



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



In the matter of:

Applicant for Public Trust Position

)
)
)
)
)

ADP Case No. 16-03595

Appearances

For Government: Chris Morin, Esq., Department Counsel
For Applicant: *Pro se*

03/26/2018

Decision

TUIDER, Robert, Administrative Judge:

Applicant made sufficient progress resolving her delinquent debts. She mitigated financial considerations trustworthiness concerns. Eligibility for access to sensitive information is granted.

Statement of the Case

On August 24, 2015, Applicant completed and signed an Electronic Questionnaire for National Security Positions (SF-86). On January 10, 2017, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant, pursuant to DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, and modified; DOD Regulation 5200.2-R, *Personnel Security Program*, dated January 1987, as amended (Regulation); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), which became effective on September 1, 2006.

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue her access to sensitive information, and recommended referral to an administrative judge to determine whether access to sensitive information should be granted, continued, denied, or revoked. Specifically, the SOR set forth trustworthiness concerns arising under the financial considerations guideline.

On March 9, 2017, Applicant provided a response to the SOR, and she requested a hearing. On June 26, 2017, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing setting her hearing for August 16, 2017. During the hearing, Department Counsel offered three exhibits; Applicant offered 11 exhibits; there were no objections; and all proffered exhibits were admitted into evidence. (Tr. 11-14; GE 1-3; Applicant Exhibits (AE) AE A-K) Applicant did not object, and I took administrative notice of the IRS filing instructions for tax years 2012, 2013, and 2014. (Tr. 12) On September 27, 2017, DOHA received a copy of the hearing transcript. After the hearing, Applicant provided three exhibits, which were admitted without objection. (AE L-AE N) The record closed on October 16, 2017. (Tr. 67-69)

Findings of Fact¹

Applicant's SOR response partially or fully admitted all of the SOR allegations. She also provided extenuating and mitigating information. Applicant admissions are accepted as findings of fact. Additional findings of fact follow.

Applicant is 41 years old, and she has been employed by a DOD contractor as a behavior analyst, trainer, and reviewer of approval of medical benefits from August 2015 to the present. (Tr. 14-15) Her current annual salary is about \$63,000. (Tr. 16) She has never served in the military. (Tr. 21)

In 1994, Applicant graduated from high school, and in 1999, she received a bachelor of arts degree in psychology. (Tr. 17) In 2004, she received a master's degree in psychology. (Tr. 18) In 1999, she married, and in August 2013, she separated from her spouse and filed for divorce. (Tr. 19, 27) She has custody of her 10-year-old son; however, her son's father is not paying child support. (Tr. 19-20) Her husband is an emergency room technician, and he lives in a different state than Applicant. (Tr. 20-21) The divorce is not final. (Tr. 28)

Financial Considerations

Applicant had a difficult pregnancy and was unable to work from July to December 2006. (Tr. 24) She was underemployed from 2006 to 2010. (Tr. 25) She was also unemployed in 2012. (Tr. 25) When she returned to the work force, she was unable to find employment that paid an adequate income. (Tr. 24) Applicant and her son had medical problems. (Tr. 25, 29, 61) In 2012, Applicant's business collapsed, and she lost about \$40,000. (GE 1) In October 2016, Applicant had a near-fatal medical problem that involved hospitalization. (AE H; AE K) In November 2016, she had additional serious medical problems. (AE K) Applicant's spouse was physically abusive to her. (Tr. 27) She is willing to pay her debts. (Tr. 33)

SOR ¶ 1.a alleges that Applicant has a charged-off student loan for \$15,715. This student loan was used to fund her husband's training. (Tr. 31-34) Applicant also has a non-SOR vehicle-related debt, and it relates to a vehicle her husband is using. (Tr. 31-34) She believes the divorce will eventually allocate these two debts to be his sole responsibility.

¹ Some details were excluded to protect Applicant's right to privacy.

(Tr. 31-34) On August 8, 2017, her husband sent an email indicating he is taking responsibility for these two debts. (Tr. 34-35) Her husband is currently in default on both debts. (Tr. 32-35)

SOR ¶¶ 1.b, 1.c, and 1.g through 1.l allege that Applicant has debts placed for collection or delinquent for \$1,353, \$1,069, \$389, \$351, \$253, \$220, \$174, and \$150. She said she paid these debts using a credit card in early 2017; however, she did not offer any proof of payments at her hearing. (Tr. 39-40, 45-48) She said she could provide proof of payment after her hearing. (Tr. 39-40, 66) SOR ¶ 1.n alleges a medical debt placed for collection for \$209. Applicant said she may have paid this debt. (Tr. 54) If she did not pay this debt, she planned to pay it. (Tr. 54)

