



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



In the matter of: )  
)  
) ISCR Case No. 11-04144  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: David F. Hayes, Esquire, Department Counsel  
For Applicant: *Pro se*

03/30/2012

**Decision**

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant is held liable to repay \$68,000 in delinquent federal taxes and around \$9,600 in state taxes that are solely her ex-husband's responsibility in their divorce. Also, he defaulted on their home loans without her knowledge. Applicant satisfied the state tax debt in April 2011, and she is repaying the IRS at \$401 every two weeks. Their primary mortgage was satisfied through a foreclosure sale, and Applicant is not currently being pursued for the \$112,244 charged-off second mortgage. Her sizeable debt burden raises financial concerns, but extenuating circumstances warrant continuation of the security clearance she has held for about 25 years. Personal conduct concerns raised by her failure to disclose the delinquent mortgages during a subject interview are not established in the absence of knowing concealment. Clearance granted.

**Statement of the Case**

On November 8, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns

under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) why it was unable to find that it is clearly consistent with the national interest to continue her security clearance. DOHA took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

Applicant answered the SOR allegations on December 27, 2011, and she requested a hearing. On February 7, 2012, the case was assigned to me to conduct a hearing to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On February 14, 2012, I scheduled a hearing for March 14, 2012.

I convened the hearing as scheduled. Eight Government exhibits (GEs 1-8) and eight Applicant exhibits (AEs A-H) were admitted without objection. Applicant, two co-workers, and her fiancé testified, as reflected in a transcript (Tr.) received on March 23, 2012.

### **Findings of Fact**

The SOR alleges under Guideline F that as of November 8, 2011, Applicant owed two delinquent mortgage debts of \$409,000 (SOR 1.a) and \$112,000 (SOR 1.b), about \$60,000 in past-due federal taxes (SOR 1.c), and a state tax lien of \$4,932 (SOR 1.d). Under Guideline E, Applicant allegedly omitted material facts during a January 2011 interview with an authorized investigator for the DOD in that she failed to disclose the delinquent mortgages before being confronted with the information (SOR 2.a).

In her Answer, Applicant indicated that she learned that their marital home was in foreclosure in September 2008, when she caught her spouse with another woman. The house then sold for \$245,000. On receiving a notice of tax delinquency from the IRS, she discovered that her ex-husband had filed a Chapter 13 bankruptcy in May 2007, but he had not followed through with the payments. She was awaiting judgment from the IRS on her application as an “innocent spouse.” She denied the state tax debt because she had satisfied it. Applicant also denied that she had deliberately omitted any information from the investigator. She did not know who held the mortgages because her spouse took care of the mortgage payments.

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 50-year-old senior executive assistant, who has worked for the same defense contractor since May 1981. (GEs 1, 3; AE H.) She has held a secret security clearance for the last 25 years or so. (Tr. 78.) Her present clearance was renewed in April 1997. (GE 1.)

In mid-October 1994, Applicant married a self-employed realtor (hereinafter ex-husband) with two daughters, who were then age 15 and almost 11. (GE 1; Tr. 56-57.) In July 1995, Applicant and her ex-husband bought their first house together, taking out a joint conventional 30-year mortgage of \$137,750. They made their monthly payments of \$1,400 on time and paid off the loan in January 1999 by refinancing with another lender through a new mortgage of \$136,950. (GE 4.)

In October 2001, Applicant and her ex-husband bought a new home. They took out a primary mortgage of \$315,000, to be repaid at \$2,403 per month for 30 years.<sup>1</sup> In August 2002, they opened a second mortgage of \$68,463, adding \$691 to their monthly mortgage obligations. They refinanced their first mortgage in March 2003 for a loan of \$430,000, although they lowered their principal balance to \$360,800 by another refinancing in July 2004. In February 2005, they refinanced again, opening a joint conventional first mortgage of \$420,000 and a second mortgage of \$105,000. In July 2005, the mortgages were transferred to the lenders identified in SOR 1.a and 1.b. Applicant's ex-husband handled the mortgage payments, which together totaled around \$3,781. He made timely mortgage payments for the first year and then began to fall behind on both loans. He stopped paying on the second mortgage in May 2006 and on the first mortgage around August 2006. As of December 2006, their second mortgage was charged off and placed for collection with a reported outstanding balance of \$112,244, \$7,342 of which was past due (SOR 1.b). As of February 2007, their primary mortgage was \$11,755 delinquent on a \$412,580 balance (SOR 1.a). (GEs 4, 5.) Applicant was unaware that their mortgages were not being paid. (Tr. 59.) She never saw the bills because her ex-husband collected the mail before she came home. (Tr. 79.)

