



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 09-05187

**Appearances**

For Government: Nichole Noel, Esquire, Department Counsel  
For Applicant: *Pro se*

March 15, 2011

**Decision**

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is denied.

**Statement of the Case**

On October 9, 2008, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application (SF 86).<sup>1</sup> On September 15, 2009, the Defense Office of Hearings and Appeals (DOHA) furnished her a set of interrogatories. She responded to the interrogatories on an unspecified date.<sup>2</sup> On an unspecified date, DOHA furnished her another set of interrogatories. She responded to the interrogatories on November 17, 2009.<sup>3</sup> On April 12, 2010, DOHA issued a Statement of Reasons (SOR) to her,

<sup>1</sup> Government Exhibit 1 (SF 86), dated October 9, 2008.

<sup>2</sup> Government Exhibit 2 (Applicant's Answers to Interrogatories, undated).

pursuant to 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 and modified (Directive); and *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (effective within the Department of Defense on September 1, 2006) (AG) for all adjudications and other determinations made under the Directive. The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why DOHA could not make a 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 a clearance should be granted, continued, denied, or revoked.

Applicant acknowledged receipt of the SOR on April 21, 2010. In a written statement, notarized on May 20, 2010, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on June 25, 2010, and the case was assigned to me on June 28, 2010. A Notice of Hearing was issued on July 1, 2010, and I convened the hearing, as scheduled, on July 14, 2010.<sup>4</sup>

During the hearing, eight Government exhibits (GE 1-8) and five Applicant exhibits (AE A-E) were admitted into evidence, without objection. Applicant testified. The record remained open to afford Applicant the opportunity to supplement it, and on July 28, 2010, she submitted seven documents that were admitted into evidence (AE F-L), without objection. The transcript (Tr.) was received on July 22, 2010.

### **Findings of Fact**

In her Answer to the SOR, Applicant admitted several of the factual allegations (§§ 1.f., 1.j., 1.y., and 1.z.) of the SOR. Those admissions are incorporated herein as findings of fact. She denied the remaining allegations (§§ 1.a. through 1.e., 1.g. through 1.i., and 1.k. through 1.x.).

Applicant is a 30-year-old employee of a defense contractor. She serves as the lead supply technician,<sup>5</sup> and is seeking to obtain a security clearance. She is a June 1998 high school graduate,<sup>6</sup> with four years of additional credits at a local college.<sup>7</sup> Since she was 12 years old, Applicant has worked in a variety of full-time and part-time positions over the years.<sup>8</sup> She enlisted in the U.S. Army in July 1998, reenlisted in

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<sup>3</sup> Government Exhibit 3 (Applicant's Answers to Interrogatories, dated November 17, 2009).

<sup>4</sup> Applicant signed a waiver of the 15-day notice requirement on July 14, 2010.

<sup>5</sup> Government Exhibit 1, *supra* note 1, at 6.

<sup>6</sup> *Id.* at 13.

<sup>7</sup> *Id.* at 11.

<sup>8</sup> Tr. at 144-145.

September 2001, and served honorably until March 2006, when she received an honorable discharge.<sup>9</sup> Applicant was unemployed from March 2006 until October 2006.<sup>10</sup> She returned to the workforce with her current employer in October 2006, and has held a number of different positions within the company since she was hired.<sup>11</sup>

Applicant has been married since November 2006,<sup>12</sup> and she has two children, born in 2005 and 2009, respectively.<sup>13</sup> Her husband, currently serving on active duty with the U.S. Army, has four other children.<sup>14</sup>

