



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



In the matter of:)
)
) ISCR Case No. 07-05336
)
)
Applicant for Security Clearance)

Appearances

For Government: Paul DeLaney, Esquire, Department Counsel
For Applicant: Judith L. Wheat, Esquire

August 26, 2008

Decision

RIVERA, Juan J., Administrative Judge:

Applicant failed to show sufficient financial responsibility to mitigate security concerns regarding Guideline F (Financial Considerations). Clearance is denied.

Statement of the Case

On January 13, 2005, Applicant submitted her Security Clearance Application (SF 86). On November 5, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to her, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, modified and revised.¹ The SOR alleges security concerns under

¹ On Aug. 30, 2006, the Under Secretary of Defense (Intelligence) published a memorandum directing application of revised Adjudicative Guideline to all adjudications and other determinations made under the Directive and Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program*

Guideline F (Financial Considerations).² The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for her, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Applicant responded to the SOR on December 26, 2007 and requested a hearing before and Administrative Judge.

DOHA received the case on February 14, 2008, and assigned it to me that same day. Applicant requested a delay in the hearing from March 10 to March 18, 2008 (Tr. 9). The hearing was conducted as rescheduled on March 28, 2008. I admitted five government exhibits (GE 1-5; Tr. 17-21), and three Applicant Exhibits (AE 1-3). Applicant made an oral statement during her hearing and called two witnesses. DOHA received the transcript of the hearing (Tr.) on April 9, 2008.

Findings of Fact

Applicant admitted the allegations in SOR ¶ 1.e, and provided releases of the federal tax liens pertaining to SOR ¶¶ 1.a and 1.b (Tr. 10-11). Her admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following additional findings of fact.

Applicant is 52 years old (Tr. 126).³ She has never been married (Tr. 126). Her children are ages 11 and 20 years old (Tr. 126). She completed three years of college (Tr. 127).

Applicant currently works for a contractor providing services to a federal agency, (ensuring compliance with statutes) and attending some interagency meetings (Tr. 45). She has worked for this agency since 2000, but for the first few years she worked in the travel section monitoring credit cards and account information (Tr. 47-48). She currently processes federal register notifications and charter renewals (Tr. 45). She never has had access to classified information in the past and does not require access to classified information now (Tr. 45). She currently has an ADP-type public trust position (Tr. 46). She submitted her security clearance application in January 2005 because her project manager told her to do so (Tr. 47). Her employment was contingent on continued approval of her ADP clearance for her public trust position (Tr. 47). When she

(Regulation), dated Jan. 1987, as amended, in which the SOR was issued on or after Sep. 1, 2006. The revised Adjudicative Guidelines are applicable to Applicant's case.

² When she completed her SF 86, Applicant denied that in the last seven years she had filed for bankruptcy, had any property repossessed, had any wages garnished, and had any unpaid judgments. See GE 1, Questions 33, 34, 35 and 37. She listed the two large federal tax liens and two debts that were over 180 days delinquent. See GE 1, Questions 36 and 38.

³ Item 4 (2007 security clearance application) is the source for the facts in this paragraph, unless stated otherwise.

received the SOR, she was advised that revocation of her public trust clearance was a possibility (Tr. 47).

Financial Considerations

The SOR listed five debts totaling \$50,673. She settled and paid SOR debt 1.d in the amount of \$535 (AE 1). The other four debts were not paid; however, the two largest debts became unenforceable because of the passage of time (AE 2). She promised to try to resolve the remaining two enforceable debts. Those five debts will be addressed in the order they appear in the SOR.

The Internal Revenue Service (IRS) filed a lien against Applicant in the amount of \$41,493 in March 2003 in connection with tax years 1993 and 1994 (SOR ¶ 1.a), and in the amount of \$6,013 on March 20, 1996 in connection with tax years 1989-1991 (SOR ¶ 1.b). Applicant provided releases for the taxes owed, dated December 17, 2007 (AE 2). The releases indicated the following amounts were owed as of the IRS assessment dates:

SOR ¶	Tax Year	Date of Assessment	Unpaid Balance of Assessment
1.b	1989	July 18, 1994	\$3,286.56
1.b	1990	October 18, 1994	\$2,396.20
1.b	1991	April 4, 1994	\$331.09
1.a	1993	August 25, 1997	\$21,029.09
1.a	1994	August 25, 1997	\$20,464.35
		Total:	\$47,507.29

Applicant did not file her 1993 and 1994 taxes when she was required to do so (Tr. 134-135). Later, Applicant's sister recommended that Ms. E assist with filing Applicant's tax returns for 1993 and 1994 (Tr. 50, 74). Applicant was unsure when her 1993 and 1994 tax returns were actually filed (Tr. 135-136). She was also unsure about whether her tax returns for 1989, 1990, and 1991 were filed on time or not (Tr. 136). These returns contained false information, which was discovered in an IRS audit (Tr. 50). Everyone who had taxes filed by Ms. E had their returns audited (Tr. 75). Ms. E would just make "up stuff" for tax returns (Tr. 76). Applicant was not sure whether she paid any taxes in 1993 and 1994 (Tr. 76). She did not closely review the tax returns Ms. E prepared for her (Tr. 79). She thought Ms. E signed some tax returns for her (Tr. 137).⁴

In 1994, Applicant's gross income was about \$58,303 and her taxable income was \$5,170 (Tr. 87-89). Her 1994 tax return showed a refund of \$499 (Tr. 89). It was signed on November 15, 1995 (Tr. 152). Eventually the IRS filed a lien for 1994 in the

⁴ Applicant's 1994 tax return has Applicant's signature on it; however, it may not have been signed by Ms. E (Tr. 139). It did not have Ms. E's address in the address of preparer section (Tr. 139). She insisted Ms. E prepared some of her tax returns; however, she was unsure about which tax returns Ms. E prepared for her (Tr. 140, 153).

amount of \$20,464 (which included interest and penalties) (Tr. 90, 123; AE 2). At the time the IRS filed the tax lien Applicant was unemployed, and had a new baby (Tr. 92).⁵

In 2001, Applicant hired a company that helped with tax issues, paying them \$400 monthly; however, they did not help with her tax problems (Tr. 51, 56, 141). She paid the company a total of about \$2,500 (Tr. 142).⁶ The company did not refund any of her payments (Tr. 57). She did not file a complaint against the company (Tr. 142).

In 2002, Applicant sought assistance from Ms. A (Tr. 140) and refilled her taxes with the assistance of Ms. A (Tr. 78-79). She said Ms. A helped with taxes for tax years 1996 to 2004 (Tr. 142-143). Applicant indicated at one point she was unsure about whether Ms. A had refilled her tax returns (Tr. 93), and about which tax returns Ms. A refilled for her (Tr. 154). She said she did not understand taxes (Tr. 75). She claimed she contacted the IRS several times over the years about her taxes (Tr. 94-95). When she had her interview with an investigator from the Office of Personnel Management, she promised to contact the IRS about her taxes and make arrangements to resolve her debts (Tr. 95-96). She did not contact the IRS after 2002 because Ms. A told her not to do so (Tr. 144). When she completed her SF 86 on January 13, 2005, she said she planned to resolve her tax problems in 2005 (GE 1 at Question 43). On August 2, 2007, she promised to pay her tax debts using funds from refinancing her rental property (GE 3). Between 2001 and April 2008, she did not contact the IRS until 2007 (Tr. 144). When she contacted the IRS in 2007, the IRS informed her that the two tax liens had been released because 10 years elapsed without the taxes being paid (Tr. 58-61, 124, 143; AE 2).⁷

Applicant owed \$6,013 for an IRS lien filed on March 20, 1996 in connection with tax years 1989 to 1991 (SOR ¶ 1.b). Applicant said the IRS garnished one of her checks (Tr. 76). She also said she paid the IRS \$6,000 before she lost her job; however, she claimed the IRS refused to give her documentation to show the payment

⁵ Later she clarified that she was under employed in 1996. The amount of work she received from her employer was significantly reduced, and there was a corresponding reduction in her income (Tr. 98-99). She was unemployed for about two months around May 2002 (Tr. 133).