After her hearing, Applicant provided documentation showing she resolved the following six debts: SOR ¶ 1.c (\$1,069) was settled on March 8, 2017, for \$763; utility debt in SOR ¶ 1.g (\$389) was paid on March 9, 2017; telecommunications debt in SOR ¶ 1.h (\$351) was paid on March 10, 2017; the medical debts in SOR ¶¶ 1.j (\$220) and 1.k (\$174) were paid on March 13, 2017; and the medical debt in SOR ¶ 1.l (\$150) was paid on March 9, 2017. (AE L at 2-5, 7-8)

SOR ¶¶ 1.d, 1.e, and 1.f allege that Applicant has one medical debt placed for collection for \$969, and two delinquent medical debts for \$674 and \$538. (Tr. 42-45) She said in 2017 she wrote the creditors and asked for verification of the debts; however, she did not provide a copy of her letters seeking verification. (Tr. 42-45) She said she could provide copies of the letters after the hearing. (Tr. 44) She did not provide copies of the dispute letters after her hearing.

Applicant said she provided proof of payment for \$3,959 of debt owed for SOR ¶¶ 1.b to 1.l with \$2,390 remaining (not counting her husband's car loan). She did not provide a detailed list of which debts were addressed with the \$3,959. She said she is still working to clarify the three medical bills. (AE L) She provided a checking account statement, and I added markings where the payment was consistent with the amounts on the SOR. (AE L at 2). In addition to resolving the debts previously discussed, she is credited with paying the debts in SOR ¶¶ 1.b (\$1,353) and 1.i (\$253) because she corroborated payment with her account statement. (AE L at 2)

SOR ¶ 1.m alleges a federal tax lien was entered against Applicant in 2010 for \$19,229. In late 2011, Applicant's business closed. (Tr. 51) Her income was low until her current employment. (Tr. 53) She was unable to file her tax returns as married joint returns without her spouse's income information. Her husband recently gave Applicant five years of W-2s, and he wanted her to file their tax returns. (Tr. 52) Before establishing a payment plan, she needed to file her and her husband's overdue tax returns. She most recently received correspondence from the IRS in 2009. (Tr. 53)

SOR ¶ 1.o alleges Applicant failed to file her state tax return for tax year 2012. As of the date of the hearing, she had not filed this tax return. (Tr. 54) After her hearing, Applicant provided her 2012 state tax return, which was dated October 16, 2017, and it showed a refund for \$295. (AE M) The state tax return was a joint return, and the adjusted gross income was \$21,699. (AE M)

SOR ¶ 1.p alleges she failed to file her federal income tax returns for tax years 2012 through 2014. In 2013, she moved to a state that did not have state income tax. She gave three reasons for not filing her federal income tax returns for 2012, 2013, and 2014: her income fell below the threshold for filing income taxes (GE 1); she did not have all of the necessary W-2s (Tr. 54); and she was worried that she would owe more taxes. (Tr. 54) Her husband was not cooperative in filing married joint tax returns. (Tr. 55) Two weeks before her hearing, she started working with her brother, who is an accountant to prepare her income tax returns. (Tr. 56) She said she did not need to file tax returns in 2013 and 2014 because her income was \$4,500. (Tr. 59) She said she needed to file her federal income tax return for 2013 and possibly 2012. (Tr. 60) She filed married filing separately for tax years 2015 and 2016. (Tr. 60; AE D) The copy of her 2015 federal tax return she provided is not dated or signed. (AE D) She provided a partial summary of 2016 federal income tax return, and not a copy of her tax return. (AE E)

Applicant's spouse's W2s indicated income as follows: 2012 (\$20,338); 2013 (\$22,373); 2014 (\$21,552); 2015 (\$21,080); and 2016 (\$25,478). (Tr. 62; AE F) On October 15, 2013, the family court ordered her spouse to pay Applicant \$200 monthly for child support, and each party is responsible for his and her own indebtedness. (AE G)

Information from Applicant's tax returns is depicted in the following table:

Tax Year	Adjusted Gross Income	Income Tax Withheld	Tax Credits	Refund
2012	\$21,699	\$1,282	\$4,169	\$5,327
2013	\$21,597	\$972	\$4,250	\$5,222
2014	\$21,690	\$546	\$4,305	\$4,714
2015	\$27,230	\$2,320	\$2,513	\$4,168
2016 ²	\$37,199			\$1,169

