



**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. 12-09434

**Appearances**

For Government: Chris Morin, Esquire, Department Counsel

For Applicant: *Pro se*

07/21/2017

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**Decision**

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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 February 24, 2012, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.<sup>1</sup> On April 18, 2016, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to her, under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining Eligibility For*

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<sup>1</sup> GE 1 (e-QIP, dated February 24, 2012). It should be noted that Applicant's last name has changed during this security clearance process because of successive marriages and divorces. Accordingly, the SOR refers to her by one name, her Answer is signed in another name, and the Notice of Hearing was issued to the name she preferred during the hearing.

*Access to Classified Information* (December 29, 2005) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006.<sup>2</sup> The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD adjudicators were unable to find 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 received the SOR on May 5, 2016. On May 23, 2016, she responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on July 15, 2016. The case was assigned to me on October 26, 2016. A Notice of Hearing was issued on November 4, 2016. I convened the hearing as scheduled on December 6, 2016.

During the hearing, four Government exhibits (GE) 1 through GE 4, one Administrative exhibit, and four Applicant exhibits (AE) A through AE D were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on December 15, 2016. I kept the record open to enable Applicant to supplement it. She took advantage of that opportunity and timely submitted several documents, which were marked and admitted as AE E through AE AZ, without objection. The record closed on January 12, 2017.

### **Findings of Fact**

In her Answer to the SOR, Applicant admitted, with comments, five of the factual allegations pertaining to financial considerations (§§ 1.b., 1.c., 1.e., 1.f., and 1.i.) of the SOR. She denied the remaining allegations, with comments.<sup>3</sup> Applicant's admissions and comments 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 31-year-old employee of a defense contractor. She has been a cyber-doctrine writer with her employer since April 2016. She was previously a cyber-security analyst with two other companies from December 2010 until January 2016, and briefly served as a county animal control officer. She is a 2004 high school graduate with some college credits, but no degree. Applicant enlisted in the U.S. Army in April 2005, and she served on active duty until December 2010, when she was released as a

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<sup>2</sup> Effective June 8, 2017, by Directive 4 of the Security Executive Agent (SEAD 4), dated December 10, 2016, *National Security Adjudicative Guidelines* for all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position, were established to supersede all previously issued national security adjudicative criteria or guidelines. Accordingly, those guidelines previously implemented on September 1, 2006, under which this security clearance review case was initiated, no longer apply. In comparing the two versions, there is no substantial difference that might have a negative effect on Applicant in this case.

<sup>3</sup> It should be noted that due to a drafter's error, the SOR does not contain an allegation 1.g. See Tr. at 11.

sergeant (E-5) due to pregnancy or childbirth. She received an honorable discharge.<sup>4</sup> She remained in the Army inactive Reserves until 2012. Applicant was granted a top-secret security clearance in 2005. Applicant was married in December 2005 and divorced in September 2007; remarried in June 2008, separated in 2012, and divorced in April 2016; and remarried once again in June 2016. Applicant had one child in 2004, but that child was given up for adoption. She has two daughters (born in 2007 and 2011), one son (born in 2009), and two stepchildren.

## **Military Service, and Awards and Decorations**

Applicant was deployed to a designated imminent danger pay area in Iraq from October 2006 until December 2006. She was awarded the Army Commendation Medal, the Army Achievement Medal, the Army Good Conduct Medal, the National Defense Service Medal, the Global War on Terrorism Service Medal, the Iraq Campaign Medal (with one star), and the Army Service Ribbon.<sup>5</sup> Applicant's senior rater characterized her overall performance as successful and her overall potential for promotion and/or service in positions of greater responsibility as superior.<sup>6</sup>

## **Financial Considerations<sup>7</sup>**

It is unclear when Applicant's finances became a problem for her. She encountered several periods of unemployment; lost renters; was the victim of unspecified fraudulent charges totaling \$1,500 by someone in her family who was close to her; and acknowledged that she and her ex-husband mismanaged their funds. Applicant was unemployed from April 2004 until April 2005; was laid off in October 2013 and remained unemployed until January 2015; and was unemployed from January 2016 until April 2016. In 2008, while in the middle of a permanent change of station, Applicant learned that there was "a large fraudulent charge on [her] account," which caused a variety of financial problems, about which she did not specifically elaborate. She claimed that she lost her house and car after her bank refused to refund the money because she was unable to prove that the charge was fraudulent. The combination of such factors apparently resulted in her financial issues.

