



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



In the matter of: )  
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----- ) ISCR Case No. 11-01359  
 )  
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Applicant for Security Clearance )

**Appearances**

For Government: Julie R. Mendez, Esquire, Department Counsel  
For Applicant: *Pro se*

December 6, 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 August 13, 2010, 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 an unspecified date, the Defense Office of Hearings and Appeals (DOHA) issued her a set of interrogatories. She responded to the interrogatories on April 29, 2011.<sup>2</sup> On August 4, 2011, DOHA issued a Statement of Reasons (SOR) to her, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review*

<sup>1</sup> Item 4 (SF 86), dated August 13, 2010.

<sup>2</sup> Item 5 (Applicant's Answers to Interrogatories, dated April 29, 2011).

*Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December 29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. 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. The SOR 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 August 10, 2011. In a sworn statement, dated August 11, 2011,<sup>3</sup> Applicant responded to the SOR allegations and elected to have her case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was provided to Applicant on September 8, 2011, and she was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. Applicant received the FORM on September 20, 2011, and timely submitted an additional statement,<sup>4</sup> with an attachment,<sup>5</sup> on September 26, 2011. The case was assigned to me on October 27, 2011.

### **Findings of Fact**

In her Answer to the SOR, Applicant admitted all but one (¶ 1.k.) of the factual allegations pertaining to financial considerations (¶¶ 1.a. through 1.p.) of the SOR. Those admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 39-year-old employee of a defense contractor, where until October 7, 2011, she served as an office administrator. On that date, Applicant was terminated because she did not yet have a security clearance.<sup>6</sup> She previously had a Secret security clearance starting in December 1991.<sup>7</sup> She enlisted in the U.S. Air Force in February 1991, and served on active duty until December 2000, when she was honorably discharged.<sup>8</sup> She had one overseas assignment in Southern Europe. No other information regarding Applicant's military service was provided. Applicant

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<sup>3</sup> Item 3 (Applicant's Answer to the SOR, dated August 11, 2011).

<sup>4</sup> Item 8 (Applicant's Answer to the FORM, dated September 26, 2011).

<sup>5</sup> Item 9 (Letter from Applicant's Employer, dated September 23, 2011).

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

<sup>7</sup> Item 4, *supra* note 1, at 43.

<sup>8</sup> *Id.* at 26-27.

attended a community college from August 1998 until October 2000, but did not earn a degree.<sup>9</sup>

Since her discharge from active duty in December 2000, Applicant worked in a variety of positions with various employers, primarily as a workload administrator, partner program manager, executive administrative assistant, and executive assistant. She joined her most recent employer in August 2010.<sup>10</sup> Applicant was also unemployed on at least four other occasions. She was laid off from a company that downsized in late 2001,<sup>11</sup> but it is unclear how long that period of unemployment lasted. She was also unemployed from January 2003 until February 2003,<sup>12</sup> from March 2004 until May 2004, and again from November 2007 until July 2010.<sup>13</sup>

Applicant was married in June 1993, and divorced in April 1997.<sup>14</sup> She has three children, born in July 2000, October 2003, and October 2005, respectively.<sup>15</sup>

### **Financial Considerations**

It is unclear when Applicant first started to experience financial difficulties, but it appears that her initial period of unemployment in 2001-2002 contributed to such difficulties. After being laid off, she was hospitalized for unspecified reasons, and was unable to work for an unspecified period.<sup>16</sup> She fell behind in maintaining her monthly payments, and a substantial number of accounts became delinquent.<sup>17</sup> In January 2002, Applicant filed for bankruptcy under Chapter 7 of the U.S. Bankruptcy Code.<sup>18</sup> Her unspecified liabilities were discharged in May 2002,<sup>19</sup> leaving her with a clean slate, financially. Applicant contended that when she secured new employment, and was working, she paid her bills, her mortgage, and her car payments.<sup>20</sup> It is unclear what impact, if any, her next two brief periods of unemployment had on her ability to remain current.

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<sup>9</sup> *Id.* at 14.

<sup>10</sup> *Id.* at 15-24.

<sup>11</sup> Item 8, *supra* note 4, at 2.

<sup>12</sup> Item 4, *supra* note 1, at 23-24.

<sup>13</sup> *Id.* at 21-22; Item 5 (Personal Subject Interview, dated September 23, 2010), 1, attached to Applicant's Answers to the Interrogatories.

<sup>14</sup> Item 4, at 30.

<sup>15</sup> *Id.* at 33-35.

<sup>16</sup> Item 8, *supra* note 4, at 2.

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

<sup>18</sup> Item 7 (Combined Experian, TransUnion, and Equifax Credit Report, dated September 15, 2010), at 5.

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

<sup>20</sup> Item 8, *supra* note 4, at 2.

