



**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. 15-04129

**Appearances**

For Government: Chris Morin, Esquire, Department Counsel

For Applicant: *Pro se*

11/09/2016

**Decision**

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding financial considerations. Eligibility for a security clearance and access to classified information is granted.

**Statement of the Case**

On September 22, 2014, 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 December 4, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued an 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 Access to Classified Information* (December 29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. The SOR alleged security concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD

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<sup>1</sup> GE 1 (e-QIP, dated September 22, 2014).

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 December 17, 2015. On December 18, 2015, she responded to the SOR and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on February 24, 2016. The case was assigned to me on March 23, 2016. A Notice of Hearing was issued on April 28, 2016. I convened the hearing as scheduled on May 17, 2016.

During the hearing, 3 Government exhibits (GE) 1 through GE 3, 19 Applicant exhibits (AE) A through AE S, and one administrative exhibit, were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on May 26, 2016. I kept the record open to enable Applicant to supplement it. She took advantage of that opportunity and timely submitted additional documents, which were marked and admitted as AE T through AE AC, without objection. The record closed on June 7, 2016.

### **Findings of Fact**

In her Answer to the SOR, Applicant admitted five (§§ 1.c. through 1.g.) of the factual allegations pertaining to financial considerations. 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 36-year-old employee of a defense contractor. She has been a master resilience trainer and performance expert with the company since July 2015.<sup>2</sup> She was actually hired by a different contractor on the same contract (with an annual salary of \$72,000) in September 2014, but because of her security clearance processing, she was switched over to her current employer, and her annual income was reduced to \$60,008. She previously held a variety of positions with other commercial entities as a performance specialist, lead health coach, part-time bartender, program director, part-time server, and secondary market shipping coordinator. She was self-employed as a short sale negotiator – loss mitigation specialist, and loan processor.<sup>3</sup> A 1998 high school graduate, Applicant received a bachelor's degree in hospitality management in 2002 and a master's degree in sports psychology in 2014.<sup>4</sup> She has never served with the U.S. military.<sup>5</sup> She has never held a security clearance.<sup>6</sup> Applicant has never been married.<sup>7</sup>

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<sup>2</sup> AE N (Employment Offer, dated June 23, 2015); Tr. at 51-52.

<sup>3</sup> GE 1, *supra* note 1, at 16-28; AE N, *supra* note 2; Tr. at 52.

<sup>4</sup> GE 1, *supra* note 1, at 14-16.

<sup>5</sup> GE 1, *supra* note 1, at 29.

<sup>6</sup> GE 1, *supra* note 1, at 40.

<sup>7</sup> GE 1, *supra* note 1, at 30-31.

## Financial Considerations<sup>8</sup>

There was nothing unusual about Applicant's finances until the national economy plummeted and the banking and real estate sectors were essentially severely wounded in 2007-2009. Applicant was initially a self-employed loan processor, but then shifted to a short sale negotiator - loss mitigation specialist for a company. Because of the economic environment, she was experiencing an extremely high level of stress, working longer hours for reduced and inconsistent salary. In December 2009, she opted to make a lifestyle and career change.<sup>9</sup> Subsequently, due to illness, Applicant had to leave at least one job voluntarily to be closer to her doctor, and on two other occasions she had to take lengthy periods of medical leave, resulting in the loss of two jobs.<sup>10</sup> She was unemployed from November 2012 until February 2013, and from June 2014 until September 2014.<sup>11</sup> Her fragile health, frequent relocations, repeated job loses, and periods of unemployment left her without the financial resources to maintain her accounts in a current status. Applicant's adjusted gross income was, for several years, essentially very low: \$1,643 (2010), \$5,984 (2001), \$3,714 (2012), \$19,650 (2013), and \$17,799 (2014).<sup>12</sup> Accounts became delinquent. Some accounts were charged off, tax liens were filed, and a vehicle was repossessed.