At some point during 2008 and February 2012, Applicant enrolled in a recognized debt-management program and obtained financial guidance and counseling to address budgeting, bill management, and eliminating credit card debt, essentially to get her debts

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<sup>4</sup> AE AP (Certificate of Release or Discharge from Active Duty (DD Form 214), dated December 1, 2010; AE AN (Enlisted Record Brief, dated November 8, 2010); AE AO (Miscellaneous Military Records pertaining to release from active duty, various dates).

<sup>5</sup> AE AP, *supra* note 4; AE AN, *supra* note 4.

<sup>6</sup> AE AG (NCO Evaluation Report, dated February 18, 2009); AE AK (NCO Evaluation Report, dated March 8, 2010); AE AG (NCO Evaluation Report, dated November 30, 2010).

<sup>7</sup> General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE, *supra* note 1; GE 2 (Combined Experian, TransUnion, and Equifax Credit Report, dated March 13, 2012; GE 3 (Equifax Credit Report, dated November 20, 2014); GE 4 (Equifax Credit Report, dated July 27, 2015); AE A (Applicant's Answer to the SOR, with notations), dated May 24, 2016; AE B (TransUnion Credit Report, dated December 5, 2016); and AE C (Equifax Credit Report, dated December 5, 2016).

consolidated or removed from her credit report.<sup>8</sup> In May 2016, shortly after obtaining employment, she enrolled in another recognized debt-management program. This program was primarily for credit repair - to set up a budget, prioritize her debts, and assist her in distributing funds to her various creditors. Applicant agreed to pay the organization a \$50 monthly program fee and deposit \$267 each month. From her monthly deposits, the organization would forward payments to Applicant's creditors.<sup>9</sup> With the organization's assistance, Applicant established some repayment plans and made monthly payments to several creditors, commencing in May 2016, and continuing until September 2016. However, at some point in October 2016, Applicant realized that the service was not working as it was initially described, for several of the creditors returned her payments. Applicant terminated the service.<sup>10</sup> There is little evidence that she made efforts to address her debts between September 2016 and December 2016. The day after the hearing, Applicant wrote each of her remaining creditors and requested validation of the identified debts. It is unclear if she ever received the requested information.

The SOR identified 13 purportedly delinquent debts that had been placed for collection or charged off, as generally reflected by her March 2012 credit report, her November 2014 credit report, or her July 2015 credit report. Those debts total approximately \$31,806. Their current status, according to the credit reports, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below. These accounts can be divided into two separate groups. The first group consists of those accounts that have either been resolved, or are in the process of being resolved, or Applicant attempted to resolve, and the status is confirmed with some documentary evidence; and the second group consists of those accounts that Applicant contends she has paid off, or otherwise resolved, or she attempted to resolve, but has offered no documentation, such as repayment agreements, cancelled checks, receipts, or account statements, to confirm her contentions.

Among the first group of accounts, are the following: there are two snapshots of the same bank credit card account with an unpaid balance of \$1,838 that was placed for collection and sold to a debt purchaser. Applicant entered into a repayment agreement and eventually paid the debt purchaser \$1,976.77, resolving the account (SOR ¶¶ 1.c. and 1.k);<sup>11</sup> there is an unspecified type of account with an unpaid balance of \$3,753 that was placed for collection and charged off. Applicant purportedly entered into a repayment agreement, and she made monthly payments of \$79 since June 2016 (SOR ¶ 1.e.).<sup>12</sup> The

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<sup>8</sup> GE 1, *supra* note 1, at 31; Tr. at 60.

<sup>9</sup> Tr. at 52-53; AE Y (Letter, dated July 7, 2016); AE AD (Program Information, undated); AE AB (Monthly Statement, dated May 2016).

<sup>10</sup> Tr. at 33-34; AE AR (Monthly Statement, dated October 2016).

<sup>11</sup> AE AE (Payment Plan, undated); AE AB (Monthly Statement, dated May 2016); AE AC (Letter, dated June 6, 2016); AE X (Monthly Statement, dated June 2016); AE V (Monthly Statement, dated July 2016); AE E (Monthly Statement, dated August 2016); AE AV (Monthly Statement, dated September 2016); AE AX (Payment Confirmed, dated December 16, 2016); AE AZ Letter, dated December 19, 2016).

<sup>12</sup> AE AC, *supra* note 11; AE X, *supra* note 11; AE V, *supra* note 11; AE E, *supra* note 11; AE AV, *supra* note 11.

account was in the process of being resolved; there is a bank-issued credit card with an unpaid balance of \$1,214 that was placed for collection and charged off. Applicant was scheduled in June 2016 to make a \$25 payment (SOR ¶ 1.f.).<sup>13</sup> It is unclear if she had made that payment or any other payments, or if the account is in the process of being resolved, or if Applicant's attempts to do so have been thwarted; there is a cable television account with an unpaid balance of \$51 that was placed for collection (SOR ¶ 1.i.). Applicant paid the collection agent \$51.85 in May 2016, and the account now has a zero balance.<sup>14</sup> The account has been resolved.

