



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



In the matter of:

Applicant for Public Trust Position

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ADP Case No. 15-06461

Appearances

For Government: Chris Morin, Esquire, Department Counsel

For Applicant: *Pro se*

02/07/2017

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant has mitigated the trustworthiness concerns regarding financial considerations. Eligibility to occupy a public trust position is granted.

Statement of the Case

On February 12, 2015, Applicant applied for a public trust position and submitted an Electronic Questionnaire for Investigations Processing (e-QIP).¹ On March 8, 2016, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to her, pursuant to DOD Regulation 5200.2-R, *Personnel Security Program*, dated January 1987, as amended and modified (Regulation); DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (effective within the DOD on September 1, 2006) (AG) for all adjudications and other determinations made under the Directive. The SOR alleged trustworthiness concerns under Guideline F (Financial Considerations), and detailed reasons why the DOD adjudicators were unable to make

¹ GE 1 (e-QIP, dated February 12, 2015).

an affirmative finding under the Directive that it is clearly consistent with the interests of national security to grant or continue Applicant's eligibility for occupying a public trust position to support a contract with the DOD. The SOR recommended referral to an administrative judge to determine whether such eligibility should be granted, continued, denied, or revoked.

Applicant acknowledged receipt of the SOR on March 28, 2016. In a sworn statement, dated April 5, 2016, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. On June 3, 2016, Department Counsel indicated the Government was prepared to proceed. The case was assigned to me on October 26, 2016. A Notice of Hearing was issued on November 7, 2016. I convened the hearing, as scheduled, on December 7, 2016.

During the hearing, two Government exhibits (GE 1 and GE 2), one Applicant exhibit (AE A), and one administrative exhibit were admitted into evidence without objection. Applicant and one witness 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 additional documents, which were marked and admitted as AE B through AE J, without objection. The record closed on January 11, 2017.

Findings of Fact

In her Answer to the SOR, Applicant admitted all but one of the factual allegations pertaining to financial considerations (§§ 1.a. through 1.d., and 1.f. through 1.h.) of the SOR. She subsequently amended her Answer to admit all of the factual allegations. Applicant's admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 49-year-old employee of a defense contractor. She has been a full-time claims analyst for her employer since November 1999.² She is seeking to retain her eligibility for occupying a public trust position to support a contract with the DOD. She is a 1985 high school graduate.³ She has never served in the U.S. military.⁴ Applicant was married in December 1987 and separated in April 2007.⁵ No divorce papers have been filed.⁶ She has two sons (born in 1991 and 2005), one daughter (born in 2000), and one stepdaughter (born in 2008), as well as two of her husband's nephews (born in 1993 and

² GE 1, *supra* note 1, at 10; Tr. at 24.

³ GE 1, *supra* note 1, at 9.

⁴ GE 1, *supra* note 1, at 11.

⁵ GE 1, *supra* note 1, at 14.

⁶ Tr. at 20.

1999), for whom she either was, or is, responsible.⁷ The stepdaughter (the result of her husband's extra-marital affair) resided with Applicant on a temporary basis when the child's mother was incarcerated and Applicant's husband was not able to care for her.⁸

Financial Considerations⁹

There was nothing unusual about Applicant's finances until sometime shortly after she and her husband separated in April 2007. She was left to care for their three children and her husband's two nephews who had previously been removed from their father and placed in the care of Applicant and her husband.¹⁰ At the time of the separation, Applicant and her husband orally agreed that he would be responsible for the monthly payments for the credit card he continued to use, as well as the car, among other accounts.¹¹ Unbeknownst to Applicant, he failed to fulfil his part of the agreement, and, with the periodic exception of providing unspecified things for the children, he never started making those payments. He also failed to furnish any child support. Ever since April 2007, Applicant has been the sole provider for herself and the children.¹² It was not until Applicant looked at a credit report did she become aware that her husband was not paying the bills.¹³ In the interim, some accounts had become delinquent and placed for collection. Applicant contacted her husband and confronted him about his failure to pay the bills, and he responded that he would take care of the matter.¹⁴ Once again, he did not do so.¹⁵

