



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



In the matter of:

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ISCR Case No. 15-03411

Applicant for Security Clearance

Appearances

For Government: Alison O'Connell, Esq., Department Counsel

For Applicant: *Pro se*

12/01/2016

Decision

HARVEY, Mark, Administrative Judge:

Applicant's statement of reasons (SOR) includes 15 allegations of delinquent debts totaling \$17,653. While circumstances beyond her control damaged her finances, she did not show enough progress paying or resolving her delinquent debts to mitigate financial considerations security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On January 13, 2012, Applicant completed and signed her Electronic Questionnaire for National Security Positions (e-QIP) or security clearance application (SCA). (Government Exhibit (GE) 1) On December 13, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued an SOR to Applicant pursuant to Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information Within Industry*; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), which became effective on September 1, 2006.

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for her, and recommended referral to an administrative judge to determine whether a

clearance should be granted, continued, denied, or revoked. (Hearing Exhibit (HE) 2) Specifically, the SOR set forth security concerns arising under Guideline F (financial considerations).

On January 26, 2016, Applicant responded to the SOR, and she requested a hearing. On March 20, 2016, Department Counsel was ready to proceed. On July 18, 2016, the case was assigned to me. On August 11, 2016, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for September 9, 2016. (HE 1) The hearing was held as scheduled. A letter indicating discovery was provided to Applicant before the hearing was attached to the record. (Transcript (Tr.) 19; Hearing Exhibit (HE) 4)

During the hearing, Department Counsel offered seven exhibits, Applicant offered nine exhibits; and all proffered exhibits were admitted without objection. (Tr. 19-23; Government Exhibits (GE) 1-7; Applicant Exhibits (A-I) On September 19, 2016, DOHA received a copy of the transcript of the hearing. Applicant provided seven documents after her hearing, and all seven documents were admitted without objection. (AE J-AE P)

Findings of Fact¹

In Applicant's SOR response, she admitted all of the SOR allegations. She also provided extenuating and mitigating information. Applicant's admissions are accepted as findings of fact.

Applicant is a 45-year-old legal nurse consultant. (Tr. 7, 9; GE 1) She is a nurse and licensed attorney. (Tr. 9) Since 2005, she has provided consultant services in connection with medical records reviews for DOD entities, and she advises on whether health-care providers have met standard of care requirements. (Tr. 9, 51-52) In 1989, she joined the U.S. Army Reserve. (Tr. 7-8) She was an enlisted medical records specialist. (Tr. 8) In 1997, she was honorably discharged as a specialist (E-4). (Tr. 8)

Applicant has never been married. (Tr. 8) Her three children are children are ages 9, 13, and 21. (Tr. 9) In 1993, she graduated from college, and she received a bachelor's degree in nursing. (Tr. 10) In 2000, she graduated from law school. (Tr. 10, 46) She is currently attending a master's program in a nursing specialty. (Tr. 10)

Financial Considerations

Applicant said \$100,000 was spent in custody and child support litigation, which encompassed six years. (Tr. 26, 37-42) In 2009, her daughter's father obtained custody of his daughter, who was 15 years old, and Applicant had to pay child support to her daughter's father. (Tr. 40-42) She believed the judgment was satisfied based on the

¹Some details have been excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

documentation in the case and some off-the-record discussions. (Tr. 26) Her current annual income is \$140,000. (Tr. 56, 85) She borrowed \$22,000 from her 401(k) account to fund her son's attendance at private school. (Tr. 86) She has student loans totaling \$22,000 that are in abeyance status. (Tr. 88) Her October 5, 2015 credit report shows student loans in abeyance totaling \$41,000 from one creditor. (GE 2 at 4)