## **Financial Considerations**

Applicant contends that there was nothing unusual about her finances until her mother was diagnosed with a terminal illness in 1999, and Applicant's stepfather abandoned her mother in 2000.<sup>15</sup> When she was 20 years old, Applicant decided to assist her ailing mother and two younger sisters, financially.<sup>16</sup> Initially it was casual support, but at some point in 2000-2001, the financial support became more substantial.<sup>17</sup> Until her mother's needs were settled and she obtained a fixed income in about 2004, Applicant paid for her mother's rent, food, an automobile, auto insurance, school clothing for her sisters, prescriptions, and medical support.<sup>18</sup> Applicant estimated that between 2000 and 2004, about half of her monthly income was dedicated to her mother and sisters.<sup>19</sup> Since 2004, the support has diminished to about \$200 per pay period.<sup>20</sup> Because Applicant has no father or brothers to assist the family, and she is the oldest sibling, she is considered the family "go-to-person."<sup>21</sup> As such, she continues to

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<sup>9</sup> Applicant Exhibit B (Certificate of Release or Discharge from Active Duty (DD Form 214), dated March 23, 2006).

<sup>10</sup> Government Exhibit 1, *supra* note 1, at 14.

<sup>11</sup> *Id.* at 13-14.

<sup>12</sup> *Id.* at 19-20.

<sup>13</sup> *Id.* at 4; Tr. at 135.

<sup>14</sup> Tr. at 135, 137-138, 141-142.

<sup>15</sup> *Id.* at 23, 25.

<sup>16</sup> *Id.* at 25-26.

<sup>17</sup> *Id.* at 25.

<sup>18</sup> *Id.* at 25-28.

<sup>19</sup> *Id.* at 28.

<sup>20</sup> *Id.* at 28-29.

<sup>21</sup> *Id.* at 30.

provide some financial assistance for the family.<sup>22</sup> In an effort to provide additional assistance, in 2003 she applied for and received a compassionate reassignment.<sup>23</sup>

Because she was diverting one half of her income from being applied to her own bills, Applicant failed to keep up with her monthly payments, causing accounts to become delinquent. Some accounts were placed for collection with a variety of collection agents, some were charged off, and some became adverse judgments. Faced with overwhelming financial difficulties, Applicant sought guidance from her friends and was told to file for bankruptcy.<sup>24</sup> On September 5, 2002, she filed a voluntary petition for bankruptcy under Chapter 13 of the U.S. Bankruptcy Code.<sup>25</sup> She cited \$13,525 in assets and \$40,925.67 in liabilities.<sup>26</sup> Among her assets was a \$13,100 2000 automobile.<sup>27</sup> Among her liabilities were medical accounts, utility accounts, a cable television account, a student loan, personal loans and credit card accounts, and a gym membership.<sup>28</sup> Under the bankruptcy plan, Applicant was to make specified payments to the bankruptcy trustee, but she was unable to do so.<sup>29</sup> At the time, Applicant was delinquent in the amount of \$1,404.<sup>30</sup> Subsequently, upon discussing her finances with her first sergeant, she was advised that the filing for bankruptcy was “the worse thing [she] could have done.”<sup>31</sup> She attempted to “reverse” the bankruptcy, and withdrew her opposition to the trustee’s motion to dismiss the bankruptcy, and on February 21, 2003, the case was dismissed.<sup>32</sup>

In December 2008, Applicant was interviewed by an investigator from the U.S. Office of Personnel Management (OPM), and she indicated she was planning to go to a debt counselor in order to address her delinquent accounts.<sup>33</sup> She eventually signed up for a two week course on financial education, but did not actually attend it because she could not afford to be off from work that long.<sup>34</sup> In November 2009, she started to obtain “financial tutoring” from a financial counselor at the facility soldier support center for

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<sup>22</sup> *Id.* 30-31.

<sup>23</sup> Applicant Exhibit C (U.S. Army webmail, dated December 15, 2003).

<sup>24</sup> Tr. at 31.

<sup>25</sup> Government Exhibit 7 (Voluntary Petition, dated September 5, 2002).

<sup>26</sup> *Id.* at 27.

<sup>27</sup> *Id.* at 8-9.

<sup>28</sup> *Id.* at 16-23.

<sup>29</sup> Trustee’s Report, dated December 31, 2002), attached to Government Exhibit 7.

