111). Her attorney checked with the attorneys for both apartment complexes where Applicant lived and they did not file any judgments (Ex. L at 1). Applicant's attorney conducted an additional search for the judgment with the pertinent state court without locating it (AE L at 1, AE M). If the debt in SOR ¶ 1.b is established, she promised to pay it (Tr. 78).

SOR ¶¶ 1.c (\$11,672) and 1.d (\$5,117) relate to medical bills for Applicant's sons' treatment shortly after they were delivered by C-section² in October 2004 (Tr. 40, 85-86). Applicant had medical insurance coverage through her employer's policy; however, dispute between the hospital and her insurance company about whether the hospital was an authorized provider for neonatal care delayed payment (Tr. 40). Her medical insurance provider eventually paid most of the medical bill (AE N, AE O). She made several inquiries about the basis for the charges not covered by her insurance company and the rationale for the failure of the hospital and insurance company to resolve or clarify responsibility for the remainder of the charges (Tr. 41-43). She wanted an "Explanation of Benefits" from the provider (Tr. 89-90). She did not retain any documentation about the dispute, except for a bill (Tr. 88-90). Her disputing communications were mostly phone-call based (Tr. 88). On May 21, 2009, Applicant entered into a payment plan with the creditor to pay \$500 monthly (Tr. 44-45; AE E). She made the first \$500 payment towards a debt of about \$16,000 (Tr. 86-87). After the hearing, Applicant obtained and provided a phone log from the creditor, describing her contacts with the creditor (AE L, M). Applicant provided documentation showing she disputed her liability for payments exceeding her medical insurance (AE L at 1; AE N, AE O).

SOR ¶ 1.e (\$140) relates to a medical bill (Tr. 45). Applicant settled the debt for \$112 and paid it (Tr. 45-46, 94; AE J at 1; AE L at 2).

SOR ¶¶ 1.f (\$955) and 1.g (\$490) relate to medical bills from the same creditor (Tr. 46). Applicant believed her medical insurance covered the bills (Tr. 47). Her company changed providers and the doctor refused to re-submit the bills (Tr. 47). Then the debts were too old to re-submit (Tr. 48). She is on good terms with her doctor (Tr. 48). She asked him for a release of the debt on May 25, 2009 (Tr. 96). The debts were removed from her credit report (Tr. 48-49, 96; AE K; AE L at 2). After the hearing, Applicant provided a letter from the creditor indicating the debts were satisfied and they were erroneously sent to the credit reporting company (AE Q).

SOR ¶ 1.h (\$64) for an electric bill was paid (Tr. 49-50; AE B; AE L at 2; AE R).

SOR ¶¶ 1.i (\$1,503) and 1.m (\$1,503) are duplications of each other (Tr. 50). The two items relate to rent for an apartment (Tr. 50). Initially she disputed the debt because she believed she gave adequate notice and there was no basis for the debt (Tr. 50-51). She contacted the creditor and settled the debt for \$766.85 and paid it (Tr. 51-54; AE J at 2; AE S).

SOR ¶¶ 1.j (\$258) and 1.o (\$233) are duplications of each other (Tr. 58-59). They pertain to a leftover utility debt from an apartment (Tr. 54-55). The bill was sent to an old address and Applicant did not receive it (Tr. 55). She discovered it on a credit report,

² "A cesarean section is the delivery of a baby through a cut (incision) in the mother's belly and uterus." See Web MD website, Health and Pregnancy—Cesarean Section—Topic Overview, available at <http://www.webmd.com/baby/tc/cesarean-section-topic-overview>.

and, after some investigation, she settled the debt for \$208.82 and paid it (Tr. 55; AE F; AE L at 2; AE T).

SOR ¶ 1.k (\$125) is a medical debt (Tr. 57). On May 13, 2009, Applicant paid this debt (Tr. 57; AE G).

SOR ¶ 1.l (\$6,442) was discharged in her 2001 bankruptcy (Tr. 57; Ex. H). Applicant's discharge from liability was reported to the IRS on a form 1099-C (Ex. H).

SOR ¶ 1.p pertains to missing four payments on her mortgage of \$294,000. Applicant purchased a residence in January 2006 for \$302,000 (Tr. 28, 97-98). Her monthly mortgage payment was \$2,912 (Tr. 98). At the time she purchased her residence, the federal government employed her and she had an annual salary of \$93,000 (Tr. 28). She became unemployed on July 1, 2006 (Tr. 98). She withdrew funds from her savings and 401K accounts to pay her mortgage (Tr. 29, 103). She fell behind on her payments in December 2007 (Tr. 29). She called the mortgage creditor and informed the creditor that she was unemployed and she could only make one more payment (Tr. 29). In February 2008, she received a loan from the FHA, and from the Home Saver Advance, which permitted her to re-start her mortgage payments in February 2009 (Tr. 30). She made four additional payments. As indicated previously, her current employment with the contractor began in June 2008 (Tr. 30). On May 13, 2009, she received a forbearance agreement from the creditor, which provided that her monthly payment was reduced to \$2,015 for the months of April to June 2009 (Tr. 31, 59; AE I). She made her payments in April, May and June 2009 (Tr. 59; AE I; AE L at 2; AE U; AE V; AE W). She hopes to receive a payment reduction schedule, which will permit her to keep her mortgage payments current.