In 2000, Applicant purchased a home in state O, and she has kept the mortgage in current status. (Tr. 24, 50) On March 23, 2016, she refinanced her mortgage; her new loan amount is \$417,000; and her interest rate is 4.5 percent. (Tr. 25; AE A) In 2006, Applicant purchased a residence in state M, (Tr. 56) On March 31, 2016, she refinanced her mortgage on her second residence; her current loan amount is \$123,310; and her interest rate is 4.375 percent. (AE A) Applicant sends her 13-year-old son to a boarding school, which costs \$20,000 a year. (Tr. 57) At times her rental property was not being rented. She recently obtained a tenant for one of her homes, which significantly increased her income. (AE P at 11)

Applicant's statement of reasons (SOR) includes 15 allegations of delinquent debts totaling \$17,653. At her hearing, she said she paid the debts in SOR ¶¶ 1.a (\$265) and 1.d (\$421). (Tr. 97) She disputed her responsibility for payment of the debts in SOR ¶¶ 1.h (\$9,816) and 1.o (\$3,288). After her hearing she provided proof that she paid the debts in SOR 1.l (\$184). The status of her SOR debts is as follows:

SOR ¶ 1.a alleges that Applicant has a utility debt placed for collection for \$265. Applicant said she paid a bill from the power company twice. (Tr. 34) Applicant's October 5, 2015 credit report shows the debt as a paid collection account and as an unpaid collection account. (GE 2 at 2, 1) Her documentary evidence showing resolution is a credit report showing removal of the collection account from her TransUnion Credit Report. (Tr. 58-59; AE H at 3; AE P at 6) Applicant is credited with mitigating this debt.

SOR ¶ 1.b alleges a telecommunications-collection debt for \$307. Applicant said she asked the telecommunications company where she should send their equipment, and she did not recall whether or not she returned their equipment. (Tr. 59-61) The telecommunications company told her the equipment was obsolete, and they may not have been interested in receiving return of their equipment. (AE P at 6)

SOR ¶ 1.c alleges a collection debt owed to a law firm for \$2,143. (Tr. 61) Applicant asked a lawyer to stop representing her, and the lawyer continued to represent and bill Applicant. (Tr. 62) Her lawyer submitted a document late in a custody dispute. (Tr. 62; AE P at 7) She did not send in a dispute to the credit reporting companies. (Tr. 63)

SOR ¶¶ 1.d, 1.g, 1.i, 1.j, 1.k, 1.m, and 1.n allege seven medical-collection debts for \$421, \$32, \$68, \$102, \$308, \$251, and \$132, respectively. She said she paid the medical debt in SOR ¶ 1.d on June 21, 2016. (Tr. 34, 63, 97; AE P at 7, 53) Some of the medical debts result from treatments in 2007 or 2010. (Tr. 63; AE P at 8) She said she had evidence of her payments. (Tr. 64) She did not recognize the debt in SOR ¶ 1.g,

and she expressed some doubts about the legitimacy of the debts in SOR ¶¶ 1.m and 1.n. (Tr. 69; AE P at 9) She is credited with mitigating the debt in SOR ¶ 1.d. After her hearing, she said she would pay the other medical debts; however, the only medical debt paid of the seven SOR debts was the debt in SOR ¶ 1.d. (AE P at 8-9)

SOR ¶ 1.e alleges a charged-off credit card debt for \$210. Applicant said as soon as she used the card, she was informed the monthly minimum was increased from \$10 to \$25, and she refused to pay the balance on the card. (Tr. 64-67; AE P at 7)

SOR ¶ 1.f alleges a telecommunications-collection debt for \$126. Applicant said when she closed her account in 2008, the creditor sent her a \$100 check. (Tr. 67) She said she did not believe she owed that debt to the creditor. (Tr. 68; AE P at 7) She said she did not have any documentation showing the debt was resolved or disputed. (Tr. 68)

