



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



In the matter of:)	
)	
[Name Redacted])	ISCR Case No. 14-03574
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Pamela Benson, Esquire, Department Counsel
For Applicant: *Pro se*

06/23/2015

Decision

HOGAN, Erin C., Administrative Judge:

On August 5, 2014, the Department of Defense issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR on August 12, 2015, and requested that her case be decided on the written record. Department Counsel prepared a File of Relevant Material (FORM) on March 23, 2015. The FORM was forwarded to Applicant on April 7, 2015. Applicant received the FORM on April 17, 2015. She had 30 days to submit a response to the FORM. She did not submit any matters in response to the FORM. On June 5, 2015, the FORM was forwarded to the hearing office and was assigned to me on June 8, 2015.

Based upon a review of the case file, pleadings, and exhibits, eligibility for access to classified information is denied.

Findings of Fact

In her answer to the SOR, Applicant admits to the allegations in SOR ¶¶ 1.a -1.i, and denies the allegations in SOR ¶¶ 1.j and 1.k. (Item 1 at 3-4)

Applicant is a 38-year-old employee of a Department of Defense contractor seeking to obtain a security clearance. Applicant has been employed with the company since September 1998. She has a high school diploma and some college. She is divorced and has two children. (Item 2)

Applicant completed an electronic questionnaires for investigations processing (e-QIP) on February 18, 2013. (Item 2) A subsequent background investigation revealed that Applicant had 11 delinquent debts, a total approximate balance of \$25,645. (Item 3; Item 4)

In response to the SOR, Applicant indicates her three largest debts (SOR ¶¶ 1.a, 1.b. and 1.c) were the result of a divorce. Her answer to the SOR was very brief and did not provide much detail. Her e-QIP application indicates that she was divorced in March 2010. She remarried in October 2010 and divorced again in December 2012. As to the debts in SOR ¶¶ 1.d – 1.i, Applicant admits that she was delinquent in paying these accounts, but she made payments on these debts and they are now current. She did not provide additional documentation to corroborate her statement. She denies the two medical debts alleged in SOR ¶¶ 1.j and 1.k, but will research them and pay them if they are valid debts. (Item 1 at 3-4, Item 2)

Status of the Delinquent Debts:

SOR ¶ 1.a: \$8,735 credit card account charged off in October 2008. (SOR ¶ 1.a: Item 3 at 3; Item 4 at 2; Item 5 at 5) Applicant states that she was working with a debt consolidation company to repay this debt. She claims the company chose to write these debts off rather than arrange that the debts be paid. She did not indicate whether she attempted to contact the creditor directly in order to resolve the debt. The debt is unresolved. (Item 1 at 3)

SOR ¶ 1.b: \$8,393 credit card account charged off in November 2008 (Item 3 at 3; 4 at 2; Item 5 at 4). Applicant states that she was working with a debt consolidation company to repay this debt. She claims the company chose to write these debts off rather than arrange that the debts be paid. She did not indicate whether she attempted to contact the creditor directly in order to resolve the debt. The debt is unresolved. (Item 1 at 3)

SOR ¶ 1.c: \$7,934 credit card account charged off in October 2008. (Item 3 at 3; Item 4 at 2; Item 5 at 5) Applicant states that she was working with a debt consolidation company to repay this debt. She claims the company chose to write these debts off

rather than arrange that the debts be paid. She did not indicate whether she attempted to contact the creditor directly in order to resolve the debt. The debt is unresolved. (Item 1 at 3)

SOR ¶ 1.d: a credit card account with a balance of \$2,103 that was delinquent in the amount of \$130. (Item 4 at 2). Applicant claims she brought this account current on July 16, 2014. She did not provide documentation corroborating this assertion, but the debt is not listed as delinquent on her most recent credit report, dated March 20, 2015, which was offered by the Government. (Item 5)