<sup>30</sup> *Id.*

<sup>31</sup> Tr. at 31-32.

<sup>32</sup> Order Dismissing Case, dated February 21, 2003, attached to Government Exhibit 7.

<sup>33</sup> Personal Subject Interview, dated December 2, 2008), at 1, attached to Government Exhibit 2, *supra* note

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<sup>34</sup> Tr. at 140.

about one hour at a time over a period of about six months.<sup>35</sup> That tutoring consisted of debt management and budgeting, but did not yet include debt consolidation.<sup>36</sup> As part of that program, on an unspecified date, Applicant prepared a monthly budget worksheet indicating total family income, including child support received, totaling \$5,078; and \$4,180 in monthly expenses.<sup>37</sup> Based on those figures, it appears that she has \$2,608 available each month for discretionary spending.<sup>38</sup> She no longer uses credit cards, has no car loans, and is current on all other non-SOR financial accounts.<sup>39</sup>

The SOR identified 25 continuing delinquencies as reflected by credit reports from 2009<sup>40</sup> and 2010<sup>41</sup> totaling approximately \$32,591. Some accounts listed in the credit reports have been transferred, reassigned, or sold to other creditors or collection agents. Other accounts are referenced repeatedly in these credit reports, in many instances duplicating other accounts listed, either under the same creditor name or under a different creditor name. Some accounts are identified by complete account numbers, while others are identified by partial account numbers, in some instances eliminating the last four digits and in others eliminating other digits. Some accounts reflect no account number.

The delinquent accounts include a number of accounts about which Applicant previously claimed to have no knowledge,<sup>42</sup> or which she informally disputed. She has offered no documentary evidence to support her contention that she actually formally disputed any delinquent accounts. In January 2009, when Applicant again spoke with the OPM investigator, she acknowledged that her financial condition was embarrassing, promised to take control of her credit, and clean up her financial delinquencies.<sup>43</sup> Although Applicant has funds available each month for discretionary spending, and despite promises by her to pay off the delinquent accounts, to date, she has made very little progress regarding payments to the creditors.

As to the accounts listed in the SOR, based on the evidence before me, I conclude that Applicant has resolved only three of the delinquent accounts in the SOR

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<sup>35</sup> *Id.* at 140-141.

<sup>36</sup> *Id.* at 141.

<sup>37</sup> Monthly Budget Worksheet, undated, attached to Government Exhibit 3, *supra* note 3.

<sup>38</sup> *Id.* It should be noted that Applicant and her husband do not pool their respective incomes, and merely split household expenses. Tr. at 148.

<sup>39</sup> Tr. at 138-139.

<sup>40</sup> Government Exhibit 6 (Combined Experian, TransUnion, and Equifax Credit Report, dated November 13, 2009); Experian Credit Report, dated November 18, 2009, attached to Government Exhibit 3, *supra* note 3.

<sup>41</sup> Government Exhibit 4 (Equifax Credit Report, dated March 9, 2010).

<sup>42</sup> Personal Subject Interview, *supra* note 33, at 1-2.

<sup>43</sup> *Id.* at 2.

(¶¶ 1.e.,<sup>44</sup> 1.f.,<sup>45</sup> and 1.g.<sup>46</sup>). In addition, Applicant was offered a reduced settlement figure from \$6,665 to \$1,505.65 by one collection agent (¶ 1.y.), but the offer was contingent upon full payment no later than August 28, 2009.<sup>47</sup> Applicant offered no evidence to indicate the offer had been acted upon in a timely manner with the account resolved. In fact, to the contrary, Applicant stated she initially informally disputed the debt but subsequently made no effort to resolve it.<sup>48</sup> She has made minimal recent efforts to contact or resolve the remaining 21 SOR accounts.<sup>49</sup>