⁶ Page 2 of a company statement, dated November 12, 2002, lists payments from four checks totaling \$1,700 (AE 3). However, the same statement also indicates from April 17, 2001, to March 20, 2002, Applicant paid \$3,100 into the company account for resolving her delinquent taxes (AE 3). Applicant did not provide page 1 of the company statement.

⁷ A levy must be made or proceeding in court begun to collect a federal tax lien within 10 years after a tax assessment is made. See 26 U.S.C. § 6502; *United States v. Galletti*, 541 U.S. 114, 119 (2004). The running of the statute of limitations is tolled during a bankruptcy proceeding, see *United States v. Doe*, 438 F.Supp.2d 796 (S.D. Ohio 2006), by agreements (made before Dec. 20, 2000), see *United States v. Ryals*, 480 F.3d 1101, 1106 (11th Cir. 2007), or while an offer in compromise (made on or after Dec. 31, 1999) is pending. *Id.* There was no evidence of record about levies, judicial collection actions, agreements, offers in compromise, or bankruptcy. As indicated in the IRS releases, the collection of the 1994 and 1997 federal tax liens were barred by the 10-year statute of limitations in 2004 and 2007, respectively.

(Tr. 77). She also said the IRS did not have documentation showing the \$6,000 payment (Tr. 97). She said she could not find her documentation on the payment (Tr. 97). As indicated previously, the IRS lien was released in 2007 (GE 2).

Applicant owed the IRS \$1,000 for her 2004 taxes (SOR ¶ 1.c; Tr. 102-104). The \$1,000 debt pertained to her failure to provide proper documentation to support her child care credit or deduction (Tr. 145). She had another tax debt from 2005 in the amount of \$558 (Tr. 104, 148). She had a problem with her income tax for 2004 that was unresolved concerning documentation from one of the companies where she worked (Tr. 122). She is working with the IRS to straighten out the documentation (Tr. 123). The IRS will not start a payment plan until Applicant provides complete documentation to show how much she owes (Tr. 146). After her car is paid off in May 2008, she plans to start paying the IRS \$500 a month (Tr. 101). She was unsure about when she first learned about her problem with her 2004 taxes (Tr. 145). Her most recent contact with the IRS was on March 21, 2008 (Tr. 147). At the time of her hearing, she was working with the IRS towards resolution of this debt (Tr. 62, 100).

Applicant owed a collection agency \$535 for a telephone account (SOR ¶ 1.d). About four years ago, Applicant signed a contract for a cell phone account on behalf of her son, who was 16 (Tr. 62, 108, 148).⁸ Shortly after receiving the phone, her residence was burglarized and the phone was stolen (Tr. 62). Applicant had a settlement offer, dated February 8, 2008, for \$267.51 for the debt in SOR ¶ 1.d (AE 1, 2; Tr. 54). She paid this debt (Tr. 64).

In regard to the judgment for \$1,632 in SOR ¶ 1.e, Applicant explained she had lost her job, and had just had a baby (Tr. 65). She was unable to pay her rent and moved out of her apartment (Tr. 65). She informed the landlord about her inability to pay the rent (Tr. 65). Applicant went to court in 1997 and contested the debt (Tr. 105). In 1997, the landlord obtained a judgment for \$1,632 (Tr. 104). She has been aware of this judgment for 11 years (Tr. 105). She paid \$100 to her former landlord (Tr. 150-151). The landlord now wants \$3,000 to resolve this debt (Tr. 66). She called the creditor in August 2007, and the week before her hearing about compromising the debt (Tr. 67). She was willing to pay this debt (Tr. 66).

From 1995 to 2004, Applicant's annual income has been in the \$50,000 to \$60,000 range (Tr. 123). Applicant's current annual salary is \$69,000 (Tr. 67). After making debt and expense payments, she has about \$300 a month remaining (Tr. 117). She financially supports her 11-year-old daughter and 20-year old son, who is in school (Tr. 67). Her daughter attends a private school, and Applicant borrowed \$1,300 for tuition from her IRA and \$1,200 from a credit union (Tr. 68-69). She had difficulty borrowing money earlier (Tr. 111). She bought a 2001 Volvo in 2002 for \$25,000 (Tr.