Applicant contacted her creditors in an effort to determine the legitimacy of the listed delinquencies, and if satisfied, to make payments or enter into repayment arrangements. She disputed some accounts, made successful contacts with some creditors, made payments or agreed to repayment arrangements, and was temporarily unsuccessful in achieving any successful resolution with only one creditor. Despite the absence of any financial counseling or financial guidance from any sources,¹⁶ she developed a strategy to resolve her delinquent debts, and she has a budget.¹⁷

⁷ GE 1, *supra* note 1, at 17-20.

⁸ Tr. at 42, 44-45.

⁹ General source information pertaining to the financial accounts discussed below can be found in the following exhibits: GE 1, *supra* note 1; GE 2 (Combined Experian, TransUnion, and Equifax Credit Report, dated March 10, 2015); GE 3 (Equifax Credit Report, dated March 4, 2015); Answer to the SOR, dated April 5, 2016; AE A (Amended Answer to the SOR, undated). More recent information can be found in the exhibits furnished and individually identified.

¹⁰ Tr. at 21-22.

¹¹ Tr. at 20-21.

¹² Tr. at 23-24.

¹³ Answer to the SOR, *supra* note 9, at 1.

¹⁴ Answer to the SOR, *supra* note 9, at 1; Tr. at 41.

¹⁵ Tr. at 41.

¹⁶ Tr. at 40.

The SOR identified eight purportedly continuing delinquent accounts, totaling approximately \$37,144, as reflected by the March 2015 credit report.¹⁸ Those debts and their respective current status, according to the credit report, other evidence submitted by the Government and Applicant, and Applicant's comments regarding same, are described below:

SOR ¶ 1.a.: This is a jointly-held bank credit card with a credit limit of \$22,000, past-due balance of \$2,890, and remaining unpaid balance of \$22,826, that was placed for collection and charged off.¹⁹ The account was used by Applicant's husband to consolidate his debts into this one account to lower his payments.²⁰ It was also the credit card account for which he was responsible, but simply ignored. Applicant initially attempted to resolve the account online, but because of faulty or incomplete information, she was unable to do so.²¹ She eventually contacted the creditor and was referred to a collection agent to establish a repayment plan. The collection agent required monthly payments of \$443, but that amount was simply too high for Applicant. She offered a monthly payment of \$50 until she was able to increase her payments, but that was unacceptable. Her offer of \$150 was neither accepted nor rejected, and it was agreed that Applicant would call the collection agent when those payment arrangements could commence.²² The account is scheduled to be removed from her credit report in March 2017.²³ The account has not been resolved.

SOR ¶ 1.b.: This is a store credit card with a credit limit of \$9,600 and past-due balance of \$10,882 that was placed for collection.²⁴ Applicant offered two explanations pertaining to the account. One scenario was that it was one of the accounts that her husband consolidated into the bank credit card and the balance was paid off. The creditor confirmed that the debt was paid off.²⁵ The other scenario was that the card was opened by someone with her same last name somewhere in a state in which she had never resided. Applicant disputed the account, and it was removed from her credit report.²⁶ Although Applicant failed to submit documentation to support the first scenario or the

¹⁷ AE B (Budget, dated December 2016).

¹⁸ GE 2, *supra* note 9.

¹⁹ GE 2, *supra* note 9, at 5; TransUnion Credit Report, dated March 28, 2016, at 2-3, attached to Applicant's Answer to the SOR, *supra* note 9.

²⁰ Tr. at 25; Answer to the SOR, *supra* note 9, at 1.

²¹ Answer to the SOR, *supra* note 9, at 1.

²² AE E (Letter, dated December 13, 2016); AE E (Applicant's Statement, undated).

²³ TransUnion Credit Report, *supra* note 19, at 2.