Applicant and her ex-husband also owed delinquent federal income taxes for tax years 2001, 2005, and 2006 and state income taxes for tax years 2001, and 2004 through 2006. She had income taxes withheld from her wages, but he did not cover his taxes from his self-employment. He had a couple of "very good years" and did not pay the taxes that were owed. (AE A.) They filed joint returns, which he completed. She knew about the tax underpayments for 2001, 2005, and 2006 at the time, but he promised he would pay the taxes owed because she had already paid her share through withholdings from her wages. (GEs 2, 3; Tr. 57-58.)

Around January 2007, Applicant became aware that her ex-husband was not paying his share of their tax debt because the state garnished her wages at about \$350 per paycheck. (GEs 1, 3.) When Applicant applied for an update of her security clearance on March 5, 2007, she disclosed on her Electronic Questionnaire for Investigations Processing (e-QIP) that the state tax authority had garnished her wages for back taxes because her ex-husband was in real estate and the market crashed. (GE 1.)

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<sup>1</sup>Their mortgage was sold before they made their first payment. They refinanced several times to give her ex-husband more time to earn the income to pay the mortgage. She was not involved other than to sign the final mortgage papers. (Tr. 58-59.)

Around September 2008, Applicant caught her ex-husband with another woman. His infidelity ended their marriage. As Applicant was moving out of the family home, her ex-husband told her that foreclosure proceedings had been initiated for non-payment of their mortgages. She had not known before then that they were behind in their mortgage payments. As of February 2009, they were behind \$54,099 on their first mortgage, which should have been paid at \$3,182 per month. (GE 5; Tr. 59-60.) As their marriage was ending, she also learned that he had filed for Chapter 13 bankruptcy in May 2007, listing the mortgages and tax debts so that she would not be held responsible for them. (Tr. 61.)

In 2009, Applicant began receiving notices of tax delinquency from the IRS for her ex-husband's failure to pay his self-employment taxes. Applicant contacted her ex-husband and learned that he had not made his bankruptcy payments. (AE A; Tr. 66, 79-80.) In January 2010, Applicant filed for divorce. (GE 3; Tr. 59.) As reflected in their divorce papers, Applicant and her ex-husband owed the IRS about \$60,000 in unpaid taxes, penalties, and interest for tax years 2001, 2005, and 2006. Their state tax liability was about \$8,000 for tax years 2004 and 2005. Although they filed jointly for tax year 2008, they owed no taxes on those returns. They filed separately for tax year 2009. Applicant's ex-husband acknowledged in the divorce that the federal and state income tax delinquencies resulted from his failure to pay any taxes or a sufficient amount of estimated taxes. He was held solely financially responsible in the divorce to pay any tax delinquency due and owing prior to tax year 2009, and to hold harmless and indemnify Applicant for all unpaid taxes, interest, and penalties incurred during their marriage except for 2009, when they filed separate returns. (AE E.)

The IRS and state pursued Applicant for the delinquent taxes that her ex-spouse accrued. Applicant filed an application with the IRS to waive her tax repayment liability on the basis that she was an innocent spouse. (Tr. 66.) In 2010, the state garnished \$4,935.65 from Applicant's wages. (GE 2; AE D.) In September 2010, the state filed a tax lien against Applicant in the amount of \$4,932 for additional state taxes (SOR 1.d). (GEs 3, 6-8.) In 2011, \$4,675.68 was deducted from Applicant's wages from January 2011 to April 21, 2011, to satisfy the state tax debt. (GE 2; AE D.)

On January 10, 2011, Applicant was interviewed by an authorized investigator for the DOD about the tax debts and the delinquent mortgages. She volunteered that the state had filed a tax levy against her in September 2010 for her ex-husband's back taxes because they had filed joint returns from 1994 through 2008, and her wages were currently being garnished. Applicant was then confronted with the adverse credit information reported on her record by the lenders holding the mortgages on her marital home (SOR 1.a and 1.b). Applicant did not know the names of her mortgage lenders before being shown her credit report, and although she knew that the home she had shared with her ex-husband was in foreclosure, she thought she did not owe any liability. (Tr. 74-75.) She had obtained her credit report for her divorce in 2010, and because the second mortgage was listed as a charge-off, she believed she had no further liability. (Tr. 79, 88.) Applicant indicated she was able to cover her monthly

obligations even with the wage garnishment, and she was to maintain checking and savings account balances totaling \$450. (GE 3.)

