



**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. 15-07065

Appearances

For Government: Douglas R. Velvel, Esquire, Department Counsel

For Applicant: *Pro se*

08/30/2016

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the trustworthiness concerns regarding financial considerations. Eligibility to occupy a public trust position is denied.

Statement of the Case

On February 26, 2015, Applicant applied for a public trust position and submitted an Electronic Questionnaire for Investigations Processing (e-QIP).¹ On March 19, 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 26, 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, inadvertently dated April 13, 2015,² Applicant responded to the SOR allegations and requested a hearing before an administrative judge. On May 5, 2016, Department Counsel indicated the Government was prepared to proceed. The case was assigned to me on June 6, 2016. A Notice of Hearing was issued on June 28, 2016. I convened the hearing, as scheduled, on July 13, 2016.

During the hearing, three Government exhibits (GE 1 through GE 3) and one Applicant exhibit (AE A) were admitted into evidence without objection. Applicant testified. The transcript (Tr.) was received on July 22, 2016. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity. She timely submitted a number of additional documents, which were marked as AE B through AE F that were admitted into evidence without objection. The record closed on August 10, 2016.

Findings of Fact

In her Answer to the SOR, Applicant admitted all of the factual allegations pertaining to financial considerations (§§ 1.a. through 1.i.) of the SOR. She did not agree with some of the amounts alleged, but failed to specify which ones she disputed. 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 31-year-old employee of a defense contractor. She has been a full-time health care finder and provider relations representative for a defense contractor since March 2015.³ She had previously gone through several periods of unemployment: August 2014 until November 2014; April 2010 until February 2011; and December 2007 until January 2009.⁴ She is seeking to retain her eligibility for occupying a public trust position to support a contract with the DOD. She is a 2003 high school graduate.⁵ She has never served in the U.S. military.⁶ Applicant was married in July 2014 and separated in April 2015.⁷

² It should be noted that the affidavit form upon which Applicant was to choose either a hearing or a decision based upon the administrative record, and list her contact information, and which the notary public was to sign, was a boilerplate preprinted form with "2015" furnished by the DOD CAF. The correct date should be "2016."

³ GE 3 (Personal Subject Interview, dated June 4, 2015), at 3; Tr. at 7.

⁴ GE 1, *supra* note 1, at 12-18; GE 3, *supra* note 3, at 3.

⁵ GE 1, *supra* note 1, at 11.

⁶ GE 1, *supra* note 1, at 19.

Financial Considerations⁸

In December 2007, Applicant was fired from her position as an online specialist with a bank for having inappropriate content on her office computer. Applicant unsuccessfully disputed the basis for her discharge, claiming she was wrongfully accused and wrongfully terminated.⁹ During her period of unemployment, Applicant was supported by unemployment compensation and spent her time attending her religious organization and doing housework.¹⁰ In order to qualify for unemployment compensation, Applicant had to submit two job applications per week. She contended she sought more than just two jobs each time.¹¹

In April 2010, Applicant was fired from her position as a sales representative for a communications company for attendance issues. Applicant disputed the basis for her discharge and went through the appeal process with the assistance of her union representative. Although the employer offered to reinstate her, it refused to pay her for time lost. Applicant declined the proposed reinstatement, ending the appeal process.¹² During her period of unemployment, Applicant was supported by unemployment compensation and spent her time attending her religious organization and doing housework.¹³

Applicant acknowledged that in 2006 or 2007, due to her own immaturity, she had incurred more debt than she could afford. She failed to make monthly payments on her own accounts in order to financially assist her mother or siblings with their living expenses.¹⁴ Monthly car loan payments were missed, and two vehicles were eventually repossessed. In June 2015, three months after separating from her husband, Applicant misled an investigator from the U.S. Office of Personnel Management (OPM) by saying that she had her spouse's income and had enough money to pay off her accounts as well as living expenses.¹⁵

⁷ GE 1, *supra* note 1, at 21-22; GE 3, *supra* note 3, at 5.