SOR ¶ 1.h alleges a home repair collection debt for \$9,816. In 2008, Applicant signed a contract to have a 12 foot by 15 foot wood deck built next to her house. (Tr. 69-70, 98-99) Applicant said the contractor dug four holes for support beams for a deck, and the deck was being built in the wrong place. (Tr. 70, 97) Two of the four holes were next to her home's foundation, and she said the holes caused a water issue as water would settle in the holes. (Tr. 70, 97; SOR response at Ex. H) There was some sinking or tilting of a preexisting patio. (Tr. 98) They could also be a trip hazard. (Tr. 70, 98) She said the cost to repair the holes would be \$20,000 to \$30,000. (Tr. 70-71) She offered to settle the debt by paying the creditor \$3,000. (Tr. 71) The creditor made a \$5,000 counter-offer. (Tr. 71) She said she obtained an estimate in 2014 for \$20,000 to make repairs; however, she did not provide a copy of the estimate from 2014. (Tr. 71-72) After her hearing, she provided an estimate for repairs of \$2,500. (AE P at 60) The estimate did not discuss how a reasonable homeowner could have mitigated damages by taking timely action to fill in the four holes the contractor erroneously dug in her yard. The file does not contain the original plans for the deck.

SOR ¶ 1.i alleges a collection debt for \$184. On October 6, 2016, Applicant paid this debt. (AE P at 9, 58) Applicant is credited with mitigating this debt.

SOR ¶ 1.o alleges that Applicant owes a judgment of \$3,288 for attorney's fees that she was ordered to pay relating to family court litigation involving her youngest child's custody and support. On September 9, 2011, a judge granted Applicant's request to stay the payment of the attorney fees. (AE P at 24-42 (decision at 41)) On March 9, 2012, the family court judge said during a hearing that even if she were credited with child support, it may not satisfy the judgment, and more information was needed to calculate the net amount owed by the parties. (Tr. 80-83, 93; AE I at 20) On March 14, 2012, opposing counsel wrote the judge and provided two orders indicating a recalculation of Applicant's debt, and reducing it to \$672. (SOR response Ex. I) Opposing counsel suggested his client could reduce child support payments by \$110 monthly until the debt was paid. (SOR response Ex. I) The current status of this debt is unclear. On April 12, 2016, Applicant wrote the judge who issued a judgment against

her for sanctions (not attorney fees) asking to reopen the issue of her damages. (Tr. 25, 35, 73-79; AE B) The judge's secretary returned the letter to Applicant without action, and the judge's secretary indicated she should file documents with the clerk of court with a copy to the opposing party. (AE B) Applicant said she believed the judgment was satisfied because her child's father owes her back child support and other monies. (Tr. 35, 73-81; AE I; AE B) She believes her son's father engaged in abusive litigation designed to cause Applicant economic and emotional pain. (73-89; AE P at 12-17) Applicant is credited with mitigating the debt in SOR ¶ 1.o because she has documented the dispute over whether she has received sufficient credit for her payments and interest owed during the lengthy contested litigation.

On December 2, 2014, a bank creditor for a non-SOR debt offered to forgive Applicant's home equity loan of \$91,134 "as part of its recent settlement with the Department of Justice." (AE C) The letter noted there may be income tax ramifications due to this debt forgiveness. (AE C) On October 15, 2015, the bank creditor wrote that the creditor received a full payoff of the loan. (Tr. 28-29; AE C)

Applicant provided invoices for three bills she questioned as examples of non-SOR inflated or inappropriate medical or dental charges. (Tr. 30-33; AE D, AE E; AE F) She questioned: an invoice for \$300 indicating her son received treatment in July 2016; an invoice for \$274 indicating her daughter received dental treatment in August 2016; and an invoice for \$200 indicating Applicant received treatment in August 2016. (AE P at 47) After her hearing, she provided an additional dental invoice for \$369. (AE P at 46) She paid some non-SOR telecommunications debts. (AE P at 48-49)

In August 2013, Applicant received a special recognition award from the vice president and general manager of her employer. (AE P at 10)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An

administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

Failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified information. An individual who is financially

overextended is at risk of having to engage in illegal acts to generate funds.