## Character References and Work Performance

During her military career, Applicant was awarded the Army Achievement Medal on two occasions, Army Good Conduct Medal on two occasions, National Defense Service Medal, Global War on Terrorism Service Medal, Noncommissioned Officer Professional Development Ribbon on two occasions, and Army Service Ribbon.<sup>50</sup> Two of Applicant's coworkers and the facility accountable officer are familiar with her and characterize her in favorable terms. Applicant demonstrates loyalty, commitment, professionalism, generous spirit, integrity, enthusiasm, initiative, ethics, reliability, and moral character, and is a hardworking person who is well respected.<sup>51</sup> In February 2010, Applicant's employer presented her with an award for exceptional teamwork and support of a project during December 2009.<sup>52</sup>

## 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."<sup>53</sup> 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. The President has authorized the Secretary of Defense or his

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<sup>44</sup> Applicant Exhibit I (Payment Verification, dated July 15, 2010).

<sup>45</sup> Applicant Exhibit F (Student Receipt, dated July 15, 2010).

<sup>46</sup> Applicant Exhibit A (Letter from collection agent, dated April 24, 2009).

<sup>47</sup> Letter from Collection Agent, dated August 14, 2009, attached to Government Exhibit 3, *supra* note 3.

<sup>48</sup> Tr. at 123-124.

<sup>49</sup> *Id.* at 33—123.

<sup>50</sup> Applicant Exhibit B, *supra* note 9.

<sup>51</sup> Applicant Exhibit E (Character Reference, undated); Applicant Exhibit K (Character Reference, undated); Applicant Exhibit L (Character Reference, dated July 13, 2010).

<sup>52</sup> Applicant Exhibit D (Certificate, dated February 16, 2010).

<sup>53</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

designee to grant an applicant eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.”<sup>54</sup>

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.”<sup>55</sup> The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government.<sup>56</sup>

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 as well. It is because of this special relationship that the government must be able to repose a high degree of trust and confidence in those 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 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. Furthermore, “security clearance determinations should err, if they must, on the side of denials.”<sup>57</sup>

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<sup>54</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>55</sup> “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all 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 (4<sup>th</sup> Cir. 1994).

<sup>56</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>57</sup> *Egan*, 484 U.S. at 531

Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.”<sup>58</sup> 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 or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. 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.

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern for Financial Considerations 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. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly, under AG ¶ 19(c), “a history of not meeting financial obligations” may raise security concerns. As noted above, Applicant contends that there was nothing unusual about her finances until her mother was diagnosed with a terminal illness in 1999, and Applicant’s stepfather abandoned her mother in 2000. At the age of 20, Applicant started assisting her ailing mother and two younger sisters, financially. Until about 2004, Applicant essentially supported her mother and her two younger sisters, and between 2000 and 2004, about half of her monthly income was dedicated to them. In doing so, she was unable to address her own accounts, and they became delinquent. Some accounts were placed for collection, some were charged off, and some became adverse judgments. With the exception of three SOR accounts, the remaining 21 accounts are still in a delinquent status. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where “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.” Also, under AG ¶ 20(b), financial security concerns may be mitigated where “the conditions that resulted

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<sup>58</sup> See Exec. Or. 10865 § 7.



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." Evidence that "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" is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts."<sup>59</sup> Also, AG ¶ 20(e) may apply where "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."

As noted above, Applicant's financial problems commenced after her mother was diagnosed with a terminal illness in 1999, and Applicant's stepfather abandoned her mother in 2000. Until about 2004, Applicant essentially supported her mother and her two younger sisters, and between 2000 and 2004, about half of her monthly income was dedicated to them. In doing so, she was unable to address her own accounts, and they became delinquent. Some accounts were placed for collection, some were charged off, and some became adverse judgments. Additionally, Applicant was unemployed from March 2006 until October 2006. She has remained gainfully employed since October 2006. Applicant has acknowledged limited effective resolution of her delinquent accounts. Her failure to timely handle her bills has exacerbated her financial meltdown. Because she has multiple delinquent debts and her financial problems are continuing in nature, she receives minimal application of AG ¶ 20(a). While Applicant has exhibited the noble virtues of being a good daughter and older sister, she failed to ensure her own debts were paid.