Among the second group of accounts, are the following: there is a telephone account with an unpaid balance of \$554 that was placed for collection (SOR ¶ 1.a.), but Applicant claims that the creditor was unable to locate the account;<sup>15</sup> there is an online grocery delivery service account with an unpaid balance of \$1,431 that was placed for collection and sold or transferred to a collection agent (SOR ¶ 1.b.). Applicant claims that her efforts to make payments were rejected, but the only documentation submitted reflects that she removed the account and a proposed one-time \$31 payment from her debt management program in September 2016, and she contends she is currently making payments herself;<sup>16</sup> there is an installment loan account with a past-due balance of \$1,144 that was placed for collection and \$1,635 was charged off (SOR ¶ 1.d.), but Applicant claims that the creditor was unable to locate the account.<sup>17</sup>

There is an unspecified type of bank account with an unpaid balance of \$541 that was placed for collection and charged off, and later sold (SOR ¶ 1.h.). Applicant offered conflicting explanations regarding alleged payments, first contending she was making payments directly to the debt purchaser, and then claiming that the account was still being paid under her debt management program – the program that she had terminated several months earlier;<sup>18</sup> there is an automobile loan with an unpaid balance of \$9,912 that was placed for collection, charged off, and the vehicle was repossessed (SOR ¶ 1.i.). Applicant again offered conflicting explanations regarding the status of the debt. She initially stated that the creditor was unable to locate the loan. She subsequently stated that the repossession had wiped out any deficiency, leaving a zero balance;<sup>19</sup> there is an unspecified type of bank account with an unpaid balance of \$228 that was placed for collection (SOR ¶ 1.j.). Applicant contended that she had paid the balance in full;<sup>20</sup> there

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<sup>13</sup> AE AC, *supra* note 11.

<sup>14</sup> AE AY (Letter, dated May 10, 2016).

<sup>15</sup> Tr. at 31-32; AE A, *supra* note 7, at 1.

<sup>16</sup> Tr. at 32; AE G (Letter, dated September 1, 2016).

<sup>17</sup> Tr. at 37; AE A, *supra* note 7, at 1.

<sup>18</sup> Tr. at 39-40; AE A, *supra* note 7, at 1.

<sup>19</sup> Tr. at 40-42; AE A, *supra* note 7, at 1. Applicant submitted a Gmail from a bank stating that an automobile loan with that bank had been paid off. The document does not specify the type of vehicle, account number, or amount paid, so there is no way of knowing whether or not the document is in any way connected to the automobile loan alleged in the SOR. See AE AU (Gmail, dated September 7, 2016).

<sup>20</sup> Tr. at 42; AE A, *supra* note 7, at 1.

is a Government overpayment (a reenlistment bonus) in the amount of \$8,424 that was placed for collection (SOR ¶ 1.m.). Applicant again offered conflicting explanations regarding the status of the debt. She initially stated that the account was still being paid under her debt management program, but the one payment scheduled, in the amount of \$195, was cancelled the same day it was to have been made. Then she claimed she was unable to contact the creditor by telephone;<sup>21</sup> and there is a local library account with an unpaid balance of \$88 that was placed for collection (SOR ¶ 1.n.). Applicant contended she spoke with the creditor and was told the account had been paid.<sup>22</sup>

Applicant placed a significant emphasis on the fact that many of the unresolved accounts no longer appear in her two December 2016 credit reports. She claimed that she filed disputes with several creditors, but was unable to identify which creditors. She offered no documentation to support her claims that disputes had been filed. Nevertheless, Applicant contends that she no longer owes the vast majority of her creditors any money, but she seemingly acknowledged that several of her accounts remain delinquent.<sup>23</sup> She also noted that there are two debts that were not alleged in the SOR. One is a disputed college debt for \$4,210, and the other a water-delivery-service debt of an unspecified amount that remained in her name when she separated from her ex-husband. As for the monies that were purportedly returned to her, which she described as \$50 at a time, those funds were not redirected to other creditors, but instead went into her checking account.

