

Date: June 15, 2023

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Applicant for Security Clearance )  
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ISCR Case No. 22-00056

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Brittany D. Forrester, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 11, 2022, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision – security concerns raised under Guideline F (Financial Considerations) of the National Security Adjudicative Guidelines (AG) of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On April 14, 2023, Defense Office of Hearings and Appeals Administrative Judge Pamela C. Benson denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged two consumer debts charged off for approximately \$53,000. The Judge found against Applicant on both allegations. On appeal, Applicant asserts that the Judge failed to properly consider all available evidence, rendering her adverse decision arbitrary, capricious, or contrary to law, and failed to properly apply the mitigating conditions and whole-person analysis. Consistent with the following, we affirm.

**Judge’s Findings of Fact and Analysis**

Applicant, in her mid-50s, has been married for over 40 years and has four adult children. She has been employed by a federal contractor since 2010 and her annual salary is approximately

\$51,600. Applicant's husband, who was previously employed as an aircraft electrician, started his own day trading business in about 2006. He has been unemployed since late 2017 when he became a full-time caregiver for his disabled mother.

Applicant denied liability for both delinquent credit cards alleged in the SOR. Although the debts were opened jointly with her husband in 1986, she explained that she did not authorize the charges. Rather, Applicant asserted that her husband began to finance his business with the cards in about 2016 and she only became aware of the debts in 2017. Applicant disputed the debts with the credit reporting agencies, citing her state's statute of limitations as additional reason to remove the accounts from her reports. She has made no payments on the delinquent accounts and did not intend to contact the creditors because she is nearing the end of the seven-year credit reporting period and did not want to restart that timeframe. Applicant admitted that there were about six other credit cards with similar delinquent balances that have dropped off her credit report without being paid. As of her August 2021 personal financial statement, Applicant had over \$210,000 in savings, made monthly contributions of over \$400 to her retirement account, and had a net monthly remainder of over \$700 after all other expenses were paid.

The Judge found that Applicant "has not made an effort to responsibly repay the outstanding joint accounts she is legally responsible for despite the ample financial resources in her savings account that could easily pay the debts in full." Decision at 8. While her husband's use of the funds to pay for his failing business amounts to a condition beyond Applicant's control, she failed to reasonably explain why she was unable to make more progress resolving the accounts in light of said financial resources. The Judge concluded that Applicant's "actions demonstrate a lack of fiscal responsibility and good judgment, and raise unmitigated questions about her reliability, trustworthiness, and ability to protect classified information." Decision at 9.

### **Discussion**

Applicant has not challenged any of the Judge's specific findings of fact. On appeal, she argues that the Judge erred in failing to comply with the provisions in Executive Order 10865 and the Directive by not considering all the evidence and by not properly applying the mitigating conditions and Whole-Person Concept. For example, Applicant argues that the Judge failed to consider Applicant's husband's explanation for the origin of the delinquencies and that Applicant disputed the accounts with the credit reporting agencies. Appeal Brief at 5-6. These arguments are meritless. The Judge's decision acknowledged that "Applicant's husband's attempt to refinance losses from his failed business is a condition beyond her control and contributed to her financial problems," but still concluded that "both parties are legally responsible for debt repayment on joint accounts, even if only one incurred the debt," and that Applicant made no effort to repay the accounts despite having the financial means to do so. Decision at 8. Indeed, despite Applicant's repeated assertion that she did not incur the debts directly, her lack of awareness about her significant financial problems, even when caused by her spouse, raise serious questions about her attention to detail regarding important matters and thereby also about her security clearance worthiness. *See, e.g.*, ISCR Case No. 13-00786 at 3 (App. Bd. Mar. 28, 2014). The Judge also noted Applicant's attempted reliance on credit report disputes to address the delinquent accounts, but correctly concluded that, even if she had been successful in removing the accounts, such removal is not meaningful evidence of debt reduction. Decision at 8.

Applicant also argues that the Judge “did not place appropriate weight on the recency of [Applicant’s] conduct,” because “the debts arose around 2017 when unbeknownst to her that her husband’s day trading failed.” Appeal Brief at 6. The record reflects that the two credit cards, which Applicant acknowledged were opened jointly with her husband in 1986, became delinquent in August 2016 and were charged off at the beginning of 2017. Government Exhibit (GE) 2 at 8; Applicant Exhibit (AE) D at 8, 12. She learned that the accounts were delinquent in mid-2017 and subsequently received notices from collection agencies. Tr. at 34; GE 2 at 8. In her August 2021 response to Government interrogatories, Applicant provided documentation reflecting that she had – that same day – sent letters to the credit reporting agencies to dispute eleven debts, including the two alleged in the SOR, on the basis that each was an “unverified account.” GE 3 at 11-19. She never contacted the creditors directly and made no payments on the delinquent balances. Tr. at 34, 41, 45. As of February 2023, the accounts continued to report as charged off and unresolved. AE D at 8, 12. The record supports that the debts remain outstanding and unaddressed, and therefore represent a continuing course of conduct, which undermines any argument that her debts are not recent or are unlikely to recur. *See, e.g.*, ISCR Case No. 09-01309 at 4 (App. Bd. Apr. 29, 2010). Applicant’s arguments on appeal simply advocate for an alternative weighing of the evidence, which is not enough to show that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007).

Applicant has not established that the Judge’s conclusions were arbitrary, capricious, or contrary to law. In the instant case, the Judge examined the relevant evidence, weighed the disqualifying and mitigating evidence, and articulated a satisfactory explanation for the decision. The record is sufficient to support that the Judge’s findings and conclusions are sustainable. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” AG ¶ 2(b).

**Order**

The decision is **AFFIRMED**.

Signed: James F. Duffy  
James F. Duffy  
Administrative Judge  
Chair, Appeal Board

Signed: Moira Modzelewski  
Moira Modzelewski  
Administrative Judge  
Member, Appeal Board

Signed: Allison Marie  
Allison Marie  
Administrative Judge  
Member, Appeal Board