



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



In the matter of:)	
)	
XXXX, Xxxx)	ISCR Case No. 14-05088
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah A. Minster, Esquire, Department Counsel
For Applicant: *Pro se*

03/28/2016

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I deny Applicant's clearance.

On 22 January 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 23 September 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 20 January 2016.

¹Consisting of the File of Relevant Material (FORM), Items 1-5.

²DoD acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

Findings of Fact

Applicant admitted SOR financial allegations 1.a-1.e, 1.h, 1.k, and 1.n-1.o. She effectively denied the remaining allegations by claiming that she was unaware of them.³ She is a 44-year-old executive assistant employed by a U.S. defense contractor since February 2008. She was previously employed in similar jobs outside the defense sector from May 1996 to February 2008. She has not previously held a clearance.

The SOR alleges, and Government exhibits (Items 2-5) substantiate, 19 delinquent debts totaling nearly \$80,000.⁴ Applicant admits nine delinquent debts totaling over \$78,000. Record evidence documents that SOR 1.m is a duplicate of 1.d, and that SOR 1.j is a duplicate of SOR 1.o. Accordingly, I find SOR 1.j and 1.m for Applicant, but the amount of delinquent debt at issue is still over \$79,000. Applicant claimed that SOR 1.k was a duplicate of SOR 1.c, but the record does not support that claim. The accounts are held by two different collection agents, with two different original creditors, and two different creditor account numbers. Applicant also claimed that SOR 1.h was a duplicate of SOR 1.e, but Applicant's March 2013 credit report (Item 5) shows that the accounts have different account numbers.

Applicant's February 2013 clearance application (Item 2) disclosed SOR debts 1.a, 1.k, and an account not alleged in the SOR. She claimed to be working on a loan modification for SOR 1.a, and to be making regular payments on a settlement amount for SOR 1.k.

Applicant's Answer to the SOR provided some documentation of some contacts with some of her creditors. Attachment 1 is Applicant's 10 November 2014 letter to her mortgage holder forwarding the hardship affidavit needed for a loan modification on SOR 1.a. Attachment 2 is a 14 January 2015 third-party letter to Applicant offering possible tax payments on her behalf if the lender at SOR 1.b extinguished the second lien as part of a class action settlement agreement. Attachment 3 is a 29 January 2015 letter from the collection agent at SOR 1.c, offering Applicant a variety of settlement options, to be accepted by Applicant by 28 February 2015. Attachment 4 is a 24 November 2014 letter from the collection agent for the creditor at SOR 1.d confirming Applicant's agreement to pay \$2,440 by 15 December 2014 to settle the current balance of \$3,487. Attachment 5 is a 15 January 2015 letter from the collection agent at SOR 1.e offering to settle the original \$201 balance for a single payment of \$120.55, if paid by 14 February 2015. Attachment 6 is a 29 October 2013 facsimile transmission by the

³However, during her April 2013 interview with a Government investigator (Item 3), Applicant discussed the contents of her March 2013 credit report (Item 5) with the investigator. She claimed that she was unaware of a great many accounts (mostly medical accounts) but undertook to look into them. These are the same accounts she still claims to be unaware of, but she has documented no efforts to communicate with any of the creditors.

⁴The total includes, where appropriate, only the past-due amounts alleged in the SOR, not the total account balance.

creditor at SOR 1.n, which offers to settle a then-\$6,054.50 balance for a single payment of \$800 by 31 October 2013.

These six attachments constitute the entirety of Applicant's response to the SOR debts. If the four settlement offers (Attachments 3-6) were accepted and paid, Applicant's alleged SOR indebtedness would be reduced nearly \$15,000. However, Applicant documented no action in response to these creditor offers. Moreover, Applicant documented no contacts with the creditors for debts she claimed to be aware of. Nor did she provide any evidence of her claimed regular payments to creditor SOR 1.k.

Applicant attributed her financial problems to her husband becoming a self-employed mover in 2007-2008 (Item 3). Business was especially slow during the recession, but is not markedly better now (Answer).

Applicant provided no budget or financial statement. She has not documented any financial or credit counseling. She provided no work or character references, or evidence of community involvement.

Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.⁵

⁵See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties dating back to at least 2007-2008.⁶ Applicant's limited efforts to resolve her debts seem to be largely driven by her receipt of the SOR in January 2015. She claimed to have accepted and paid the October 2013 settlement offer on SOR 1.n, but provided no documentation that she actually made the required payment. Most of the debts she claimed to be unaware of in her February 2015 Answer to the SOR are the same debts she claimed to be unaware of during her April 2013 subject interview with a Government investigator. She clearly took no action to investigate those debts as she represented she would do.

Applicant meets none of the mitigating conditions for financial considerations. Her financial difficulties are both recent and multiple, and they seem likely to continue, at least as long as her husband remains self-employed and his business does not improve.⁷ Applicant has offered no explanation why her husband could not or did not pursue other employment when his fledgling business proved unprofitable. If the root of her financial problems was his choice to remain in his business—presumably a family decision—that is a choice they made, not a circumstance beyond her control.⁸ Moreover, she cannot be said to have handled her debts responsibly. She provided no evidence that she accepted and paid the October 2013 settlement offer. The documents she submitted about her recent efforts were clearly undertaken in the wake of the SOR. She did not investigate any of the debts she claimed to be unaware of. Applicant has had no credit or financial counseling, and there is no evidence any of the debts are being resolved.⁹ Her few belated efforts do not constitute a good-faith effort to address her debts.¹⁰ Moreover, Applicant has no demonstrated track record of living within her means. Furthermore, Applicant provided no information upon which I could conduct a favorable “whole-person” analysis. Accordingly, I conclude Guideline F against Applicant.

⁶¶19(a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

⁷¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁸¶20(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

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

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

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-l, k-l, -s	Against Applicant
Subparagraphs j,m:	Against Applicant (duplicates)

Conclusion

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge