



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



In the matter of: )  
)  
) ISCR Case No. 15-02052  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Gregg A. Cervi, Esq., Department Counsel  
For Applicant: *Pro se*

02/23/2016  
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**Decision**  
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RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F, financial considerations. Applicant's eligibility for a security clearance is denied.

**Statement of the Case**

On September 26, 2015, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) detailing 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; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective within the DOD for SORs issued after September 1, 2006.

Applicant answered the SOR on November 4, 2015, and elected to have her case decided on the written record. On December 7, 2015, Department Counsel submitted the Government's file of relevant material (FORM). The FORM was mailed to Applicant on December 8, 2015, and it was received on December 17, 2015. Applicant

was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not object to the Government's evidence and offered Applicant's exhibit (AE) A. The Government had no objection and it is admitted into evidence. The Government's documents identified as Items 2 through 6 are admitted into evidence. The case was assigned to me on January 21, 2016.

### **Findings of Fact**

Applicant denied all of the allegations in SOR with explanations, except ¶ 1.g, which she admitted. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 37 years old. She is a high school graduate. She married in 2001 and divorced in 2011. She has a 12-year-old child from the marriage. She served in the military from 1997 to 2006 and was honorably discharged. She has been employed by the same federal contractor since August 2010. Prior to that, she stayed home with her child for two months from June 2010 to August 2010. From August 2009 to June 2010 she was employed, and from June 2006 to August 2009 she stayed home to care for her child and was not employed outside of the home.<sup>1</sup>

The SOR alleges 15 delinquent debts totaling approximately \$19,277. Applicant began accumulating delinquent debt in approximately 2010. She disclosed many of the alleged debts in her June 2014 security clearance application (SCA). She noted that she was unaware of the debts until she obtained a credit report, and reported them on the SCA. She also noted that she did not know why she owed many of the alleged debts.<sup>2</sup>

Applicant was asked about the delinquent debts alleged in the SOR when she was interviewed by a government investigator in August 2014, as part of her background investigation. Applicant again indicated she was unaware of the alleged debts. She said she would investigate them and pay those that should be paid. Credit reports from December, August and June 2014 reflect the debts alleged in the SOR.<sup>3</sup>

In Applicant's November 2015 answer to the SOR, she stated:

There are some of these items that I do not know what they are for. The items that I do owe on I have no problem making payments. Most of it I can have paid in a few months. I intend to pay for what I owe. I was

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<sup>1</sup> Item 3.

<sup>2</sup> Items 1, 2, 3, and 6.

<sup>3</sup> Items 2, 3, 4, 5, and 6.

unaware I was in debt this much. I will obtain a copy of my credit report and start contacting the creditors this month.<sup>4</sup>

In her January 2016 response to the FORM, Applicant stated she had other debts she was resolving and when she completed paying those debts, she would begin addressing the delinquent debts on her credit report. She indicated she would pay her medical bills and the debt owed in SOR ¶ 1.f (\$99) by June 2016.<sup>5</sup>

The debt in SOR ¶ 1.a (\$14,997) is a vehicle loan. Applicant acknowledged she cosigned the loan with her husband and after they divorced he stopped making the loan payments. She indicated in her answer that she was advised by the creditor that she is not responsible for the debt and it was charged off in 2011. During her background investigation she indicated she was told by her attorney four years ago that she is not responsible for the debt. Applicant did not provide documentation to substantiate that she is not responsible for the debt or any actions she has taken to dispute the debt. It is unresolved.<sup>6</sup>

Applicant disputes the debts owed in SOR ¶¶ 1.k (\$176) and 1.n (\$1,558) to a communications company. She indicated the company claimed she failed to return its equipment and that she owed a remaining balance on a bill. She indicated during her background interview that she disputes the debts and did not intend on paying them. She did not provide any documents to substantiate her dispute or efforts to resolve the issue.<sup>7</sup>

Applicant admitted she owed the debt in SOR ¶ 1.g (\$449) to a pet hospital. She indicated in her answer she intended to pay it last year when she learned of it, but did not. She stated she would pay the debt. She did not provide evidence that she has paid the debt. It is unresolved.<sup>8</sup>

Applicant attributed her financial problems to being a single parent. She also stated that in May 2015 she took a lower paying job that was less stressful, and she is attempting to adjust her monthly bills. She is attending school full time and is receiving Veteran's benefits. She intends on using her Veteran's benefits and income tax refunds to resolve her debts. Applicant did not provide documentary evidence that she paid, settled, or resolved any of the debts alleged in the SOR.<sup>9</sup>

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<sup>4</sup> Item 2.

<sup>5</sup> AE A.

<sup>6</sup> Items 2, 3, and 6.

<sup>7</sup> Items 2, 6; AE A.

<sup>8</sup> Item 2.

<sup>9</sup> Item 2; AE A.

## 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 are used 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 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to 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 that an 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 overextended is at risk of having to engage in illegal acts to generate funds.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.<sup>10</sup>

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has 15 delinquent debts totaling approximately \$19,277 that are unpaid or unresolved. Her debts started to become delinquent in approximately 2010. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 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

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<sup>10</sup> See ISCR Case No. 11-05365 at 3 (App.Bd. May 1, 2012).

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 did not provide evidence to show she has paid, settled, resolved, or has payment plans with any of the alleged creditors. There is insufficient evidence to conclude that her financial problems are unlikely to recur. Her failure to timely address the delinquent debts casts doubt on her current reliability, trustworthiness, and good judgment. AG ¶ 20(a) does not apply.

Applicant indicated her financial problems are attributed to being a single mother and taking a lower paying job in May 2015. She divorced in 2011. Her divorce and being a single parent were beyond her control. Voluntarily taking a lower paying job was within her control. For the full application of AG ¶ 20(b), Applicant must have acted responsibly under the circumstances. Applicant did not provide evidence of actions to address her delinquent debts, even some of the small debts (SOR ¶ 1.j - \$35; SOR ¶ 1.f - \$93; SOR ¶ 1.e - \$99). She indicated she was unaware of the debts, but she stated that she used her credit report to list the debts on her SCA in June 2014. Since that time she failed to document steps taken to address the debts. AG ¶ 20(b) partially applies. AG ¶ 20(c) does not apply because there is no evidence she has participated in financial counseling or that her financial problems are being resolved or under control. AG ¶ 20(d) does not apply because there is no evidence Applicant made a good-faith effort to pay any of the delinquent debts, even those she acknowledges belong to her. AG ¶ 20(e) does not apply because Applicant did not provide evidence of actions she has taken to dispute the debts or resolve the issues.

### **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 have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant is 37 years old. She served in the military and received an honorable discharge. She indicated she was unaware she had delinquent debts until she obtained a credit report to complete her SCA in June 2014. Since becoming aware that her credit report reflected numerous delinquent debts, she has not taken action to resolve any of them, even those she admitted she owes. Applicant did not provide sufficient evidence to show her financial situation is stable and she has a realistic plan for paying her delinquent creditors. Applicant failed to establish a track record in addressing her financial obligations. She failed to meet her burden of persuasion. The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline F, 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
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Subparagraphs 1.a-1.o:	Against Applicant
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## **Conclusion**

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

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Carol G. Ricciardello  
Administrative Judge