Applicant said that after filing her federal income tax returns for tax years 2012, 2013, and 2014, she was entitled to a tax refund of \$15,263. (AE N) She believes this refund will significantly reduce her tax lien. (AE N) Applicant provided unsigned, undated joint federal tax returns for tax years 2013 and 2014. (AE N)

The income threshold for married filing separately from 2012 to 2015 is as follows: 2012 (\$3,800); 2013 (\$3,900); 2014 (\$3,950); and 2015 (\$4,000). (IRS Publication 501, *Exemptions, Standard Deduction, and Filing Information* for 2012 to 2015) Subtraction of Applicant's spouse's wage information on his W2s for 2012, 2013, and 2014 from the adjusted gross income for those three years indicates Applicant's income fell below the filing thresholds for those three tax years. Applicant was not legally required to file tax returns for those three years in her status as married filing separately. Applicant believed that her tax refunds would substantially resolve her tax lien, which was her only option for filing a tax return without the cooperation of her spouse.

² The summary she provided indicated taxable income (\$37,199), total tax (\$3,790), and amount refunded (\$1,169) and not adjusted gross income and tax credits. (AE E)

According to the IRS, “If you are due a refund for withholding or estimated taxes, you must file your return to claim it within 3 years of the return due date. The same rule applies to a right to claim tax credits such as the Earned Income Credit.”³ Since the tax returns for 2012, 2013, and 2014 were filed in October 2017, and most of the refund is due to the Earned Income Credit, the IRS may not give her the refunds she anticipated for tax years 2012 and 2013.

Applicant received two awards from her employer in December 2015. (AE I) Her employee evaluation for 2016 was three for “solid performance” on a score of one to five with five being the best. (AE J) She has improved during the rating period; she is helpful to others; and she is a valued member of the team. (AE J)

Policies

This case is adjudicated under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant’s suitability for a public trust position, the administrative judge must consider the disqualifying and mitigating conditions in the AG. These guidelines are not inflexible rules of law. Instead, recognizing 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. According to AG ¶ 2(a), 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 decision.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable trustworthiness decision.

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. The Government reposes a high degree of trust and confidence in 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 of potential, rather than actual, risk of compromise of sensitive information.

³ IRS website, *Filing Past Due Tax Returns*, <https://www.irs.gov/businesses/small-businesses-self-employed/filing-past-due-tax-returns>.

Analysis

Financial Considerations

AG ¶ 18 articulates the trustworthiness concern for financial problems:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

AG ¶ 19 includes three disqualifying conditions that could raise a trustworthiness concern and may be disqualifying in this case: "(a) inability to satisfy debts"; "(c) a history of not meeting financial obligations"; and "(f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required." In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). The evidence of record establishes AG ¶¶ 19(a), 19(c), and 19(f). Further inquiry about the applicability of mitigating conditions is required.

AG ¶ 20 provides financial considerations mitigating conditions that are potentially applicable:

(a) the behavior happened so long ago,⁴ was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear

⁴ A debt that became delinquent several years ago is still considered recent because "an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sept. 13, 2016)).

victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

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

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

(f) the affluence resulted from a legal source of income; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

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

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

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

Two recent Appeal Board decisions illustrate the analysis for applying AG ¶¶ 20(a) and 20(b). In ISCR Case No. 09-08533, the applicant had \$41,000 in delinquent credit card debt and defaulted on a home loan generating a \$162,000 delinquent debt. *Id.* at 2. That applicant filed for bankruptcy the same month the Administrative Judge issued her decision. *Id.* at 1-2. The applicant in ISCR Case No. 09-08533 was recently divorced, had been unemployed for 10 months, and had childcare responsibilities. Her former husband was inconsistent in his child support payments to her. The Appeal Board determined that AG ¶ 20(a) was "clearly applicable (debt occurred under such circumstances that it is unlikely to recur and [the debt] does not cast doubt on the individual's current reliability, trustworthiness, or good judgment)" even though that applicant's debts were unresolved at the time the Administrative Judge's decision was issued. The Appeal Board also decided

that the record evidence raised the applicability of AG ¶ 20(b) because of the absence of evidence⁵ of irresponsible behavior, poor judgment, unreliability, or lack of trustworthiness. *Id.* at 4.

Similarly, in ISCR Case No. 08-06567 at 3 (App. Bd. Oct. 29, 2009) the Appeal Board addressed a situation where an applicant was sporadically unemployed and lacked the ability to pay her creditors. The Appeal Board noted “it will be a long time at best before she has paid” all of her creditors. The applicant was living on unemployment compensation at the time of her hearing. The Appeal Board explained that such a circumstance was not necessarily a bar to having access to classified information stating:

However, the Board has previously noted that an applicant is not required to be debt-free nor to develop a plan for paying off all debts immediately or simultaneously. All that is required is that an applicant act responsibly given his [or her] circumstances and develop a reasonable plan for repayment, accompanied by “concomitant conduct,” that is, actions which evidence a serious intent to effectuate the plan. See ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008).