Applicant attributed her current financial difficulties to her lay-off in November 2007, her continued unemployment until July 2010, the medical condition of her middle child, the difficulty in obtaining childcare for a child with special needs, her decision to care for her child at home, the difficulty in holding a job while taking children to the doctor and day care.<sup>21</sup> Applicant chose to stay at home until her daughter was healthy enough for Applicant to find a job that would pay her enough to afford proper care and pay for the basic necessities.<sup>22</sup> She claimed she did her best to pay her bills while unemployed, depleting her savings and 401(k), as well as reaching the credit limits of her credit cards.<sup>23</sup> Applicant noted:<sup>24</sup>

Being laid off my job was largely beyond my control and made me incapable of paying my debt but I acted as responsible as I could going from a \$55k salary a year to \$16k a year with all the same expenses. I acted as responsible as I could to maintain shelter and food and the basic necessities needed for living for me and my daughters.

Nevertheless, accounts became delinquent and were placed for collection with a variety of collection agents, and some of the accounts were charged off.

The SOR identified 15 continuing delinquencies as reflected by a credit report from 2010,<sup>25</sup> and another credit report from 2011,<sup>26</sup> totaling approximately \$71,028. Among the delinquencies are credit cards, utility accounts, mobile telephone accounts, an automobile loan, and home mortgages. Some accounts have been transferred, reassigned, or sold to other creditors or collection agents, and except where the actual transfers are reflected in the credit reports, it is nearly impossible to follow the trail from one creditor to another. Other accounts are referenced repeatedly in the different credit reports, in some 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.

Applicant claims that she took three classes for one and one-half hour per class in both 2009 and 2010, to obtain financial counseling in debt management and budgeting.<sup>27</sup> She failed to submit any documentation to support her claim. She also received additional financial counseling from an identified financial consultant in April

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<sup>21</sup> *Id.* at 1.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 2.

<sup>25</sup> Item 7, *supra* note 18.

<sup>26</sup> Item 6 (Equifax credit report, dated May 27, 2011).

<sup>27</sup> Item 5 (Personal Subject Interview), *supra* note 13, at 1-4.

2011.<sup>28</sup> That financial consultant assisted Applicant in preparing a financial management plan (FMP), indicating a monthly net income of \$3,274; \$3,004 in monthly living expenses; and \$270 debt payments; with a monthly net remainder of \$270 available for discretionary spending.<sup>29</sup> A proposed revision, as well as a personal financial statement (PFS) were also presented, indicating a monthly net income of \$3,274; \$2,904 in monthly living expenses; and \$320 debt payments; with a monthly net remainder of \$50 available for discretionary spending.<sup>30</sup>

In early July 2010, or some time prior to that date, more than a year before the SOR was issued, Applicant applied for a mortgage modification under the Home Affordable Modification Program (HAMFP).<sup>31</sup> In April 2011, four months before the SOR was issued, Applicant wrote letters to seven of her creditors or collection agencies, proposing repayment plans.<sup>32</sup>

In addition to Applicant's 2002 bankruptcy, the SOR debts can generally be divided into three separate categories: 1) those accounts that were purportedly paid off or otherwise resolved; 2) those accounts which were purportedly addressed by Applicant and placed into repayment plans; and 3) those accounts about which no known action has been taken.

Applicant contends the first category (those accounts that were purportedly paid off or otherwise resolved) consists of six accounts: There is an account with a bank (SOR ¶ 1.a.), referred to as a bank overdraft portfolio, with a delinquent balance of \$616, that was placed for collection in August 2010.<sup>33</sup> The collection agent made a settlement offer of \$400.80.<sup>34</sup> In her Answer to the SOR, Applicant admitted the account remained unpaid as of August 11, 2011.<sup>35</sup> However, in her Answer to the FORM, she amended her response and contended the account had been paid in full.<sup>36</sup> She failed to submit any documentation, such as cancelled checks, receipts, check registers, letters from the creditor, etc., to support her contention.

There are two separate credit card accounts with another bank with delinquent balances of \$530 (SOR ¶ 1.f.) and \$683 (SOR ¶ 1.g.), that were placed for collection

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<sup>28</sup> Item 5 (Letter from Applicant, undated), attached to Applicant's Answers to the Interrogatories.

<sup>29</sup> Item 5 (FMP, dated April 27, 2011), attached to Applicant's Answers to the Interrogatories.

<sup>30</sup> *Id.*; Item 5 (PFS, undated), attached to Applicant's Answers to the Interrogatories.

<sup>31</sup> Item 5 (Letter from bank, dated July 20, 2010), attached to Applicant's Answers to the Interrogatories.

<sup>32</sup> Item 5 (Letters to various creditors, all dated April 27, 2011), attached to Applicant's Answers to the Interrogatories. It should be noted that several of the collection agencies represented more than one creditor.