During the hearing, Applicant acknowledged that both her joint checking account and her savings account had zero balances. She subsequently submitted a Personal Financial Statement to reflect her net monthly income; monthly expenses; and any monthly remainder that might be available for discretionary spending or savings. It reflects a monthly net income of \$8,800, including child support; monthly expenses of \$7,939, including \$880 in tithing; debt payments of \$400; and a monthly remainder of \$450. She indicated that \$2,050 of her monthly expenses and savings is discretionary or semi-flexible spending (\$100 per child for extracurricular activities and school expenses; \$250 for animals; \$300 for personal expenses; \$150 for maintenance; and the \$400 for debt payments) in the event of an emergency.<sup>24</sup>

Applicant contends that it is her intention to pay anyone who sends her a bill. However, she noted that she has five children and “lots of bills that are not more important.” Her priorities are keeping a roof over her children’s head, maintaining her ability to go to work, keeping the utilities on, and keeping food and clothing for everyone. Her strategy is to pay her current debts first.<sup>25</sup> Applicant has taken some limited positive

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<sup>21</sup> Tr. at 44; AE A, *supra* note 7, at 1; AE V, *supra* note 11.

<sup>22</sup> Tr. at 44; AE A, *supra* note 7, at 1.

<sup>23</sup> AE T (Debt Status Report, undated).

<sup>24</sup> AE D (Personal Financial Statement, undated); Tr. at 55.

<sup>25</sup> Tr. at 53-54.

steps to resolve some of her accounts, but the vast majority of those accounts were simply ignored, and they continue to be ignored. At the present time, although Applicant claims to have set aside \$400 to pay her debts each month, she has not identified which debts are being paid from that \$400, and she has not submitted any documentation to reflect any efforts to do so. With zero funds available in her checking and savings accounts at the time of the hearing, and no evidence of any continuing debt resolution, it appears that Applicant's finances are not yet under control, especially since April 2016 when she obtained a new position.

## **Character References**

A senior intelligence analyst with another government contractor has known Applicant since 2010 when they were coworkers. Applicant was open with her about the financial issues, and she believes that Applicant will put her debt issues as a first priority, because prioritizing is one of Applicant's strengths. Applicant furnished her with financial guidance when she was going through similar issues. Applicant has integrity.

## **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>26</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 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>27</sup>

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines 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.

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<sup>26</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>27</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

In the decision-making process, facts must be established by “substantial evidence.”<sup>28</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>29</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>30</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>31</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 ¶ 18:

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<sup>28</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>29</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>30</sup> *Egan*, 484 U.S. at 531.

<sup>31</sup> See Exec. Or. 10865 § 7.



Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns. Under ¶ 19(a), an “inability to satisfy debts” is potentially disqualifying. In addition, ¶ 19(b) may apply if there is an “unwillingness to satisfy debts regardless of the ability to do so.” Similarly, under ¶ 19(c), “a history of not meeting financial obligations” may raise concerns. Applicant’s credit reports reflect a number of delinquent accounts that were placed for collection or charged off. There was one vehicle repossession. The Government is entitled to rely on credit reports in these proceedings as ordinary business record exceptions to the hearsay rule. There was no evidence submitted “to establish that those documents were improperly or irregularly produced, or produced in circumstances that would render their reliability suspect.”<sup>32</sup> Applicant’s mistaken belief that she was not responsible for accounts that were no longer in her credit reports led her to basically ignore those particular accounts. Her decision to prioritize her delinquent debts to a place after her current monthly needs, and to spend her available funds for other purposes, for a relatively lengthy period, indicates the absence of any priority to timely address those aging debts. ¶¶ 19(a), 19(b), and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under ¶ 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 ¶ 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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances.” Evidence that “the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control” is potentially mitigating under ¶ 20(c). Similarly, ¶ 20(d) applies where the evidence shows “the individual initiated and is adhering to a good-

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<sup>32</sup> ISCR Case No. 07-08925 at 3 (App. Bd. September 15, 2008).

faith effort to repay overdue creditors or otherwise resolve debts.”<sup>33</sup> In addition, ¶ 20(e) may apply if “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.”

I have concluded that ¶¶ 20(b) and 20(c) partially apply, and ¶¶ 20(a), 20(d), and 20(e) do not apply. The nature, frequency, and recency of Applicant’s continuing financial difficulties since about 2008 make it difficult to conclude that it occurred “so long ago” or “was so infrequent,” or that it is “unlikely to recur.” As noted above, a combination of factors occurred over time when she encountered several periods of unemployment; lost renters; was the victim of unspecified fraudulent charges totaling \$1,500 by someone in her family who was close to her; and she and her ex-husband mismanaged their funds. The specifics of those factors was not explored or developed, so it remains difficult to determine in what way Applicant was unable to timely address them. Applicant was unemployed from April 2004 until April 2005, a period that predated her current issues. She was laid off in October 2013 and remained unemployed until January 2015; was unemployed from January 2016 until April 2016; was separated in 2012, and divorced in April 2016. Those situations were largely beyond her control, but they are clearly somewhat stale issues which, over time, or at least during 2015, should have been overcome.