As of April 26, 2011, the delinquent mortgages were still on Applicant's credit record. The second mortgage was reportedly charged off with about \$112,000 owed as of December 2006. Similarly, there had been no effort to update the balance of the primary mortgage, which reportedly was \$54,099 past due on a \$409,000 balance as of February 2009. (GE 6.) On July 18, 2011, in response to DOHA interrogatories, Applicant indicated that after her divorce, she was responsible for half of the mortgage balances. They owed \$227,324.67 on the first mortgage. As for the second mortgage, she was advised by the lender to have the \$112,000 reported charge-off balance removed from her credit record. Applicant added that she was paying the IRS \$600 per month toward \$60,000 in past-due federal income taxes that are solely her ex-husband's responsibility per their divorce. (GE 2.)

As of August 23, 2011, Applicant was making timely payments on \$16,057 in revolving charge debt on three credit card accounts, two of which were over their limit by \$84 and \$98 respectively. (GE 7.) As of October 19, 2011, she owed a total of \$16,664 on the three active credit card accounts. She had managed to bring the largest debt under its \$10,000 credit limit, but was reportedly \$106 over the limit on another account. (GE 8.) As of February 19, 2012, she had lowered her outstanding revolving credit debt to \$7,574. Her credit record had been corrected to reflect that the primary mortgage lender had redeemed the property to settle the defaulted mortgage, and she and her ex-husband had a zero balance on their account. (AE B; Tr. 44.) Their second mortgage was on her record as a charge-off balance of \$112,244 with \$7,342 past due. (AE B.) On seeing the debt on her credit report, she began calling the lender every day in an effort to determine her repayment liability, if any. She has been told that she is not in the system so they cannot help her. (Tr. 44, 52-53.) Applicant has received no collection notices or calls about the debt. She intends to continue to look into it. (Tr. 52-53.)

The IRS denied Applicant "innocent spouse" status that would have relieved her of repayment liability for the \$68,000 in federal tax debt because she had not filed the application within two years of incurring the tax debt. (Tr. 80-81.) In 2011, she reapplied after a change in the law, and was again denied. (Tr. 80.) On the advice of the IRS, Applicant filed a form in January 2012 to reduce her repayment liability to half of the balance. Two weeks later, having heard nothing on her application, Applicant received a call from an IRS agent threatening to garnish her wages. She "just decided enough is enough," and she began to arrange for payments. (Tr. 66, 81-82.) She paid the IRS around \$500 in January 2012, and the IRS applied her latest refund of \$3,200 to the delinquent taxes owed for 2005. (Tr. 67-68.) Effective February 13, 2012, \$401 per paycheck is being deducted from her wages for the delinquent federal taxes accrued during her marriage plus penalties and interest.<sup>2</sup> (AEs F, G; Tr. 44, 64, 67.) At the present rate, it will take her six years to satisfy the delinquent federal taxes. (Tr. 67.)

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<sup>2</sup>Applicant testified that she is on a payment plan with the IRS whereby the payment is automatically taken out of her pay. (Tr. 44, 67). While this suggests a voluntary garnishment, the deduction is noted on

Applicant's base salary is \$80,000 annually, although she works six to ten hours of overtime a week. (Tr. 76-77.) She has a net monthly remainder around \$500 after paying her expenses and \$802 toward the delinquent federal taxes. (Tr. 70.) She does not anticipate that her ex-husband will pay any of the tax debt, even though he admits it is his sole responsibility. (AE A; Tr. 63, 71.) Her ex-husband is working at a restaurant following his recent release from 3.5 months in correctional custody for felony real estate fraud. (Tr. 61-63.) Applicant and her fiancé, who works for the same defense contractor at another location, have planned for a long engagement, given her debt problem. (Tr. 90-91.) He has told her that once they relocate together, her pay will go entirely toward the delinquent debt incurred during her first marriage. He plans to cover the rent and utilities on his salary. (Tr. 84-85.) As of February 21, 2012, Applicant filed a dispute to have the state tax lien removed from her credit record because she had satisfied the back state taxes. (AE B.)