<sup>33</sup> Item 5 (Letter from Collection Agency, dated August 13, 2010), attached to Applicant's Answers to the Interrogatories.

<sup>34</sup> *Id.*

<sup>35</sup> Item 3, *supra* note 3, at 1.

<sup>36</sup> Item 8, *supra* note 4, at 2.

and charged off.<sup>37</sup> In her Answer to the FORM, she contended the accounts had been paid in full.<sup>38</sup> She failed to submit any documentation to support her contention.

Applicant has a home mortgage loan with an approximate balance of \$155,000 (SOR ¶ 1.i.), that became over 120 days past due, in the amount of \$37,119.<sup>39</sup> In her Answer to the SOR, Applicant admitted the account status, but indicated she had made two of the three scheduled payments, each for \$849.72, under the trial period plan of the HAMFP.<sup>40</sup> She supported her contention with documentary proof of such payments.<sup>41</sup> In her Answer to the FORM, she claimed the mortgage modification had been granted.<sup>42</sup> She failed to submit any documentation to support her claim.

Applicant has a home mortgage loan with a high credit of \$36,551 (SOR ¶ 1.j.), that became over 180 days past due, in the amount of \$46,515.<sup>43</sup> In her Answer to the FORM, Applicant contended the account had been approved for modification.<sup>44</sup> She failed to submit any documentation to support her claim.

There was an automobile loan, with a high credit of \$12,689 (SOR ¶ 1.l.), that was apparently opened in 2002, and subsequently became delinquent.<sup>45</sup> In 2004, the account was placed for collection and charged off in the amount of \$4,910.<sup>46</sup> In 2009, another collection agent or debt buyer again reported that \$4,910 had been charged off.<sup>47</sup> In her Answer to the SOR, Applicant contended the account was resolved when the parties went to court and the matter was dismissed.<sup>48</sup> In fact, she was correct, for the decision in her favor was issued in the state court in June 2006.<sup>49</sup>

Applicant contends the second category (those accounts which were purportedly addressed by Applicant and placed into repayment plans) consists of seven accounts: One mobile phone account (SOR ¶ 1.c.), with an outstanding balance of \$1,392, was

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<sup>37</sup> Item 6, *supra* note 26, at 2.

<sup>38</sup> Item 8, *supra* note 4, at 2.

<sup>39</sup> Item 6, *supra* note 26, at 2.

<sup>40</sup> Item 3, *supra* note 3, at 2, 4.

<sup>41</sup> (Item 3 (Bank Transaction History, dated July 26, 2011).

<sup>42</sup> Item 8, *supra* note 4, at 2.

<sup>43</sup> Item 6, *supra* note 26, at 2.

<sup>44</sup> Item 3, *supra* note 3, at 2.

<sup>45</sup> Item 7, *supra* note 18, at 10. This information was furnished by Experian.

<sup>46</sup> *Id.* at 11. This information was furnished by Equifax.

<sup>47</sup> *Id.* This information was furnished by TransUnion.

<sup>48</sup> Item 3, *supra* note 3, at 5.

<sup>49</sup> Item 3 (Online Judicial System Case Information, dated August 11, 2011).

placed for collection in September 2010,<sup>50</sup> and eventually assigned to another collection agency.<sup>51</sup> A utility account (SOR ¶ 1.d.), with an outstanding balance of \$997, was placed for collection in November 2009.<sup>52</sup> One payment to a homeowners association was returned for insufficient funds, and the account (SOR ¶ 1.e.), in the amount of \$480, including fees, was placed for collection in February 2008.<sup>53</sup> One telephone account (SOR ¶ 1.k.), in the amount of \$1,710, was placed for collection in April 2010.<sup>54</sup> Two separate automobile rental accounts with the same rental agency (SOR ¶ 1.m.), in the amount of \$221, and (SOR ¶ 1.n.), in the amount of \$449, were placed for collection in August 2010 and September 2009, respectively.<sup>55</sup> One bank credit card account (SOR ¶ 1.o.), in the amount of \$545, was placed for collection in August 2010.<sup>56</sup> In her Answer to the FORM, she asserted each of the accounts had been entered into agreed repayment plans,<sup>57</sup> but she did not state the specifics of those plans. She failed to submit any documentation to support her assertion.

The third category (those accounts about which no known action has been taken), consists of two accounts: One telephone account (SOR ¶ 1.b.), in the amount of \$327, was placed for collection November 2009.<sup>58</sup> One car loan (SOR ¶ 1.h.), with a high credit of \$18,865, and a delinquent balance of \$10,079, was placed for collection and charged off in September 2010.<sup>59</sup> Applicant claims she voluntarily relinquished the vehicle, and the amount is described as “interest still owed.”<sup>60</sup> Applicant has not described any actions by her related to resolving these accounts.

## 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>61</sup> As Commander in Chief, the President has the authority to control access to information bearing on national

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<sup>50</sup> Item 7, *supra* note 18, at 9.