In an effort to reduce expenses, Applicant moved back to live with her family while attempting to regain some fiscal and health stability. She considered bankruptcy and, although she obtained bankruptcy pre-filing guidance in April 2013,<sup>13</sup> she chose not to follow that path of resolution. Instead, when she obtained better employment, she eventually reached out to her creditors and established repayment arrangements. She read a financial guidance book by Dave Ramsey and prioritized her accounts. In June 2014, for a \$1,500 fee, she engaged the professional services of a tax specialist to assist her in resolving various state and federal income tax issues.<sup>14</sup> In January 2015 – one year before the SOR was issued – she also sought the professional services of an attorney to rehabilitate her credit.<sup>15</sup> Her adjusted gross income for 2015 increased to \$56,632.<sup>16</sup>

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<sup>8</sup> General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 2 (Combined Experian, TransUnion, and Equifax Credit Report, dated September 30, 2014); GE 3 (Equifax Credit Report, dated November 30, 2015); GE 1, *supra* note 1; Applicant's Answer to the SOR, dated December 18, 2015. More recent information can be found in the exhibits furnished and individually identified.

<sup>9</sup> GE 1, *supra* note 1, at 25-27.

<sup>10</sup> GE 1, *supra* note 1, at 17-17-18, 23-24.

<sup>11</sup> GE 1, *supra* note 1, at 17-20.

<sup>12</sup> AE H (Form 1040 – 2010, undated); AE I (Form 1040EZ – 2011, undated); AE J (Form 1040EZ – 2012, undated); AE K (Form 1040A – 2013, undated); AE L (Form 1040A – 2014, undated).

<sup>13</sup> AE AC (Letter, dated April 28, 2013).

<sup>14</sup> AE N (Service Agreement, dated June 17, 2014).

<sup>15</sup> AE Y (E-mail Stream, various dates).

<sup>16</sup> AE M (Form 1040 – 2015, undated).

Some accounts have been resolved, others are in the process of being resolved, and still others are scheduled to be attended to as soon as others are satisfied.

The SOR identified nine purportedly delinquent debts that had been placed for collection or charged off, filed as a tax lien, or resulted in a repossession, as reflected by the September 2014 credit report<sup>17</sup> or the November 2015 credit report.<sup>18</sup> Those debts, totaling approximately \$55,298, and their respective current status, according to the credit reports, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below:

(SOR ¶ 1.a.): This is a state tax lien in the amount of \$1,094, which arose from Applicant's inability to fully pay her 2009 income tax. When she learned of the lien, she set up a repayment arrangement, and the lien was paid off and released in November 2015, months before the SOR was issued.<sup>19</sup> Department Counsel conceded that the lien has been released.<sup>20</sup> The account has been resolved.

(SOR ¶ 1.b.): This is a state tax lien in the amount of \$4,492, which arose when the state erroneously presumed that Applicant was still a resident of the state in 2012. When she learned of the lien, she challenged it, and after furnishing information to the satisfaction of the state, the tax lien was released as having been recorded in error.<sup>21</sup> Department Counsel conceded that the lien has been released.<sup>22</sup> The account has been resolved.

(SOR ¶ 1.c.): This is a bank credit card account with a \$2,500 credit limit and a high credit of \$3,216 that was placed for collection and sold to a debt purchaser. The new creditor increased the unpaid balance to \$3,391.<sup>23</sup> In June 2014, the new creditor offered to settle the account for \$2,712.78.<sup>24</sup> While no payments have been made at this time, Applicant expected to move the account higher on her priority list, and she intends to try to settle the account in mid-2016.<sup>25</sup> The account has not been resolved.

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<sup>17</sup> GE 2, *supra* note 8.

<sup>18</sup> GE 3, *supra* note 8.

<sup>19</sup> GE 2, *supra* note 8, at 5, 14; GE 3, *supra* note 8, at 1; Tr. at 30-32; Applicant's Answer to the SOR, *supra* note 8, at 2; AE G (Credit File Dispute Confirmation, dated December 19, 2015).

<sup>20</sup> Tr. at 34-36.

<sup>21</sup> GE 2, *supra* note 8, at 5, 14; GE 3, *supra* note 8, at 1; Tr. at 30-32; Applicant's Answer to the SOR, *supra* note 8, at 2; AE G, *supra* note 14, at 1; AE B (Credit File Dispute Confirmation, dated December 19, 2015).