⁸ 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 17, 2015); GE 3, *supra* note 3; Applicant's Answer to the SOR, dated April 13, 2016. More recent information can be found in the exhibits furnished and individually identified.

⁹ GE 3, *supra* note 3, at 4.

¹⁰ GE 3, *supra* note 3, at 3.

¹¹ Tr. at 23-24.

¹² GE 3, *supra* note 3, at 4.

¹³ GE 3, *supra* note 3, at 3.

¹⁴ GE 3, *supra* note 3, at 7; Tr. at 51.

¹⁵ GE 3, *supra* note 3, at 8.

Applicant's father owns a credit counseling company. She claimed that commencing in late 2014, her father has been giving her advice on how to pay off her delinquent debt. She also stated that she had been giving him between \$20 and \$100, without specifying the frequency of such payments, to contact her creditors and pay them unspecified amounts under "pre-negotiated payment plans" about which she had no specifics.¹⁶ She failed to submit copies or specifics of the repayment plans to confirm the existence of such plans. In April 2016, a representative of the credit counseling company indicated that Applicant came to it seeking advice on how to clear up some of her outstanding debt, and that Applicant has been adhering to the suggested budget she was given.¹⁷ She failed to submit a copy of the suggested budget to confirm the existence of one. An account statement, dated August 9, 2016, from the credit counseling company reflects activity on the account between August 1, 2011, and August 9, 2016. There are 18 accounts reflected with 15 payments made between 2011 (3 payments), 2014 (3 payments), 2015 (5 payments), and 2016 (4 payments), some of which were made to accounts which are not listed in the SOR.¹⁸

A debt assessment furnished by Applicant indicates 12 debts with a combined total of \$42,035. It also indicates that combined payments of \$1,121 are scheduled for each month.¹⁹ With the exception of documentation related to three payments made on July 25, 2016, nearly two weeks after the hearing was conducted, with a combined total of \$45, Applicant failed to submit documentation to support monthly payments for the remaining \$1,076.

The SOR identified nine purportedly continuing delinquent accounts, totaling approximately \$16,273, as reflected by her March 2015 credit report.²⁰ All of the debts 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 an automobile loan with a high credit of \$9,944 and past-due balance of \$2,901 that was placed for collection and charged off in the amount of \$5,625 in December 2014.²¹ Applicant contends that, through her father's company, she made three \$25 payments in February 2015.²² There is no evidence of any more recent payments being made during the ensuing 18 months. The account remains unresolved.

¹⁶ GE 3, *supra* note 3, at 6-7.

¹⁷ AE A (Letter, dated April 13, 2016).

¹⁸ AE F (Statement, dated August 9, 2016).

¹⁹ AE E (Debt Assessment, undated).

²⁰ GE 2, *supra* note 8.

²¹ GE 2, *supra* note 8, at 5.

²² AE F, *supra* note 18, at 2.

SOR ¶ 1.b.: This is a loan in the amount of \$1,579 that Applicant obtained to pay other bills that was placed for collection, charged off in the amount of \$1,050, and sold to another lender after Applicant ceased making her monthly payments of \$110 in mid-2014.²³ Applicant contends that, through her father's company, she made two payments, one for \$25 in February 2015 and one for \$19 in May 2015.²⁴ There is no evidence of any more recent payments being made during the ensuing 15 months. The account remains unresolved.

SOR ¶ 1.c.: This is an online household products ordering service account in the amount of \$392 that was charged off in March 2015.²⁵ Applicant acknowledged that she stopped making monthly payments to use the unspent funds for living expenses.²⁶ There is no evidence of any payments being made during the ensuing 17 months. The account remains unresolved.

SOR ¶ 1.d.: This is an automobile loan with a high credit of \$19,620 that was charged off and sold to another lender in August 2014 after Applicant ceased making her monthly payments of \$390.²⁷ The vehicle was repossessed and sold.²⁸ Applicant estimated that she still owes \$7,000 on the account.²⁹ There is no evidence of any payments being made after the repossession. The account remains unresolved.