<sup>51</sup> Item 6, *supra* note 26, at 1.

<sup>52</sup> Item 7, *supra* note 18, at 8.

<sup>53</sup> *Id.* at 10.

<sup>54</sup> *Id.* at 7.

<sup>55</sup> *Id.* at 11.

<sup>56</sup> *Id.* at 10.

<sup>57</sup> Item 5, *supra* note 2, at 2.

<sup>58</sup> Item 6, *supra* note 26, at 1.

<sup>59</sup> Item 7, *supra* note 18, at 7.

<sup>60</sup> Item 3, *supra* note 3, at 4.

<sup>61</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

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 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>62</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>63</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>64</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.

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<sup>62</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>63</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>64</sup> *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).



Furthermore, “security clearance determinations should err, if they must, on the side of denials.”<sup>65</sup>

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>66</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 relating to the guideline 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, in May 2002, Applicant’s debts were discharged under Chapter 7 of the U.S. Bankruptcy Code. Her next period of financial difficulties arose in November 2007, when she again encountered financial difficulties which have largely continued until the present. Accounts became delinquent and were placed for collection or charged off, an automobile was voluntarily relinquished, and mortgages became past due. 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*

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<sup>65</sup> *Egan*, 484 U.S. at 531

<sup>66</sup> See Exec. Or. 10865 § 7.

*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 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>67</sup>

AG ¶ 20(a) does not apply. The nature, frequency, and relative recency of Applicant's continuing financial difficulties make it difficult to conclude that it occurred "so long ago" or "was so infrequent." Applicant attributed her financial difficulties to her lay-off, the medical condition of her middle child, the difficulty in obtaining childcare for a child with special needs, her decision to care for her child at home, and the difficulty in holding a job while taking children to the doctor and day care. With the exception of her getting another job in July 2010, Applicant has offered no evidence of any change in her family circumstances that might indicate how those earlier described difficulties have been minimized by her reemployment. In fact, after analyzing her comments, I have found little evidence that Applicant ever took any steps towards obtaining new employment "that would pay [her] a salary that [she] could at least live humanely," until 2010. In light of Applicant's lengthy period of continuing financial problems, it is unlikely that they will be resolved in the short term, and are likely to recur. Accordingly, Applicant failed to mitigate her financial situation, and under the circumstances, her actions do cast doubt on her current reliability, trustworthiness, and good judgment.<sup>68</sup>

AG ¶ 20(b) partially applies because Appellant's financial situation was, in some measure, caused by her lay-off, unemployment, and the medical condition of one of her children. However, given the period of unemployment, and Applicant's decision to remain home rather than seeking even part-time employment, it is unclear how much of her unemployment was beyond her control. With the exception of seeking a mortgage

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<sup>67</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 she 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)).

<sup>68</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

modification for one of her mortgages in 2010, I am unable to conclude that Applicant acted responsibly under the circumstances.

AG ¶ 20(c) partially applies because Applicant supposedly received a variety of financial counseling and guidance but only provided documentation to support her claims regarding the most recent financial counseling.

AG ¶ 20(d) applies only very minimally. As noted above, it was not until 2010 that Applicant approached her mortgage lender to apply for a mortgage modification under HAMFP. It was not until April 2011 that Applicant wrote letters to seven of her creditors or collection agencies, proposing repayment arrangements. Of the 15 delinquent accounts listed in the SOR, Applicant contended that she paid off or otherwise resolved 6 accounts; and that 7 accounts were placed into repayment plans. Unfortunately, with the exception of one account (SOR ¶ 1.I.), Applicant failed to submit any documentation to support her contentions. She has not described any actions with respect to two other accounts.

### **Whole-Person Concept**

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

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

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. Moreover, 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>69</sup>

There is some evidence in favor of mitigating Applicant's conduct: Applicant's unemployment; her child's health issues; her efforts to modify her home mortgage in 2010; the seven creditors she wrote in April 2011, proposing repayment plans; and her purportedly paying off some accounts, and making some payments.

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<sup>69</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).

The disqualifying evidence under the whole-person concept is more substantial. Applicant has a history of repeated financial delinquencies. After the bankruptcy discharge of her debts in May 2002, she entered another phase of her financial life, and in 2007, again permitted accounts to become delinquent. She contended she is paying some accounts under approved repayment plans and that some accounts have been paid off. Nevertheless, she failed to submit any documentation, such as cancelled checks, receipts, check registers, letters from the creditor, etc., to support her contention. As noted above, with the exception of one account, there is no evidence that any of the other accounts have been resolved. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

### **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:	For Applicant
Subparagraph 1.m:	Against Applicant
Subparagraph 1.n:	Against Applicant
Subparagraph 1.o:	Against Applicant
Subparagraph 1.p:	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