²⁴ GE 2, *supra* note 9, at 5; Answer to the SOR, *supra* note 9, at 2.

²⁵ Answer to the SOR, *supra* note 9, at 1; AE C (Applicant's Statement, undated).

²⁶ Tr. at 28-29.

dispute discussed in the second scenario, Applicant's March 2016 credit report does not list the account.²⁷ The account has been resolved.

SOR ¶¶ 1.c. and 1.d.: These are two medical accounts for professional services with unpaid balances of \$160 and \$123 that were placed for collection.²⁸ Applicant contacted the creditor in March 2016 and set up repayment arrangements calling for separate monthly payments of \$10 and \$25, but after completing her initial payments, the creditor combined the balances for the two accounts and modified the repayment arrangement. The modified repayment arrangement calls for one combined monthly payment of \$10 until the accounts are paid in full.²⁹ Applicant has continued making her expected monthly payments since the arrangements were made.³⁰ The accounts are in the process of being resolved.

SOR ¶ 1.e.: This is an internet/cable account with an unpaid balance of \$1,251 that was placed for collection.³¹ Applicant contacted the creditor to inquire about the account and was advised that it was an account opened in a state in which Applicant had never resided. The creditor also informed her that the company did not offer service in the area of the state in which she did reside.³² The creditor referred Applicant to its fraud department, and an investigation ensued.³³ Applicant disputed the account, and it was removed from her credit report.³⁴ Although Applicant failed to submit documentation to either her contentions or the dispute discussed, Applicant's March 2016 credit report does not list the account.³⁵ The account has been resolved.

SOR ¶ 1.f.: This is cellular phone account opened in Applicant's name by her minor son with an unpaid balance of \$1,241 that was placed for collection.³⁶ The account was subsequently sold, in turn, to two debt purchasers. Applicant contacted the most recent debt purchaser in March 2016 and set up repayment arrangements calling for a monthly payment of \$35.³⁷ Applicant has continued making her expected monthly payments since

²⁷ TransUnion Credit Report, *supra* note 19.

²⁸ GE 2, *supra* note 9, at 5.

²⁹ Answer to the SOR, *supra* note 9, at 2; Receipts, dated March 19, 2016, attached to Applicant's Answer to the SOR, *supra* note 9; AE A, *supra* note 9, at 2.

³⁰ AE A (Checking Account Register, various dates), attached to Applicant's Amended Answer to the SOR.

³¹ GE 2, *supra* note 9, at 12.

³² Answer to the SOR, *supra* note 9, at 2; AE D (Applicant's Statement, undated); Tr. at 31-32.

³³ AE D, *supra* note 32.

³⁴ Tr. at 32-33.

³⁵ TransUnion Credit Report, *supra* note 19.

³⁶ GE 2, *supra* note 9, at 12.

³⁷ Answer to the SOR, *supra* note 9, at 2; TransUnion Credit Report, *supra* note 19, at 6; Tr. at 33-34.

the arrangements were made.³⁸ Applicant's January 2017 credit report reflects that the unpaid balance has decreased to \$926.³⁹ The account is in the process of being resolved.

SOR ¶ 1.g.: This is bank credit card account with an unpaid balance of \$561 that was placed for collection.⁴⁰ The account was subsequently sold to a debt purchaser. Applicant contacted the debt purchaser in March 2016 and set up repayment arrangements calling for a reduced settlement figure and a monthly payment of \$20 for nine months.⁴¹ Applicant has continued making her expected monthly payments since the arrangements were made.⁴² Applicant's January 2017 credit report reflects that the unpaid balance has decreased to \$381.⁴³ The account is in the process of being resolved.

SOR ¶ 1.h.: This is a telephone account with an unpaid balance of \$100 that was placed for collection.⁴⁴ The delinquency arose when the new company failed to honor its promotional promise to pay the cost of switching her service from her previous carrier to the new carrier.⁴⁵ Applicant contacted the collection agent in March 2016 and paid \$101.03.⁴⁶ The account has been resolved.