AG ¶ 19 provides two disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts;” and “(c) a history of not meeting financial obligations.” Applicant’s history of delinquent debt is documented in her credit reports, SOR response, and hearing record. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c) requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;² and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

²The 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) 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)).

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

Applicant presented some important mitigating information. Several circumstances beyond her control adversely affected her finances. Applicant was embroiled in six years of litigation over custody and support issues. At times her rental property was not being rented. She had periods of unemployment or underemployment. However, she did not provide enough specifics about how these circumstances over the last five years adversely affected her finances. She did not establish that she acted responsibly to address her delinquent SOR debts when she had stable employment and sufficient income to address the SOR debts.

Applicant in this case may be relying upon the absence of delinquent debts from her current credit report to mitigate security concerns. "[T]hat some debts have dropped off his [or her] credit report is not meaningful evidence of debt resolution." ISCR Case No. 14-05803 at 3 (App. Bd. July 7, 2016) (citing ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015)). The Fair Credit Reporting Act requires removal of most negative financial items from a credit report seven years from the first date of delinquency or the debt becoming collection barred because of a state statute of limitations, whichever is longer.³

Several of Applicant's debts went into default status several years ago and may not be legally collectible. All states have statutes of limitations upon collectability of credit card debts, which range from three to six years.⁴ State statutes of limitations clearly and unequivocally end an applicant's legal responsibility to pay the creditor after

³Title 15 U.S.C. § 1681c. See Federal Trade Commission website, Summary of Fair Credit Reporting Act Updates at Section 605, <https://www.consumer.ftc.gov/articles/pdf-0111-fair-credit-reporting-act.pdf>.

⁴See, e.g., Maryland Cts. & Jud. Proc. §§ 5-101 and 5-102(a)(3) (In Maryland the statute of limitations on written contracts and on collection of debts on accounts is three years, and on judgments the statute of limitations is 12 years.).

the passage of a certain amount of time, as specified in state law. In a series of decisions, the Appeal Board has rejected statutes of limitations for debts generated through contracts, which is the law in all 50 states, as significantly mitigating financial considerations concerns under AG ¶ 20(d). See ISCR Case No. 08-01122 at 4 (App. Bd. Feb. 9, 2009); ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008); ADP Case No. 07-13041 at 5 (App. Bd. Sep. 19, 2008); ISCR Case No. 07-11814 at 2 (App. Bd. Dec. 29, 2008) ADP Case No. 06-14616 at 3 (App. Bd. Oct. 18, 2007) (stating, “reliance upon legal defenses such as the statute of limitations does not necessarily demonstrate prudence, honesty, and reliability; therefore, such reliance is of diminished probative value in resolving trustworthiness concerns arising out of financial problems. See, e.g., ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006).”).

Recently, the DOHA Appeal Board reinforced its position on statutes of limitations not mitigating financial considerations concerns stating:

In this case, the Judge noted that Applicant explained that he did not owe any of the alleged debts because they had either been deleted from his credit report or soon would be deleted, and he also relied on a state statute of limitations to absolve himself of debts. The Appeal Board has long recognized that debts remain relevant for security clearance purposes even if they are no longer enforceable due to the running of the statute of limitations or cannot be legally listed on a credit report due to the passage of time. See e.g., ISCR Case No. 03-04779 at 4 (App. Bd. Jul. 20, 2005) and ISCR Case No. 03-20327 at 6 (App. Bd. Oct 26, 2006).⁵ We also have held that reliance on a state’s statute of limitations does not constitute a good-faith effort to resolve financial difficulties and is of limited mitigative value. ADP Case No. 06-18900 at 5 (App. Bd. Jun. 6, 2008) (citing ISCR Case No. 03-04779 at 4 (App. Bd. Jul. 20, 2005) and ISCR Case No. 01-09691 at 2-3 (App. Bd. Mar. 27, 2003)).

ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016).

Applicant is credited with mitigating the debts in SOR ¶¶ 1.a (\$265); 1.d (\$421), 1.i (\$184), and 1.o (\$3,288) for the reasons stated in the statement of facts. None of the other SOR debts were mitigated because she did not provide sufficient documentation showing payment or other good faith attempts to resolve the debt.

Applicant’s annual income is \$140,000. There is insufficient evidence about why Applicant was unable to make greater documented progress resolving her SOR debts. There is insufficient assurance that her financial problems are being resolved, are under control, and will not recur in the future. Under all the circumstances, she failed to establish that financial considerations security concerns are mitigated.

⁵ Compare ISCR Case No. 12-04806 (App. Bd. Jul. 3, 2014). In that case, Applicant corroborated efforts to settle debts that were in “charged-off” status. Also, that Applicant had received financial counseling. Ultimately, the Board affirmed the Judge’s favorable decision.

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. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant is a 45-year-old legal nurse consultant and licensed attorney. Since 2005, she has provided consultant services in connection with medical records reviews for DOD entities, and she advises on whether health-care providers have met standard of care requirements. She honorably served in the U.S. Army Reserve from 1989 to 1997. She is not married, and she has three children, who are ages 9, 13, and 21. In 1993, she graduated from college, and she received a bachelor's degree in nursing. In 2000, she graduated from law school. She is currently attending a master's program in a nursing specialty. She is clearly intelligent and articulate. There are no allegations of security violations.

Applicant's finances were adversely affected by several circumstances beyond her control, including: six years of litigation over custody and support issues; at times her rental property was not being rented; and she had periods of unemployment or underemployment.

The disqualification evidence is more significant. Applicant has a history of delinquent debt. Applicant's SOR includes 15 allegations of delinquent debts totaling \$17,653. Applicant is credited with mitigating the debts in SOR ¶ 1.a (\$265); ¶ 1.d (\$421), ¶ 1.i (\$184), and ¶ 1.o (\$3,228). Applicant's annual income is \$140,000. As a licensed attorney who graduated from law school in 2000, she had the requisite legal and financial knowledge and financial resources to resolve more of her SOR debts. She did not establish her inability to resolve more of her SOR debts especially those debts less than \$200; however, she chose not to aggressively seek resolution of more of her SOR debts. She did not prove that she negotiated in good faith to resolve the debt owed

to the company that constructed the debt on her residence. While circumstances beyond her control damaged her finances, she did not show enough progress paying or resolving her delinquent debts to mitigate financial considerations security concerns.

Applicant did not provide enough specifics about how circumstances beyond her control adversely affected her finances; she did not establish that she acted responsibly to address her delinquent debts; she did not show how she reduced her expenses to conform with reductions in income; while she cited reasons why she could have disputed debts, she did not provide correspondence with creditors reasonably disputing or offering to settle the unmitigated SOR debts; and she did not receive financial counseling. Her failure to make greater progress resolving her SOR debts shows a lack of financial responsibility and judgment and raises unmitigated questions about Applicant's reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18. More documented financial progress is necessary to mitigate financial considerations security concerns.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont*, 913 F. 2d at 1401. Unmitigated financial considerations concerns lead me to conclude that grant of a security clearance to Applicant is not warranted at this time. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards documented resolution of her past-due debts, and a track record of behavior consistent with her obligations, she may well be able to demonstrate persuasive evidence of her security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude that personal conduct security concerns are mitigated; however, financial considerations security concerns are not mitigated.

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:	For Applicant
Subparagraphs 1.b and 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraphs 1.e through 1.k:	Against Applicant
Subparagraph 1.l:	For Applicant
Subparagraphs 1.m through 1.n:	Against Applicant
Subparagraph 1.o.:	For 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 or reinstate Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

MARK HARVEY
Administrative Judge