Applicant received financial counseling (Tr. 74). Her current annual salary is \$75,000 (Tr. 100). Her monthly take-home pay (after taxes are deducted) is about \$4,500 (Tr. 101). She has the following monthly expenses: mortgage (\$2,015); daycare (\$1,305); utilities (\$90); car payment (\$344); car insurance (\$80); groceries (\$200); and cell phone (\$20) (Tr. 102-103, 106). She now has a monthly \$500 payment on her medical debt and has three small monthly credit card payments, totaling about \$50 (Tr. 105). She has had her student loans deferred; however, she has recently resumed payments (Tr. 108). She begins paying her FHA home saver advance in June 2009, which amounts to \$153 per month (Tr. 108-109).

Applicant purchased a car in 2004, and it is almost paid off (Tr. 81). Over the last three years, she tried to stay in touch with her creditors and she increased her efforts to resolve her debts after an Office of Personnel Management (OPM) investigator interviewed her (Tr. 89-90).

The only financial problem Applicant disclosed on her 2008 security clearance application was that she had fallen behind on her mortgage (GE 1). She explained she was either unaware of her debts, she disputed the validity of her debts, or she was working on settlements (Tr. 90-92). The SOR did not allege falsification of her security clearance application as a security concern.

Character References

Applicant's security officer writes that Applicant "has been an ideal employee" (AE A at 2). He describes her as reliable, trustworthy, punctual, and dedicated to accomplishing the company's goals and objectives (Tr. 60; AE A at 2).

A Reverend Monsignor, who is also Applicant's cousin, attests to Applicant's personal character, integrity and honesty. She has strong leadership skills, profound generosity, and solid ethical standards (Tr. 61; AE A at 3).

Another Reverend Monsignor has known Applicant since 1971 (Tr. 62; AE A at 4). He describes her as trustworthy, honest and conscientious. Three of her greatest qualities are her tenacity, perseverance and determination.

A retired U.S. Navy Captain, who was a chaplain on active duty, has known Applicant for more than 25 years (Tr. 62-63; AE A at 5). He lauded her commitment towards self-improvement as shown by her academic accomplishments. She is faithful to the government, trustworthy, honest and forthright.

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). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant Applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

Eligibility for a security clearance is predicated upon the Applicant meeting the criteria contained in the revised adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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. Clearance decisions must be "in terms of the national interest and shall in

no sense be a determination as to the loyalty of the [A]pplicant concerned.” See Exec. Or. 10865 § 7. See *also* Executive Order 12968 (Aug. 2, 1995), Section 3. Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the government must establish, by substantial evidence, conditions in the personal or professional history of the Applicant that may disqualify the Applicant from being eligible for access to classified information. The government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “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). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an Applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the government establishes a disqualifying condition by substantial evidence, the burden shifts to the Applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An Applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). 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). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, I conclude the 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

. . . delinquent [SOR] debts that are of security concern.” Applicant’s history of delinquent debt is documented in her credit reports (GE 4 and 5), in her SOR response (GE 9) and by her oral statement at her hearing. She failed to ensure her creditors were paid as agreed. The government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c). Further inquiry about the applicability of mitigating conditions is required.

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(e) because she did not act more aggressively and responsibly to resolve her delinquent debts. Her delinquent debts are sufficiently recent to constitute, “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)).

Applicant receives partial credit under AG ¶ 20(b) because her financial problems before her 2001 bankruptcy resulted from the failure of her business. In July 2006 she was unemployed and underemployed for a substantial period. After she received employment in her current position in June 2008, she worked hard to resolve her delinquent debts. She paid the debts in SOR ¶¶ 1.e, 1.h, 1.i, 1.j, 1.k, 1.m and 1.o. She has her medical debts in SOR ¶¶ 1.c and 1.d in a payment plan, and her mortgage is current (SOR ¶ 1.p). She receives substantial mitigating credit because her delinquent debts “occurred under such circumstances that [they are] unlikely to recur and [her

behavior] does not cast doubt on [her] current reliability, trustworthiness, or good judgment.” She credibly promised to pay the debt in SOR ¶ 1.b, if it is valid.³

AG ¶ 20(c) applies. Applicant received financial counseling, and there are “clear indications that the problem is being resolved or is under control” for the reasons stated in the preceding paragraph. She understands the security implications of delinquent debt and will scrupulously avoid future delinquent debt. She has also established some, but not full mitigation under AG ¶ 20(d) because she showed some, recent good faith⁴ in the resolution of her SOR debts.