SOR ¶¶ 1.e. through 1.i.: These are medical accounts with unpaid balances of \$665, \$475, \$450, \$310, and \$306.³⁰ Applicant contends that, through her father's company, she made two \$15 payments (one each for SOR ¶¶ 1.h.³¹ and 1.i.³²) in July 2016, nearly two weeks after the hearing.³³ There is no evidence of any other payments ever being made. Three of the accounts remain unresolved, and two are in the process of being resolved.

Applicant does not currently use the suggested budget to keep track of her income and expenses.³⁴ She contends she receives a monthly net income of

²³ GE 2, *supra* note 8, at 5-6.

²⁴ AE F, *supra* note 18, at 2.

²⁵ GE 2, *supra* note 8, at 5.

²⁶ GE 3, *supra* note 3, at 8.

²⁷ GE 2, *supra* note 8, at 5.

²⁸ GE 3, *supra* note 3, at 7.

²⁹ GE 3, *supra* note 3, at 7.

³⁰ GE 2, *supra* note 8, at 7-8.

³¹ AE C (Money Order and Letter, dated July 25, 2016).

³² AE D (Money Order and Letter, dated July 25, 2016).

³³ AE F, *supra* note 18, at 1.

³⁴ Tr. at 29-30.

approximately \$1,800. Her normal monthly expenses include \$200 for rent, \$298 for insurance for two automobiles, \$117 for her cell phone, \$262 for two storage units, \$415 for one automobile loan, \$538 for another automobile loan, and \$75 for food expenses for a total of \$1,905, leaving a monthly deficit, not a remainder.³⁵ Applicant failed to include monthly expenses for medical expenses, health insurance, clothing, laundry, gasoline, miscellaneous expenses such as entertainment, or any debt repayments (which she claimed were \$1,121). Furthermore, her estimate for monthly food expenses is unrealistically low. Applicant said she had no savings and “probably” \$100 in her checking account. Her 401(k) retirement account has approximately \$600.³⁶

Because Applicant claimed she has insufficient money to pay her debts, she was afforded the opportunity to supplement the record with a number of items to bring her finances into better focus. She failed to submit a personal financial statement, the specific financial guidance she received, proof of payments made on her SOR accounts (other than the two payments she eventually made after the hearing), or specific contacts with her medical creditors. It appears that Applicant's financial problems are not close to becoming under control.

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].”³⁷ 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.”³⁸ “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.”³⁹ DOD contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made.⁴⁰

³⁵ AE E, *supra* note 19; Tr. at 25-27. Despite having substantial unaddressed delinquent debt, Applicant recently obtained an automobile loan for a new 2016 automobile for approximately \$26,000 with a monthly payment of \$530, added to her other automobile loan with a monthly payment of \$415.11. See Tr. at 26-27.

³⁶ Tr. at 28-29.

³⁷ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

³⁸ 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.

³⁹ Regulation ¶ C6.1.1.1.

⁴⁰ 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.

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.

In the decision-making process, facts must be established by "substantial evidence."⁴¹ 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.⁴²

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.⁴³ 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.

⁴¹ "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).

⁴² See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴³ *Egan*, 484 U.S. at 531.

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. . . .

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. In 2006 or 2007, Applicant incurred more debt than she could afford. At some point, Applicant had insufficient money to maintain all of her monthly payments. Various accounts became delinquent and were placed for collection, and sometimes charged off. Two automobiles were repossessed. Some accounts were sold to debt purchasers. 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."⁴⁴

⁴⁴ 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].

AG ¶¶ 20(b) and 20(c) minimally apply. AG ¶¶ 20(a) and 20(d) do not apply. The nature, frequency, and recency of Applicant's continuing financial difficulties since at least 2006 or 2007 make it difficult to conclude that it "was so infrequent." It is apparent that Applicant's periods of unemployment created financial hardships that made it difficult to maintain her accounts in a current status. But the real culprit in her financial dilemma was her own immaturity, as well as her lack of financial responsibility. Applicant's financial irresponsibility continues until the present day, for while she is burdened by substantial delinquent debts, she recently purchased a 2016 automobile with a monthly payment of \$538, an amount she can ill-afford. Applicant has acknowledged debts totaling \$42,035, including her SOR-related debts of \$16,273. From 2011 until two weeks after the hearing, she made 15 rather insignificant payments. Although her purported repayment plan calls for monthly payments of \$1,121, it is clear that her plan is unrealistic in light of her limited income and continuing unwise financial decisions.