SOR ¶ 1.e: a credit card account with a balance of \$717 that was past due in the amount of \$65. (Item 4 at 2) Applicant claims she brought this account current on August 1, 2014. She did not provide documentation corroborating this assertion, but the debt is listed as current on her most recent credit report, dated March 20, 2015, which was offered by the Government. (Item 5 at 2)

SOR ¶ 1.f: a credit card account with a balance of \$622 that was past due in the amount of \$69. (Item 4 at 2) Applicant claims she brought this account current on July 16, 2014. She did not provide documentation corroborating this assertion, but the debt is listed as current on her most recent credit report, dated March 20, 2015, which was offered by the Government. (Item 5 at 3)

SOR ¶ 1.g: a credit card account with a balance of \$620 that was past due in the amount of \$53. (Item 4 at 2) Applicant claims she brought this account current on July 16, 2014. She did not provide documentation corroborating this assertion, but the debt is listed as current on her most recent credit report, dated March 20, 2015, which was offered by the Government. (Item 5 at 3)

SOR ¶ 1.h: a credit card account with a balance of \$490 that was past due in the amount of \$61. (Item 4 at 2) Applicant claims she brought this account current on August 1, 2014. She did not provide documentation corroborating this assertion, but the debt is listed as current on her most recent credit report, dated March 20, 2015, which was offered by the Government. (Item 5 at 3)

SOR ¶ 1.i: a jewelry store credit card account with a balance of \$433 that was past due in the amount of \$115. (Item 4 at 2) Applicant claims she brought this account current on August 1, 2014. She did not provide documentation corroborating this assertion, but the debt is listed as current on her most recent credit report, dated March 20, 2015, which was offered by the Government. (Item 5 at 3)

SOR ¶ 1.j: a \$52 medical account. (Item 4 at 2) Applicant denied this debt, but said she would research it and pay it if she owes the debt. She apparently discovered it was a valid debt because the debt is listed as paid on her most recent credit report, dated March 20, 2015, which was offered by the Government. (Item 5 at 2)

SOR ¶ 1.k: a \$38 medical account. (Item 3 at 14; Item 4 at 2) Applicant denied this debt, but said she would research it and pay it if she owes the debt. The debt remains unpaid on her most recent credit report, dated March 20, 2015. (Item 5 at 2)

Applicant's most recent credit report, dated March 20, 2015, also listed two new delinquent debts. The first debt is a \$425 judgment for an unpaid medical bill entered against Applicant in June 2014. The second debt is a \$210 unpaid cable television account. The account became delinquent in June 2014. (Item 5 at 2) The two debts are not alleged in the SOR. They will be considered when weighing Applicant's mitigation case.

Applicant did not provide information on her overall financial situation, such as, her net monthly income, her monthly expenses, and her monthly debt payments. As a result, it is difficult to assess her financial situation. She did not provide any information on the status of her debts. However, she is given credit for bringing the debts alleged in SOR ¶¶ 1.d – 1.j up-to-date based on the March 20, 2015 credit report which was offered by the Government. Applicant also did not provide any information regarding her duty performance, such as performance evaluations or letters of reference from her co-workers and supervisors.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered when 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 overarching adjudicative goal is a fair, impartial, and commonsense 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.

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 for obtaining a favorable security decision.

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 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.

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* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

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

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

The guideline notes several disqualifying conditions that could raise security concerns. I find Financial Considerations Disqualifying Condition AG ¶19(a) (an inability or unwillingness to satisfy debts); and AG ¶19(c) (a history of not meeting financial obligations) apply to Applicant’s case. Applicant incurred numerous delinquent debts that she has been unable or unwilling to pay over the past several years.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Several mitigating conditions potentially apply to Applicant’s case.

AG ¶ 20(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) partially applies

because most of Applicant's delinquent credit card accounts are now current. However, the three largest debts, alleged in SOR ¶¶ 1.a, 1.b and 1.c are not resolved. Applicant claims a debt consolidation company that she was working with decided to write these debts off rather than work with her. She did not provide a copy of her agreement with the debt consolidation company. In addition, Applicant could have contacted the creditors on her own to resolve the debts. She did not mention whether she attempted to contact the creditors directly to resolve the debts. Her explanation is not plausible. For this reason, AG ¶ 20(a) is given less weight.