<sup>22</sup> Tr. at 35-36.

<sup>23</sup> GE 2, *supra* note 8, at 8, 12; GE 3, *supra* note 8, at 2; Tr. at 30-32; Applicant's Answer to the SOR, *supra* note 8, at 2;

<sup>24</sup> AE X (Letter, dated June 4, 2014).

<sup>25</sup> Applicant's Answer to the SOR, *supra* note 8, at 2; AE T (E-mail Stream, various dates), at 2; AE Z (Budget & Snowball Priority List, undated), at 6.

(SOR ¶ 1.d.): This is an automobile loan account opened in 2008 with a high credit of \$17,000 and past due and remaining balance of \$9,446 that was placed for collection in 2010.<sup>26</sup> Applicant contacted the lender several times to explain her financial difficulties, but no arrangements could be worked out, so she voluntarily relinquished the vehicle. The lender never furnished Applicant any documentation regarding the result of the voluntary repossession, and she has no knowledge if the vehicle was sold at auction or if there is actually a pending balance. Applicant has not followed up on the status of the account since she relinquished the vehicle. However, if there is a remaining balance, she intends to pay it off as the account is number three on her priority list.<sup>27</sup> The account has not been resolved.

(SOR ¶ 1.e.): This is a bank credit card account, primarily used for business, with a credit limit of \$11,000 and an unpaid balance of \$12,980 that was charged off.<sup>28</sup> Applicant attempted to modify her payment arrangements but was unable to do so, and her efforts and payments ceased in about July 2010. She intends to pay the account off as it is number four on her priority list.<sup>29</sup> The account has not been resolved.

(SOR ¶ 1.f.): This is a bank credit card account with a credit limit of \$15,000 and an unpaid balance of \$14,761 that was charged off.<sup>30</sup> Applicant attempted to modify her payment arrangements but was unable to do so, and her efforts and payments ceased in about July 2010. She intends to pay the account off as it is number five on her priority list.<sup>31</sup> The account has not been resolved.

(SOR ¶ 1.g.): This is an unspecified type of account with a remaining and past-due balance of \$8,982 that was sold to a debt purchaser.<sup>32</sup> The original creditor has not been identified. Although Applicant has made no effort to contact the original creditor of the debt purchaser, she intends to pay the account off as it is number two on her priority list.<sup>33</sup> The account has not been resolved.

(SOR ¶¶ 1.h. and 1.i.): These are two medical accounts with unpaid balances of \$259 and \$67 that were placed for collection.<sup>34</sup> Although Applicant initially said that the accounts had been paid,<sup>35</sup> she changed her explanation to state that the accounts had

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<sup>26</sup> GE 2, *supra* note 8, at 7, 12; GE 3, *supra* note 8, at 4.

<sup>27</sup> Tr. at 41-44; Applicant's Answer to the SOR, *supra* note 8, at 2; AE Z, *supra* note 25, at 6.

<sup>28</sup> GE 2, *supra* note 8, at 7, 12; GE 3, *supra* note 8, at 5.

<sup>29</sup> Tr. at 44-46; Applicant's Answer to the SOR, *supra* note 8, at 2; AE Z, *supra* note 25, at 6.

<sup>30</sup> GE 2, *supra* note 8, at 6, 12; GE 3, *supra* note 8, at 5.

<sup>31</sup> Tr. at 46; Applicant's Answer to the SOR, *supra* note 8, at 2; AE Z, *supra* note 25, at 6.

<sup>32</sup> GE 2, *supra* note 8, at 7.

<sup>33</sup> Tr. at 46-47; Applicant's Answer to the SOR, *supra* note 8, at 2; AE Z, *supra* note 25, at 6.

<sup>34</sup> GE 2, *supra* note 8, at 12.

been disputed and removed from her credit report as having been listed in error.<sup>36</sup> A report from her attorney in mid-2015 confirms the removal.<sup>37</sup> Neither account is listed in her November 2015 credit report. While Applicant could not furnish any other documentation to confirm her contentions, it nevertheless appears that the accounts have been resolved.