Applicant provided documentation contesting the validity of the SOR debts in ¶¶ 1.b, 1.f, 1.g and 1.i. AG ¶ 20(e) applies to these four debts. She disputed the debt in SOR ¶¶ 1.c and 1.d, and then when she was satisfied that the debts were legitimate, she began making payments. Her overall recent conduct with her creditors shows she acted responsibly under the circumstances.⁵

In sum, Applicant should have been more diligent and made greater efforts sooner to resolve her delinquent debts. Nevertheless, she established the full

³ Of course, the government can re-validate Applicant’s financial status at any time through credit reports, investigation and/or additional interrogatories. Approval of a clearance now does not bar the government from subsequently revoking it, if warranted. Violation of a promise made in a security context to pay legitimate debts also raises judgment concerns under Guideline E, and may support future revocation of a security clearance. Completion of a security clearance decision documents and establishes a warning to Applicants about the importance of financial responsibility and retention of documentation about debt resolution. The comments in this footnote do not imply that this Applicant’s clearance is conditional.

⁴The 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)).

⁵“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)). A component is whether the Applicant maintained contact with his or her creditors and attempted to negotiate partial payments to keep debts current.

applicability of AG ¶ 20(c). Moreover, security concerns are fully mitigated under the “Whole Person Concept,” *infra* at pages 9-11.

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 relevant 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 common sense judgment based upon careful consideration of the guidelines and the whole person concept. AG ¶ 2(c). I have incorporated my comments under Guideline F in my whole person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

There is some evidence against mitigating Applicant’s financial conduct. She fell behind on her debts in 2000, and her debts were discharged in 2001 under Chapter 7 of the Bankruptcy Code. From 2004 to 2006, several debts became delinquent. In June 2008, she began her present employment with an annual salary of \$75,000. She should have made greater progress on her debts. She essentially admitted responsibility for the majority of her SOR debts, her bankruptcy and missing payments on her mortgage. She showed some effort in 2008 and 2009 to resolve her delinquent debts, but could have acted more aggressively to pay her delinquent debts, to seek debt repayment or resolution, and to better document her remedial efforts. These factors show some financial irresponsibility and lack of judgment. Her history of delinquent debt raises sufficient security concerns to merit further inquiry.

The mitigating evidence under the whole person concept is more substantial. There is no evidence of any security violation. She is a law-abiding citizen. Her current financial problems were caused by several factors somewhat beyond her control: (1) failed business enterprise in 2000; (2) business downturn reducing real estate values; (3) medical bills related to the birth of her sons; (4) unemployment, and (5) underemployment. In July 2006, she lost her federal employment and she was unemployed and/or underemployed for a substantial period. After she received employment in her current position in June 2008, she worked hard to resolve her delinquent debts. She disputed the debts in SOR ¶¶ 1.b, 1.f, 1.g, and 1.i. She paid the debts in SOR ¶¶ 1.e, 1.h, 1.i, 1.j, 1.k, 1.m and 1.o. She has her medical debts in SOR

¶¶ 1.c and 1.d in a payment plan, and her mortgage is current. See SOR ¶ 1.p. She has three small credit card debts which are current. Her car payment is current. The Appeal Board has addressed a key element in the whole person analysis in financial cases stating:

In evaluating Guideline F cases, the Board has previously noted that the concept of “‘meaningful track record’ necessarily includes evidence of actual debt reduction through payment of debts.” However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has ‘ . . . established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan.’ The Judge can reasonably consider the entirety of an applicant’s financial situation and his [or her] actions in evaluating the extent to which that applicant’s plan for the reduction of his [or her] outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) (‘Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.’) There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Applicant is 58 years old and she has achieved some important educational and employment goals, demonstrating her self-discipline, responsibility and dedication. She has no prior military service. She has previously been employed by the federal government for several years. Her most recent employment is with her current employer, which began in June 2008. Her annual pay now at \$75,000 is substantially less than previously when she made about \$125,000 per year. She has a reasonable budget and has begun to achieve financial stability. She understands what she needs to do to establish and maintain her financial responsibility. Clearly, she could have acted more aggressively to resolve her debts, after receiving employment with a government contractor. There is, however, simply no reason not to trust her. Moreover, she has established a “meaningful track record” of debt payments. In the future, she will act aggressively to validate her debts. She has promised to pay her valid debts. See note 3, *supra*. I found her hearing statement to be candid, forthright and credible. Applicant has demonstrated her loyalty, patriotism and trustworthiness through her service to the Department of Defense as a contractor and formerly as a government employee. Her character witness statements describe her as a model employee. They laud her responsibility, trustworthiness and integrity.

After weighing the disqualifying and mitigating conditions and all the facts and circumstances, in the context of the whole person, I conclude Applicant has sufficiently mitigated 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. For the reasons stated, I conclude she is 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: FOR APPLICANT

Subparagraphs 1.a to 1.m:	For Applicant
Subparagraph 1.n:	For Applicant (no subparagraph in SOR)
Subparagraphs 1.o and 1.p:	For Applicant

Conclusion

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for a security clearance is granted.

MARK HARVEY
Administrative Judge