Applicant has exceeded her employer's requirements since at least 2004, if not before. Over the past three years, her overall performance has been rated as "Far Exceeds Requirements." (AE H.) Applicant regularly has access to classified information as well as sensitive business and personnel documentation in the course of her duties as a senior executive assistant to the vice president for a global program. (AE C; Tr. 25-26.) Her present supervisor relies heavily on her. (AE H; Tr. 27.) Another company vice president, who has worked closely with Applicant since November 2000 and supervised her performance for about ten years, supports Applicant's continued eligibility for a security clearance without reservation. She has never had reason for concern about Applicant's professionalism or her personal integrity and trustworthiness. Applicant did not allow challenges in her personal life to adversely affect her work. (AE C.)

Applicant has no security violations or lesser security infractions on her record. (Tr. 26-27, 37.) She also has the full support of the director of human resources (Tr. 28), and of the security manager, who has worked with her for 28 or 29 of his 39 years with the company. (Tr. 34-35.) The security manager has worked with Applicant at different facilities that are all cleared to the top-secret level. (Tr. 36.) Applicant is up-to-date in her security training. (Tr. 37.) The security manager considers her to be "most trustworthy to handle any level of classified information." (Tr. 38.) The personnel manager is aware that Applicant has had some financial issues involving her ex-husband's failure to pay their mortgage (Tr. 29), while the security manager knows only that Applicant has had to pay some of her ex-husband's debts. (Tr. 39.) Neither coworker knows the amount of the debt involved.

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy*

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her earnings statement as a tax levy. (AE G.)

*v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

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

The security concerns for Financial Considerations are 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.

Guideline F notes several conditions that could raise security concerns. AG ¶ 19(c), "a history of not meeting financial obligations," is established. While Applicant had federal and state income taxes withheld from her pay, her ex-husband failed to comply with his tax obligations for several years starting in 2001. Although he was ordered in their divorce to repay the delinquent taxes through tax year 2008, Applicant was held liable, as a joint filer, for \$68,000 in federal income tax delinquency (including penalties and interest) and \$9,600 in state tax delinquency that her ex-husband either could not or would not pay. Furthermore, her ex-husband defaulted on their mortgages, albeit without her knowledge. While their primary mortgage debt of \$227,324.67 was paid through a foreclosure sale, their second mortgage of \$112,244 was charged off with \$7,342 past due. AG ¶ 19(a), "inability or unwillingness to satisfy debts," applies in that Applicant knew as of January 2007, if not before, that her spouse had not paid his share of the taxes in 2001, 2005, and 2006.

Concerning potential mitigation, AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment," is implicated. Applicant is now divorced from her ex-husband, who handled the mortgages and taxes and knowingly incurred the debt. There is no evidence that Applicant has failed to comply with her tax obligations on returns filed as a single person, or that she has failed to pay her rent on time since she left the marital home in September 2008. While the circumstances that led to the debts are not likely to recur, I cannot give full mitigating weight to AG ¶ 20(a) in light of the outstanding federal income tax debt that must be paid, with or without her ex-husband's assistance.

Mitigating condition AG ¶ 20(b), "the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances," applies in that Applicant was completely unaware that she and her ex-husband were behind on their mortgages before she discovered his affair. However, notwithstanding the spousal relationship and her full-time employment, Applicant had a responsibility to ensure that her ex-husband covered their joint tax debt. She apparently relied on his assurances that he would take care of it, and she did not check with the state or the IRS to ensure that payments were being made. Applicant bears some responsibility for the substantial financial burden that she now faces.

Applicant's primary mortgage (SOR 1.a) and the state tax delinquency (SOR 1.d) have been resolved through foreclosure and wage garnishment, respectively. Although legal means to address delinquency, they lack the voluntariness contemplated within