Applicant receives partial application of AG ¶ 20(b), for while she supported her ailing mother and two younger sisters essentially for four years, and was herself unemployed during March 2006 until October 2006 – factors that were clearly circumstances beyond her control – as it pertains to her finances, Applicant failed to act responsibly under the circumstances. Moreover, after obtaining employment in October 2006, she offered little evidence to indicate why circumstances did not improve

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<sup>59</sup> The 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)).

substantially over the ensuing four years to enable her to resolve her debts and reduce her delinquencies.<sup>60</sup>

AG ¶ 20(c) partially applies because Applicant has received some general form of financial counseling or budget guidance from a credit counselor and as a prerequisite before filing her Chapter 13 bankruptcy.<sup>61</sup>

AG ¶ 20(d) partially applies because, to date, Applicant made little proven efforts to address her delinquent accounts. In fact, she resolved only three of her accounts out of the 25 alleged in the SOR. There is limited documentary evidence to support Applicant's contentions that she contacted her creditors to try to make repayment arrangements. To the contrary, she admitted that with the exception of the three accounts resolved, she made no recent efforts to contact her creditors or their respective collection agents. Instead, she talked about doing so, promised to do so, and actually filed for bankruptcy under Chapter 13 of the U.S. Bankruptcy Code in an effort to launch a repayment plan. That plan was abandoned in 2003. Thereafter, with the exception of the three resolved accounts, Applicant did not act aggressively, timely, or responsibly in an effort to resolve the remaining delinquent debts.

AG ¶ 20(e) does not apply because Applicant has not provided documented proof to substantiate the basis of any disputed account.

### **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

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<sup>60</sup> "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. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)).

<sup>61</sup> See 11 U.S.C. § 109(h):

. . . an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in [section 111\(a\)](#) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.

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.

There is substantial evidence in favor of mitigating Applicant's conduct. When Applicant undertook the financial responsibilities for her ailing mother and younger sisters, she was 20 years old, when she was too young to be made responsible for others. She exhibited the characteristics of being a very good and responsible daughter and older sister. And she experienced a lengthy period of unemployment in 2006. After a period of inaction during which she did not address her creditors, according to Applicant, she initiated some efforts to address her accounts. Now married and a mother, she has assumed the additional responsibilities of a homemaker. She has a written budget.

The disqualifying evidence under the whole-person concept is more substantial. While her mother's situation and that of her two younger sisters, along with Applicant's 2006 unemployment, were circumstances beyond her control, Applicant either had no ability or no intention to pay her delinquent accounts. She did not make any payments to her creditors. Despite the passage of time, there is no documentation to support her contentions that she had contacted her creditors. Her long-standing failure to repay creditors, at least in reasonable amounts, or to arrange payment plans, reflects traits which raise concerns about her fitness to hold a security clearance.

I am mindful that any one factor, considered in isolation, might put Applicant's credit history in a sympathetic light. I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.<sup>62</sup> Her insufficient good-faith efforts or documentary evidence to reflect actual payments to her SOR creditors are sufficient to raise continuing security concerns. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>63</sup>

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

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<sup>62</sup> See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); See also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

<sup>63</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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 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.

Overall, the record evidence leaves me with substantial questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has failed to mitigate the security concerns arising from her financial considerations.

### **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:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For 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:	Against Applicant
Subparagraph 1.t:	Against Applicant
Subparagraph 1.u:	Against Applicant
Subparagraph 1.v:	Against Applicant

Subparagraph 1.w:	Against Applicant
Subparagraph 1.x:	Against Applicant
Subparagraph 1.y:	Against Applicant
Subparagraph 1.z:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by 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.

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ROBERT ROBINSON GALES  
Administrative Judge