AG ¶ 20(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), partially applies because Applicant's debts were partially caused by divorce. Her past divorces clearly had an adverse impact on her financial situation. Applicant is given credit for bringing most of her delinquent credit card accounts up-to-date, however, she has not taken steps to resolve her three oldest delinquent debts. Perhaps, if Applicant had requested a hearing, she would have had an opportunity to further explain her reason for not paying the debts alleged in SOR ¶¶ 1.a – 1.c. Her explanation that the debt consolidation company would not let her resolve these delinquent debts is not plausible. For this reason, AG ¶ 20(b) is given less weight.

AG ¶ 20(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) does not apply. There is no evidence Applicant received financial counseling. While the March 20, 2015 credit report shows Applicant has brought the debts alleged in SOR ¶¶ 1.d – 1.j to current status, there is no indication that Applicant has taken steps to resolve her three oldest and largest debts alleged in SOR ¶¶ 1.a -1.c. Applicant provided no information regarding her monthly budget. Without a budget, it is difficult to assess Applicant's financial situation. The March 20, 2015 credit report indicates Applicant had two additional delinquent accounts, a \$425 judgment for a medical debt entered against her in June 2014 and a \$210 delinquent cable television bill placed for collection which became delinquent in June 2014. This indicates that Applicant continues to have financial problems.

AG ¶ 20(d) (the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts) applies with respect to the debts alleged in SOR ¶¶ 1.d – 1.j, because while all of the accounts remain outstanding, she made sufficient payments so the accounts are no longer delinquent. The debts alleged in SOR ¶¶ 1.a, 1.b, 1.c, and 1.k remain unresolved. The total balance of unresolved debt is \$25,100. While Applicant has an explanation for why she has not attempted to resolve her largest debts alleged in SOR ¶¶ 1.a – 1.c, her explanation is not plausible. Even though the debts were charged off, she still could have made attempts to resolve these debts by contacting the creditors directly. Applicant failed to demonstrate that she is making a good-faith effort to resolve the delinquent accounts alleged in SOR ¶¶ 1.a – 1.c, and 1.k.

AG ¶ 20(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) does not apply. In her answer to the SOR, Applicant disputed the \$38 medical debt alleged in SOR ¶ 1.k. She said that she will research the debt and if it is her debt she will pay the debt. She did not respond to the FORM, so Applicant failed to provide proof that her dispute was substantiated or whether she took steps to resolve the issue. AG ¶ 20(e) does not apply.

While Applicant has brought seven of her delinquent accounts current, a significant amount of unresolved debt remains. She has not mitigated the concerns raised under financial considerations.

Whole-Person Concept

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

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

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

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered that Applicant's two divorces had an adverse impact on her financial situation. However, Applicant has not provided information as to the steps she has taken to resolve her remaining delinquent accounts. She did not provide any information regarding her monthly budget and income. As such, it is difficult to assess her current financial situation. In fact, the most recent credit report, dated March 20, 2015, revealed that Applicant has two additional delinquent accounts.

The concern under financial considerations is not only about individuals who are prone to engage in illegal acts to generate funds. Another concern is that 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, which raise

questions about an individual's reliability, trustworthiness, and ability to protect classified information. In other words, a person who has trouble managing his or her finances, raises doubts about his or her ability to handle and protect classified information. Applicant's history of financial problems raises doubts about her ability to handle and protect classified information. Applicant did not provide sufficient information to explain her financial situation. Mindful of my duty to resolve cases where there is doubt in favor of national security, I find Applicant failed to mitigate the concerns raised under 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 - 1.c, 1.k:	Against Applicant
Subparagraphs 1.d – 1.j:	For Applicant

Conclusion

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

ERIN C. HOGAN
Administrative Judge