ISCR Case No. 08-06567 at 3 (App. Bd. Oct. 29, 2009). The applicant in ISCR Case No. 08-06567 used his limited resources to (1) resolve some of his debts; (2) had a repayment plan for the remaining debts; and (3) took “reasonable actions to effectuate that plan.” *Id.* The Appeal Board remanded the Administrative Judge’s decision because it did not “articulate a satisfactory explanation for his conclusions,” emphasizing the Administrative Judge did “not explain[] what he believes that applicant could or should have done under the circumstances that he has not already done to rectify his poor financial condition, or why the approach taken by applicant was not ‘responsible’ in light of his limited circumstances.” *Id.*

Application of AG ¶¶ 20(a), 20(b), and 20(d) is warranted. Applicant’s finances were adversely affected by failure of her business, medical problems, unemployment, underemployment, her separation from her husband, and his failure to pay court-ordered child support. She acted responsibly by paying as many debts as possible. She has a plan for resolving all of her debt, and she promised to do so when she has sufficient funds. Although there is limited evidence of record that she established and maintained contact with her creditors,⁶ her financial problem is being resolved and is under control.

⁵ Applicant has the burden of proving the applicability of any mitigating conditions, and the burden to disprove a mitigating condition never shifts to the Government.

⁶ “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.

Applicant admitted responsibility for and took reasonable and responsible actions to resolve her debts, establishing some good faith.⁷ Based on Applicant's credible and sincere promise to pay her debts and her track record of paying her debts, future new delinquent debt "is unlikely to recur and does not cast doubt on [Applicant's] current reliability, trustworthiness, or good judgment," and "there are clear indications that the problem is being resolved or is under control." She has sufficient income to keep her debts in current status and to continue making progress paying her remaining debts. I am confident that Applicant will conscientiously endeavor to maintain her financial responsibility. Her efforts are sufficient to mitigate financial considerations trustworthiness concerns.

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(d):

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

Under AG ¶ 2(c), "[t]he ultimate determination" of whether to grant a public trust position "must be an overall commonsense judgment based upon careful consideration" of the guidelines and the whole-person concept. My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is 41 years old, and she has been employed by a DOD contractor as a behavior analyst, trainer, and reviewer for approval of medical benefits from August 2015 to the present. Her current annual salary is about \$63,000. In 1994, Applicant graduated

⁷ 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) 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)).

from high school, and in 1999, she received a bachelor of arts degree in psychology. In 2004, she received a master's degree in psychology. In 1999, she married, and in August 2013, she separated from her spouse and filed for divorce. She has custody of her 10-year-old son; however, her son's father is not paying the \$200 monthly court-ordered child support. Their divorce is not final.

Several circumstances beyond Applicant's control adversely affected her finances: unemployment; underemployment; medical problems; separation from her spouse; and the loss of her business. Applicant said she paid all of the SOR debts, except for the debts in SOR ¶¶ 1.a (her husband's student loan debt for \$15,715) and 1.m (federal tax lien for \$19,229). Her husband agreed to take responsibility for his student loan debt. If she is co-signed on the student loan, she remains secondarily responsible for it, notwithstanding the allocation of the family court. It is unclear whether Applicant is jointly responsible for her husband's student loan debt, and the amount of the tax lien that will be remain after applying the tax refunds for tax years 2014, 2015, and 2015. She will need to establish a payment plan with the IRS in the near future. She provided proof that she resolved the eight debts in SOR ¶¶ 1.b, 1.c, and 1.g through 1.l.

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

. . . 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 has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has . . . established a plan to resolve his 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 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.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). She understands what she needs to do to establish and maintain her financial responsibility. She took reasonable actions under her particular financial circumstances to address her delinquent debts. Applicant has established a "meaningful track record" of debt re-payment, and I am confident she will maintain her financial responsibility.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, DOD Manual 5200.02, and the AGs, to the facts and circumstances in the context of the whole person. I conclude that financial considerations trustworthiness concerns are

mitigated. It is clearly consistent with the interests of national security to grant Applicant eligibility for public trust position.

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 to 1.p:	For Applicant
---------------------------	---------------

Conclusion

In light of all of the circumstances in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility for a public trust position. Eligibility for access to sensitive information is granted.

Robert Tuidier
Administrative Judge