In addition to the SOR-related accounts, Applicant had a number of accounts, both delinquent and current, to which she directed her attention. Her first priority is her car, for which she makes monthly payments of \$341; and next are student loans with payments of \$186 and \$321. She also paid off a number of accounts and debts including her IRS tax lien (\$6,134) in May 2015;<sup>38</sup> a medical bill (\$1,645.54) in March 2015;<sup>39</sup> a cellular phone bill (\$440) in May 2016;<sup>40</sup> and a family loan (\$1,550) in May 2016.<sup>41</sup>

In June 2016, Applicant submitted a Personal Financial Statement that included her budget over a multi-year period and her Snowball of prioritized accounts. She listed her net monthly income as \$3,352; monthly expenses of \$3,174; and a monthly remainder of \$178 available for discretionary saving or spending.<sup>42</sup> She noted that she had an emergency fund of \$1,034, a savings accumulation of \$2,847 for debt payoffs, and \$1,304 in a checking account. She estimated that after her impending settlement of the account referred to in SOR ¶ 1.c., her savings account would be reduced to \$134.<sup>43</sup> Applicant has made substantial progress in resolving her delinquent accounts, including at least some that were not alleged in the SOR. It appears that Applicant's financial status has improved significantly, and that her financial problems are finally under control.

## Character References

A deputy sheriff who has known and worked with Applicant since she was a faculty member and coach and Applicant was a high school student and team member in 1995, noted that Applicant is active in the community in a partnership with the local high school and local youth sports. She characterized Applicant as a person of commitment and character, a teammate, and a leader. Applicant is trustworthy.<sup>44</sup> The head coach of one

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<sup>35</sup> Applicant's Answer to the SOR, *supra* note 8, at 2.

<sup>36</sup> Tr. at 47.

<sup>37</sup> AE Y, *supra* note 15, at 4.

<sup>38</sup> AE A (Certificate of Release of Federal Tax Lien, dated March 18, 2015); AE O (Payment Details, undated); AE P (Installment Agreement Activity, dated July 13, 2015).

<sup>39</sup> AE U (Letter, dated June 3, 2016); AE Z, *supra* note 25.

<sup>40</sup> AE V (Handwritten Memo on Quick Bill Summary, dated January 1, 2011).

<sup>41</sup> AE AA (Check, dated May 11, 2016); AE AB (Check, dated April 6, 2016).

<sup>42</sup> AE Z, *supra* note 25.

<sup>43</sup> AE Z, *supra* note 25.

<sup>44</sup> AE C (Character Reference, undated).

of the teams with which Applicant is involved indicated that Applicant has been one of his coaching assistants for a number of months and he has found her very helpful, honest, and willing to go above and beyond.<sup>45</sup> A Ph.D. contractor with whom Applicant trained for their current assignments about two years ago, characterized her as having maturity, self-awareness, honesty, and authenticity. Although she now runs her own consulting business, she still relies on Applicant's wise counsel, and considers her to be reliable and trustworthy.<sup>46</sup> Applicant's manager issued the initial performance review for Applicant covering her first five months, and he rated her as having met or exceeded expectations.<sup>47</sup>

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance."<sup>48</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>49</sup>

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

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision.

In the decision-making process, facts must be established by "substantial evidence."<sup>50</sup> The Government initially has the burden of producing evidence to establish

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<sup>45</sup> AE F (Character Reference, dated May 3, 2016).

<sup>46</sup> AE E (Character Reference, undated).

<sup>47</sup> AE D (Performance & Development Review, dated February 26, 2016).

<sup>48</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>49</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

<sup>50</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)

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>51</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>52</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>53</sup> Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

## **Analysis**

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

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

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

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(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>51</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>52</sup> *Egan*, 484 U.S. at 531.

<sup>53</sup> See Exec. Or. 10865 § 7.



protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly, under AG ¶ 19(c), a “history of not meeting financial obligations” may raise security concerns. Applicant’s financial problems initially arose in 2007-2009, and increased during the ensuing years. Accounts became delinquent. Some were charged off, tax liens were filed, and a vehicle was repossessed. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where “the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment.” Also, under AG ¶ 20(b), financial security concerns may be mitigated where “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances.” Evidence that “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control” is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.”<sup>54</sup> In addition, AG ¶ 20(e) may apply where “the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.”

AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) all apply. Applicant’s financial problems were not caused by her personal frivolous or irresponsible spending. Also, it does not appear that she spent beyond her means. Instead, her financial problems initially occurred when the national economy and the associated banking and real estate markets collapsed, events that were largely beyond her control. Her income from her businesses as a self-employed loan processor, and later a short sale negotiator – loss mitigation specialist for a company, diminished as her stress level increased. Health issues, frequent

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<sup>54</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)).

relocations, repeated job losses, and periods of unemployment created additional financial burdens. She reduced her expenses and considered, but rejected, bankruptcy. Instead, she stabilized her health and financial situations. She obtained better employment, reached out to creditors, obtained financial and legal guidance, prioritized her debts, established repayment arrangements where possible, and started efforts to repair her credit.

Well before the SOR was issued, Applicant commenced her arduous task of resolving her debts, limited largely by an inability to generate the funds to do so more expeditiously. By the time the SOR was issued, she had already resolved a number of them. Following her established repayment plan, or her Snowball as she refers to it, she paid off a \$6,134 federal tax lien and some other debts. Her plan continued unabated even after the SOR was issued. One \$1,094 state tax lien was paid off, and another \$4,492 state tax lien was dismissed when it was found to have been filed in error. Miscellaneous minor debts have been paid off or otherwise resolved. Some accounts were effectively and successfully disputed. With a current annual salary of \$60,008, it appears that Applicant's financial status has improved significantly, and that her financial problems are finally under control. She appears to have acted prudently and responsibly. Applicant's actions, under the circumstances confronting her, no longer cast doubt on her current reliability, trustworthiness, and good judgment.<sup>55</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 AG ¶ 2(a):

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.<sup>56</sup>

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<sup>55</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

<sup>56</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).

There is some evidence against mitigating Applicant's conduct. Applicant failed to maintain her normal monthly payments to a number of her accounts, and, over a several-year period, a number of them became delinquent and were placed for collection. Some accounts were charged-off, tax liens were filed, and a vehicle was repossessed.

The mitigating evidence under the whole-person concept is more substantial. There is no evidence of misuse of information technology systems, mishandling protected information, substance abuse, or criminal conduct. Applicant was a self-employed loan processor, and then a short sale negotiator – loss mitigation specialist for a company when the national economy plummeted and the banking and real estate sectors were negatively impacted. Her subsequent health issues, the loss of two jobs, periods of unemployment, and frequent relocations left her without the financial resources to maintain her accounts in a current status. However, rather than escaping her financial burdens by filing for bankruptcy, she chose not to ignore her delinquent debts. Instead, as she was becoming more financially able, she entered into repayment agreements with some of her creditors. She paid off or otherwise resolved some SOR-related debts as well as some debts that were not alleged in the SOR.

Applicant now has an annual salary of \$60,008, whereas during 2010 her adjusted gross income was \$1,643. She has now accounted for all of her delinquent debts, and they are all in her Snowball plan for resolution. Considering her current salary, and the probability for an increase, there are clear indications that Applicant's financial problems essentially are under control. Based on the characterizations of her character references, Applicant's reputation for honesty, integrity, reliability, and trustworthiness, appear to support her continuing debt repayment plans consistent with her Snowball list of priorities.<sup>57</sup>

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:

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 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

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<sup>57</sup> The Appeal Board has indicated that promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner. ISCR Case No. 07-13041 at 4 (App. Bd. Sept. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)).

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.<sup>58</sup>

Applicant has demonstrated a “meaningful track record” of debt reduction and elimination efforts, limited only by her modest earnings, and she started to do so well before the SOR was issued. She keeps track of her expenses and maintains a budget. She is continuing to follow her debt repayment plans consistent with her Snowball list of priorities. Overall, the evidence leaves me without questions or doubts as to Applicant’s security worthiness. For all of these reasons, I conclude Applicant has mitigated the security concerns arising from her financial considerations. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a through 1.i:	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 grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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ROBERT ROBINSON GALES  
Administrative Judge

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<sup>58</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).