⁸ When discussing her son and his cell phone, she said, "Well I was going to say the cell phone because my son had been robbed going to school. So, a man robbed him of his bicycle." (Tr. 149). She wanted her son to pay for the cell phone account because that would teach him about being financially responsible (Tr. 149).

113). Her remaining car loan debt of \$829 will be paid off in May 2008 (Tr. 68, 113). She and her mother purchased a rental property in 1979, and paid it off in December 2004 (Tr. 115-116). The tenants damaged her rental property (Tr. 116-117). Over the last several years, her strategy for paying her tax debts centered on using rent from her rental property; however she had problems obtaining the rent (Tr. 118). Otherwise she is debt free (Tr. 69).

Applicant's 2007 credit report shows some debts for credit cards taken out without her permission (Tr. 69-70). She has contacted the credit reporting company to have her credit report corrected (Tr. 70). She paid the other debts indicated on the 2007 credit report (Tr. 70-72). She paid a large medical debt resulting from treatments around her baby's birth in 1997 (there was a judgment for \$12,187) (Tr. 106-107). She thought the amount of the judgment was a mistake (Tr. 107). She provided a letter dated November 1, 2002, indicating this medical debt was paid (SOR response). She received about six weeks of credit counseling in late 2007 (Tr. 72-73, 114-115).

Character Witnesses

Ms. S has worked for a federal agency for 19 years (Tr. 33). Ms. S worked closely with Applicant for four years (Tr. 25). She has daily contact with Applicant and their offices adjoin each other (Tr. 26). They occasionally go to lunch together, but otherwise do not socialize away from the office (Tr. 31). Applicant does not currently require a Secret clearance, but still requires her public trust clearance (Tr. 28). Applicant ensures agency compliance with federal laws (Tr. 25). Although Ms. S was aware of Applicant's financial problems, she considers Applicant to be highly reliable and completely trustworthy (Tr. 28-29).

Ms. T has worked for a federal agency for six years involving billing and expenses on agency-related credit cards (Tr. 36-37). Beginning in 2002, she worked in the same office with Applicant (Tr. 37). Ms. T has daily interaction with Applicant (Tr. 38). Applicant was involved in the processing of travel bills (Tr. 37). Applicant had access to sensitive, personal financial information (Tr. 38). If Applicant had abused the information provided, that abuse would have surfaced, and no such abuse was disclosed or discovered (Tr. 38). Ms. T did not believe Applicant was living beyond her means (Tr. 39). Applicant has solid integrity and is a trustworthy person (Tr. 39).

Policies

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

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 controlling adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), 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.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." 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.

In the decision-making process, the Government has the initial burden of establishing controverted facts alleged in the SOR by "substantial evidence,"⁹ demonstrating, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. Once the Government has produced substantial evidence of a disqualifying condition, the burden shifts to Applicant to produce evidence "to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision." Directive ¶ E3.1.15. The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).¹⁰

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

⁹ See Directive ¶ E3.1.14. "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the 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).

¹⁰ "The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, evaluate[s] Applicant's past and current circumstances in light of pertinent provisions of the Directive, and decide[s] whether Applicant ha[s] met his burden of persuasion under Directive ¶ E3.1.15." ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Executive Order 12968 (Aug. 2, 1995), Section 3.

Analysis

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the relevant security concern is under Guideline F (Financial Considerations). AG ¶ 18 articulates the security concern relating to financial problems:

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

AG ¶ 19 provides four Financial Considerations Disqualifying Conditions that could raise a security concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts, . . . (c) a history of not meeting financial obligations, . . . [and] (g) failure to file annual Federal, state, or local income tax returns as required or the fraudulent filing of the same.”

Applicant’s history of delinquent debt is documented in her credit reports, her SOR response, her response to interrogatories, and her statement at her hearing. In 1994, the IRS determined she owed about \$6,000 for her federal taxes. These taxes were never paid and they became legally uncollectible in 2004. In 1997, the IRS assessed her tax debt for 1993 and 1994 at over \$40,000. These taxes were never paid and they became legally uncollectible in 2007. She did not file her taxes on time, and conceded her tax return in 1994 contained “made-up” information. She has a judgment that has been unresolved since 1997. She has federal income taxes that are unresolved from 2004 and 2005. The government established the disqualifying conditions in AG ¶¶ 19(a), 19(c) and 19(g).