Applicant obtained financial counseling from two organizations, but the primary focus of those organizations was to address budgeting, bill management, and eliminating credit card debt, essentially to get her debts consolidated or removed from her credit report - primarily for credit repair. She is credited with limited efforts to pay some of her creditors through one of those organizations, commencing in May 2016, and continuing until September 2016. However, at some point in October 2016, Applicant terminated the service. There is little evidence that she made good-faith efforts to address her debts in 2015 or after September 2016. Furthermore, Applicant’s current position is that her delinquent debts have been placed after her current monthly needs, and she chooses to spend her available funds for other purposes. That position indicates the absence of any priority to timely address those aging debts. There is also an inference that she is simply waiting for the debts to drop off her credit reports. Applicant contended that she had disputed several of the debts, but she failed to submit documentation to support her

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<sup>33</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)).

contentions, and she failed to furnish a reasonable basis to dispute the legitimacy of those past-due debts that were the cause of her financial problems.

Clearance decisions are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of each and every debt alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in an SOR be paid first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts one at a time. In this instance, there are only vague references to a plan; an aborted effort to make some debt payments; and lengthy periods of inactivity.

Given the inconsistent information pertaining to Applicant's current finances, it remains unclear if she currently has funds remaining at the end of each month for discretionary use or savings. There is little evidence to reflect that Applicant's financial problems are yet under control. Under the circumstances, Applicant has not acted responsibly by failing to address nearly all of her delinquent accounts and by failing to initiate meaningful efforts to work with her older creditors.<sup>34</sup> Her failure to submit documentation to support her purported efforts for the majority of her debts stands in stark contrast to those few efforts made with respect to only a few of her older creditors. Applicant's actions, or relative inaction, under the circumstances casts substantial doubt on her current reliability, trustworthiness, and good judgment.<sup>35</sup>

### **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 SEAD 4, App. A, ¶ 2(d):

- (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;

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<sup>34</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. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

<sup>35</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

(8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant 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>36</sup>

There is some evidence in favor of mitigating Applicant's conduct. There is no evidence of misuse of information technology systems, or mishandling protected information. She candidly acknowledged having some financial difficulties with numerous creditors when she completed her e-QIP. There were a number of factors that contributed to Applicant's financial issues, especially when considering her separation, divorce, and some unemployment. Applicant hired two organizations to assist her essentially to get her debts consolidated or removed from her credit report - primarily for credit repair. She made some limited good-faith efforts to resolve a number of SOR accounts.

The disqualifying evidence under the whole-person concept is simply more substantial. A number of accounts in Applicant's name became delinquent, and were placed for collection or charged off. A vehicle was repossessed. Although she was employed in 2015, and again since April 2016, Applicant made only limited good-faith efforts relatively recently to resolve some of her debts, and most of her purported efforts have no documentation to support them. Applicant believes that she is not responsible for accounts that are no longer in her credit reports, so she has basically ignored those particular accounts. Her decision to prioritize her delinquent debts to a place after her current monthly needs, and to spend her available funds for other purposes, for a relatively lengthy period, indicates the absence of any priority to timely address those aging debts. Her failure to proceed beyond a few telephone calls to one particular creditor – the Government – is indicative of her disinterest in resolving a delinquent account for \$8,424.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>37</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 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

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<sup>36</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>37</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

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.

Applicant has demonstrated an extremely poor track record of debt reduction and elimination efforts, aggressively avoiding most of the long-standing debts in her name, and promising to take corrective actions only after her current bills are paid and some discretionary expenditures - \$880 in tithing; \$100 per child for extracurricular activities and school expenses; \$250 for animals; and \$300 for unexplained personal expenses - are made. Her efforts were hindered, in part, by her employment situation, but once that situation was corrected, there was little change in her efforts. Overall, the evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has failed to mitigate the security concerns arising from her financial considerations. See SEAD 4, App. A, ¶ 2(d)(1) through AG ¶ 2(d)(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
Subparagraphs 1.a., 1.b., 1.d. through 1.f., 1.i., 1.j., 1.m., and 1.n.:	Against Applicant
Subparagraphs 1.c., 1.k., and 1.l.:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security 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