mitigating condition AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.” Yet, there are extenuating circumstances that warrant consideration of AG ¶ 20(d). Applicant was not given a reasonable opportunity to rehabilitate the mortgage loans. She learned of the delinquencies when their property was already in foreclosure, and she was told that the home loans and delinquent taxes were being addressed by her ex-husband in his individual Chapter 13 filing. Applicant did not know that her ex-husband was not making his bankruptcy payments until 2009, when she began to receive notices of tax delinquency from the IRS. Since her ex-husband had been ordered in their divorce to repay the tax delinquency, Applicant had a reasonable basis to apply for a waiver of her repayment liability as an innocent spouse. After the IRS denied innocent spouse status, Applicant reportedly paid the IRS \$600 per month as of July 2011. It is unclear how many payments she made before she applied for a reduction of her tax liability around January 2012. While awaiting a decision from the IRS on that issue, she paid the IRS around \$500 in January 2012 and, albeit in response to a threatened garnishment, agreed to an IRS levy of her wages at \$401 per paycheck starting in February 2012. However, AG ¶ 20(d) is difficult to apply to the delinquent second mortgage (SOR 1.b) without any payments on the debt or proof that she is no longer liable. Applicant was held responsible in her divorce for half of the mortgage debt. She had contacted the lender as of July 2011, and was apparently told to have the debt removed from her credit record. Yet, it is still listed as a charge-off balance with \$112,244 owed.

AG ¶ 20(c), “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control,” is partially satisfied in that the primary mortgage and state tax debts have been resolved. With the IRS debt being repaid at \$802 per month, it is going to take Applicant six years to repay the federal tax delinquency, unless her ex-husband makes some payments, which is unlikely. There has been no effort to collect the \$112,244 charge-off balance of the second mortgage from Applicant. If she is held responsible to repay all or even half of the balance, she does not presently have the financial means to make other than small payments. Should Applicant and her fiancé relocate together, she will be able to use all of her income to repay the debt as her fiancé has promised to cover their living expenses. While I am persuaded of Applicant’s good faith intent to continue to address the debts for which she is held liable, it is too soon to fully apply AG ¶ 20(c). Since January 2012, the IRS debt has been reduced by only about \$4,903.<sup>3</sup>

## **Personal Conduct**

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

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness and ability to protect

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<sup>3</sup>Applicant testified that the IRS debt has accrued to \$68,000, likely due to interest and penalties. The \$4,903 includes Applicant’s payment of \$500 in January 2012, three deductions from her wages of \$401 each from February 2012 to mid-March 2012, and the IRS interception of her \$3,200 tax refund.

classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The Government alleged that Applicant deliberately withheld the mortgage delinquencies from an authorized investigator until she was confronted with the information (SOR 2.a). Applicant denies any dishonesty, contending that she was unaware of the specific accounts, including the identities of the lenders, or that she owed any liability for the home loans, which were handled exclusively by her ex-husband. The investigator reported that Applicant “was confronted with” the delinquent mortgage accounts on her credit record, and that Applicant “did not volunteer this information because she was unaware of these accounts being listed on her credit report.” There is no evidence showing that Applicant was asked about any mortgage delinquency and denied it. Rather, when asked about the specific accounts, she expressed her belief that they could be related to the mortgages on the foreclosed home she had shared with her ex-husband, although she knew little about the accounts. Earlier during the interview, Applicant had “volunteered” information about the state tax levy in September 2010 to the investigator, which shows willingness on her part to cooperate with the investigation. AG ¶ 16(b), “deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative,” is not established in the absence of intentional omission or concealment.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).<sup>4</sup>

Applicant is a longtime employee of a defense contractor who has shown that she can be trusted with classified information. She knew as of January 2007, if not before, that her ex-husband was struggling to pay his share of their joint income tax obligations due to a downturn in the real estate market. But she has also been victimized by her ex-husband, who is unwilling or unable to pay his tax obligations. Her sizeable federal income tax burden was not the result of her own financial irresponsibility except that she probably should have monitored her ex-husband’s efforts to address the debt in light of their joint liability. As for the risk of Applicant having to engage in illegal acts to generate funds to repay the debt, Applicant could have been

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<sup>4</sup> The factors under AG ¶ 2(a) are as follows:

- (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.

overwhelmed by the situation. Despite a perceived unfairness, which to some extent is justified, she is repaying the IRS at a rate she can afford. Given her commitment to her employer, Applicant is not likely to jeopardize her security clearance by failing to comply with her repayment obligations. Based on a whole-person assessment, I conclude that it is clearly consistent with the national interest to continue her security clearance.

### **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

    Subparagraph 1.a-1.d:       For Applicant

Paragraph 2, Guideline E:       FOR APPLICANT

    Subparagraph 2.a:         For Applicant

### **Conclusion**

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

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Elizabeth M. Matchinski  
Administrative Judge