Five Financial Considerations Mitigating Conditions under AG ¶¶ 20(a)-(e) are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn,

unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

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

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

Applicant's conduct does not warrant full application of AG ¶¶ 20(a) or 20(b) because she did not act more aggressively and responsibly to resolve her delinquent debts between 2002 and 2007. She was unemployed in 1997, and was underemployed before receiving employment in 2002 with a federal contractor. From 1994 to 2007, she had a substantial amount of delinquent federal income taxes. From 2002 to 2007, she followed Ms. A's advice and employed a deliberate strategy not to contact the IRS because negotiations with the IRS might extend her tax liability. See n. 9, *supra*. She currently has unresolved debt with the IRS. Moreover, she did not make sufficient progress on resolution of her 1997 judgment. These factors cast doubt on Applicant's current reliability, trustworthiness, or good judgment. Additionally, she did not describe any conditions, such as divorce, unemployment or medical treatment, which occurred between 2002 and her hearing, which caused her to be unable to make greater progress resolving her financial problems.¹¹

AG ¶¶ 20(c) and 20(d) do not fully apply. Applicant received financial counseling. However, there are not "clear indications that the problem is being resolved or is under control." There is insufficient information to establish that Applicant applied the knowledge obtained from financial counseling or that she showed good faith¹² in the resolution of her debts.

¹¹ "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)).

¹² 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

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Applicant did not provide sufficient correspondence with her creditors for SOR debts ¶¶ 1.a, 1.b, 1.c and 1.e to establish she acted responsibly and in good faith. She failed to provide proof of payment plans. Her overall conduct with her creditors casts doubt on her current reliability, trustworthiness, and good judgment. Her financial problems are continuing and likely to recur. She should have been more diligent and made greater efforts to resolve her delinquent debts, especially after receipt of the SOR. She has not carried her burden of proving her financial responsibility. Based on my evaluation of the record evidence as a whole, I conclude no mitigating conditions fully apply.

Whole Person Concept

Under the whole person concept, the Administrative Judge must evaluate an Applicant’s eligibility for a security clearance by considering the totality of the Applicant’s conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual’s age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation

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)).

for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

The ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept. AG ¶ 2(c).

Applicant's record of good employment weighs in her favor. There is no evidence of any security violation. Aside from her delinquent debts (which are a civil, non-criminal issue), she is a law-abiding citizen. She does not abuse drugs, and has no criminal record. The overall amount of her delinquent, enforceable debt at about \$3,000 is relatively low. She paid one SOR debt. She filed all tax returns from 1995 to present. Some of her financial problems were caused by unemployment and underemployment. She paid a cell phone-related delinquent debt in March 2008, and a large medical debt in 2002. She completed financial counseling. These factors show significant responsibility, rehabilitation, and mitigation.

The evidence against mitigating Applicant's conduct for security clearance purposes is more substantial. She has three years of college, and has worked monitoring travel accounts and credit cards. She is 52 years old with a wealth of job-related experiences. She received financial counselling, and has sufficient knowledge to budget, and file accurate and complete tax returns. From 1994 to 2007, she owed more than \$40,000 to the IRS, and she admits she did not pay the IRS anything to resolve these delinquent taxes. Nor did her evidence establish any efforts to settle or negotiate a payment plan. For the last five years, she has been paid by a federal contractor. Her salary was funded by other taxpayers, who dutifully paid their taxes. She is well aware of her tax-paying responsibilities, yet she did little to act responsibly as a taxpayer. She learned of the security significance of her delinquent debts when she had her OPM interview. This security concern was reinforced when she responded to DOHA interrogatories, and again when she received the SOR. Her efforts to resolve her delinquent debts, especially her IRS debts, were insufficient to fully resolve security concerns. After weighing the disqualifying and mitigating conditions, and all the facts and circumstances, in the context of the whole person, I conclude she has not mitigated the security concerns pertaining to financial considerations.

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 to 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	Against Applicant

Conclusion

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue eligibility for a security clearance for Applicant. Eligibility for a security clearance is denied.

Juan J. Rivera
Administrative Judge