Applicant offered no realistic documentary evidence of a good-faith effort to resolve any of her accounts. Making two \$15 payments in July 2016 (two weeks after the hearing) on SOR accounts that became delinquent in 2011 or 2012 is insufficient to constitute a "good-faith effort," especially in light of her recent purchase of a new 2016 automobile.

Trustworthiness adjudications are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The adjudicative guidelines do not require an applicant to establish resolution of each and every debt alleged in the SOR. An applicant need only establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in an SOR be paid first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts one at a time. In this instance, while there is an alleged plan to resolve financial problems, there is little documentation to support evidence of positive action being taken under the plan. Instead, there is exacerbation of financial difficulties with the addition of the costly new car, especially after two vehicles were already repossessed, and the unpaid balances of those vehicles remain delinquent.

In this instance, Applicant failed to submit her proposed repayment plan related to her accounts with realistic repayment schedules, or repayment arrangements supposedly entered into with various creditors, or proof of past payments. Applicant has not acted responsibly by failing to timely address her delinquent accounts.⁴⁵ Applicant's

(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)).

⁴⁵ "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

relative inaction under the circumstances confronting her cast substantial doubt on her current reliability, trustworthiness, and good judgment.⁴⁶

There is superficial evidence to indicate that Applicant has received financial counseling. Based on the information furnished, it appears that Applicant has no funds remaining at the end of each month for discretionary use or savings. As reported by her, there is a deficit each month. There is no evidence to reflect that Applicant's financial problems are under control. To the contrary, the overwhelming evidence leads to the conclusion that Applicant's financial problems are not under control.

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 evaluated this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.⁴⁷

There is some evidence in favor of mitigating Applicant's conduct. There is no evidence of misuse of information technology systems, mishandling protected information, or substance abuse. Applicant has worked with the same employer since March 2015. She had periods of unemployment. She made some small efforts to resolve some of her delinquent accounts. Applicant did not conceal her financial difficulties when completing her e-QIP. Instead, she was honest and forthright, and she reported some of them.

The disqualifying evidence is more substantial and compelling. Two of Applicant's periods of unemployment resulted from being terminated by her employers

⁴⁶ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

⁴⁷ 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).

for unacceptable conduct. During her periods of unemployment, Applicant was supported by unemployment compensation and spent her time attending her religious organization and doing housework. Searching for a new job was apparently not as important, although she noted that she exceeded the requirement for two job applications per week to qualify for her unemployment compensation. She was immature and financially irresponsible, choosing to help others financially while seemingly ignoring her own debts. Two vehicles were repossessed. Accounts were charged off. Ignoring her delinquent debts, she purchased a new 2016 automobile. Applicant has failed to take significant positive action to resolve any of the accounts. She finally took insignificant steps to address two such accounts nearly two weeks after the hearing. There are clear indications that Applicant's financial problems are not close to becoming 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 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.⁴⁸

Applicant has demonstrated a very poor track record of debt reduction and elimination efforts. She discussed repayment arrangements and payments to creditors, but she offered no documentation of the types requested, even though she was exhorted to do so.

Overall, the evidence leaves me with substantial questions and doubts as to Applicant's eligibility and suitability for a position of public trust. For all of these reasons, I conclude Applicant has failed to mitigate the trustworthiness concerns arising from her financial considerations. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

⁴⁸ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Formal Findings

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

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraphs 1.a. through 1.i.: Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility to occupy a public trust position to support a contract with DOD. Eligibility is denied.

ROBERT ROBINSON GALES
Administrative Judge