In her budget, Applicant estimated that her monthly net income is \$1,638; her monthly expenses are \$1,451; and she has a monthly remainder of approximately \$187 available for saving or spending.⁴⁷ She has extremely modest sums in her checking and savings accounts. She maintains a small retirement account. Her car is paid off, and all of her other accounts, including her mortgage, are current.⁴⁸ To the extent that she can, Applicant continues to provide a financial safety net for her children, even those who have become emancipated.⁴⁹ In the absence of any additional unidentified delinquencies, it appears that Applicant's financial problems are under control.

³⁸ AE A, *supra* note 30.

³⁹ AE J (Extract of Credit Karma Credit Report, dated January 5, 2017), at 13.

⁴⁰ GE 2, *supra* note 9, at 12.

⁴¹ Answer to the SOR, *supra* note 9, at 3; Tr. at 33-34.

⁴² AE A, *supra* note 30.

⁴³ AE J, *supra* note 39, at 12.

⁴⁴ GE 2, *supra* note 9, at 13.

⁴⁵ Answer to the SOR, *supra* note 9, at 3; Tr. at 34-35.

⁴⁶ AE A, *supra* note 30; Tr. at 34-35.

⁴⁷ AE B, *supra* note 17.

⁴⁸ Tr. at 36-39.

⁴⁹ Tr. at 38-40.

Character References

Friends, including one who has known Applicant since childhood, and others who have known her for between five and ten years, are uniform in their praise for her. They characterize her as kind, honest, nice, trustworthy, responsible, family oriented, spiritual, hard-working, self-motivating, professional, supportive, honest-hearted, and loving. One noted that despite the issues confronting her, Applicant never gives up.⁵⁰

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 [position of public trust].”⁵¹ 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. Positions designated as ADP-I and ADP-II are classified as “sensitive positions.”⁵² “The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person’s loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security.”⁵³ DOD contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made.⁵⁴

When evaluating an applicant’s suitability for a public trust position, 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 a public trust position.

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 common sense 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.

⁵⁰ AE F (Character Reference, dated December 10, 2016); AE G (Character Reference, undated); AE H (Character Reference, dated December 13, 2016); AE I (Character Reference, dated December 25, 2016).

⁵¹ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁵² Regulation ¶¶ C3.1.2.1.1.7, C3.1.2.1.2.3, and C3.1.2.2. See also Regulation app. 10, ¶ 10.2.

⁵³ Regulation ¶ C6.1.1.1.

⁵⁴ Regulation ¶ C8.2.1. It should be noted that a memorandum from the Deputy Under Secretary of Defense for Counterintelligence and Security, *Adjudication of Trustworthiness Cases*, dated November 19, 2004, covers the handling of trustworthiness cases under the Directive. The memorandum directed the Defense Office of Hearings and Appeals (DOHA) to continue to utilize the Directive in ADP contractor cases for trustworthiness determinations.

In the decision-making process, facts must be established by “substantial evidence.”⁵⁵ 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.⁵⁶

A person who seeks access to sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information. Furthermore, security clearance determinations, and by inference, public trust determinations, should err, if they must, on the side of denials.⁵⁷ 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 trustworthiness concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness and ability to protect [sensitive] information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

⁵⁵ “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 (4th Cir. 1994).

⁵⁶ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁵⁷ *Egan*, 484 U.S. at 531.

The guideline notes several conditions that could raise trustworthiness 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 trustworthiness concerns. Applicant’s initial financial problems arose in 2007. Eventually, several accounts became delinquent and were placed for collection. AG ¶¶ 19(a) and 19(c) have been established.

The guideline also includes examples of conditions that could mitigate trustworthiness 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 trustworthiness 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.”⁵⁸ In addition, 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(e) may apply.

AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) apply. Applicant’s initial financial problems were caused by events that were largely beyond her control: when Applicant and her husband separated in 2007, he agreed that he would be responsible for the monthly payments for the credit card he continued to use, as well as the car, among other accounts. At the time, Applicant was left to care for their three children, her husband’s daughter, and his two nephews. Her husband failed to fulfil his part of the agreement, and, with the periodic exception of providing unspecified things for the children, he never started making those payments. He also failed to furnish any child support. Ever since April 2007, Applicant has been the sole provider for herself and the children, and it has been a struggle. It was not until Applicant looked at a credit report did she become aware

⁵⁸ 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)).

that her husband was not paying the bills. In the interim, some accounts had become delinquent and placed for collection. Applicant contacted her husband and confronted him about his failure to pay the bills, and he responded that he would take care of the matter. Once again, he did not do so.

Upon learning of her financial predicament, Applicant eventually contacted her creditors. She determined that some of the accounts were associated with individuals either with the same last name or from individuals residing in a state where Applicant had never resided. She successfully disputed those accounts and they were removed from her credit report. For those accounts that she recognized, she sought to set up repayment plans. Of the eight accounts identified in the SOR, three have been resolved, either through payments or by being successfully disputed; and four are in the process of being resolved with continuing monthly payments under an agreed repayment arrangement. The collection agent for the sole remaining account – the credit card Applicant's husband used and failed to make payments for – required monthly payments which were simply too high for Applicant to manage, and her offers of lower payments were either rejected or no decision has yet been made.

Applicant estimated that she has a monthly remainder of approximately \$187 available for saving or spending. She has extremely modest sums in her checking, savings, and retirement accounts. Her car is paid off, and all of her other accounts, including her mortgage, are current. She has no other outstanding debts. Despite the absence of financial counseling or financial guidance from any sources, it appears that Applicant's financial problems are under control. Applicant's actions no longer cast doubt on her current reliability, trustworthiness, or good judgment.⁵⁹

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a public trust position 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 public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have

⁵⁹ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

evaluated this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.⁶⁰

There is some evidence against mitigating Applicant's conduct. She failed to exercise sufficient control over her various accounts to assure that they were maintained in a current status. As a result of her inattention, several accounts became delinquent and were placed for collection.

The mitigating evidence is more substantial. There is no evidence of misuse of information technology systems, mishandling protected information, or substance abuse. Instead, there is an individual who is extremely devout, and a loving, caring parent, stepparent, aunt, and friend who is highly praised by those who know her and her travails. Applicant initially, and perhaps, naively, believed that her husband would honor his agreement and commitment to be responsible for paying certain bills when they separated. He failed to do so from the onset of their separation. Later on, when Applicant confronted him about his failures, despite his renewed promises, he again failed to comply. Applicant was, and continued to be, the sole provider for their three children, her husband's daughter, and his two nephews. Applicant engaged her creditors in attempts to resolve the accounts. As noted above, of the eight accounts identified in the SOR, three have been resolved and four are in the process of being resolved with continuing monthly payments under an agreed repayment arrangement. There is one account – the credit card Applicant's husband used and failed to make payments for – that remains open because the collection agent required monthly payments which were simply too high for Applicant to manage. Nevertheless, when she is able to do so, Applicant intends to resolve it as well. There are no other delinquencies.

Applicant has embraced the paradigm of fiscal responsibility. She did not conceal her financial difficulties when completing her e-QIP. Instead, she was honest and forthright, and she reported them. The undisputed developed evidence enables me to conclude that there are clear indications that Applicant's financial problems are now under control.

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

⁶⁰ 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).

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.⁶¹

Applicant has demonstrated a good track record of debt reduction and elimination efforts, limited only by her modest earnings. Her monthly payments for four accounts are continuing, and will shortly be completed, allowing her to address the one remaining delinquent account.

Overall, the evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a position of public trust. For all of these reasons, I conclude Applicant has mitigated the trustworthiness concerns arising from his 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.h.:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility to occupy a public trust position to support a contract with DOD. Eligibility is granted.

ROBERT ROBINSON GALES
Administrative Judge

⁶¹ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).