

DATE: December 20, 2007

---

In re: )  
 )  
 )  
 ----- ) ISCR Case No. 07-00824  
 SSN: ----- )  
 )  
 Applicant for Security Clearance )  
 )  
 )

---

**DECISION OF ADMINISTRATIVE JUDGE  
NOREEN A. LYNCH**

**APPEARANCES**

**FOR GOVERNMENT**

Daniel F. Crowley, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant is a 36-year-old employee of a defense contractor. Her third divorce led to Applicant's financial problems, and ultimately nine delinquent debts. Applicant demonstrated she is financially responsible by paying or settling six debts. One debt is disputed, and her student loan is in abeyance. She is researching her debt on her home repossession. Applicant has mitigated the security concerns under the financial considerations and personal conduct guidelines. Clearance is granted.

## STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On April 16, 2007, DOHA issued a Statement of Reasons<sup>1</sup> (SOR) detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations), and Guideline E (Personal Conduct) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense for SORs issued after September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued. Applicant answered the SOR on a unknown date, and elected to have a hearing before an administrative judge. The case was assigned to me on October 22, 2007. I scheduled a hearing for November 29, 2007.<sup>2</sup>

The hearing was convened as scheduled on November 29, 2007, via video teleconference, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Government exhibits (GE 1-5) were admitted. Applicant's exhibits (AE A-J) were admitted into the record without objection. Testimony was taken from Applicant. At Applicant's request, I kept the record open until December 5, 2007 for a document that was marked AE K. The transcript (Tr.) was received on December 11, 2007.

## FINDINGS OF FACT

Applicant is a 36-year-old employee of a defense contractor. She graduated from high school in 1989, and attended college from 1994 until 1996. Applicant has been with her current employer since October 2003. She is thrice divorced and has two children.<sup>3</sup>

After high school Applicant worked at an army installation for several years. When her daughter was born in 1991 she stopped working for several years. She again stopped working after her son was born in 1995. She has worked steadily since 1996 but prior to her current position she earned low hourly wages.<sup>4</sup>

Applicant married her third husband in 1999, but this marriage ended in divorce in 2002. As a result of that marriage, Applicant experienced financial difficulties. Her husband did not produce a steady income. He also had bad credit and thus Applicant had to use her credit for all family purchases. The family's mobile home was repossessed in 2002.<sup>5</sup> After her divorce in 2002,

---

<sup>1</sup>Pursuant to Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended (Directive).

<sup>2</sup>Applicant waived the notice.

<sup>3</sup>GE 1 (Security Clearance Application, dated November 8, 2005).

<sup>4</sup>Tr.84.

<sup>5</sup>Tr.30.

Applicant lived on approximately \$330 net per week. She had difficulty meeting daily expenses for her family and paying all her bills.

In 2003 Applicant became very ill. She could not move out of bed and was taken to the hospital. She was diagnosed with an inflamed pelvis and transferred to another hospital for surgery. She had health insurance and the company paid the hospital. However, Applicant later learned that she was mis-diagnosed and had a herniated disc. The insurance company later determined that the hospital should not have been paid due to conflicting medical information. Applicant was then billed by the hospital for all medical charges incurred in the amount of \$7,042.<sup>6</sup>

Applicant has a student loan which she paid on for a number of years. She could not keep up with the payments after her divorce. At one point it was in default, but now payments are deferred.<sup>7</sup> Her credit report confirms this status.<sup>8</sup> Applicant intends to complete her undergraduate degree to maximize her job opportunities.

In 2006, Applicant asked her boyfriend to deposit a check for her into her bank account so that she could pay a bill. He did not do so for a number of days. Applicant's check for \$85 was deemed insufficient funds (NSF) by the bank. A bench warrant was issued for her because of this matter. This was quickly resolved. Applicant paid all fees associated with the NSF. There is no warrant for her arrest.<sup>9</sup>

The current status of Applicant's debts are as follows:

SOR ¶	Type of Account/Amount	Status	Evidence
1.a	Collection account \$59	Paid	AE A
1.b	Charged off account \$1,462	Settled	AE B
1.c	Student loan \$25,148	Deferred	AE K; GE 2
1.d	Home repossession \$20,175	Plan to resolve	Tr. 30
1.e	Medical collection \$7,042	Dispute	AE C; Tr.30-33
1.f	Collection account \$300	Paid	AE D
1.g	Collection account \$84	Paid	AE D
1.h	Collection account \$58	Paid	AE E
1.i	Collection account \$29	Paid	AE I

---

<sup>6</sup>Tr. 31.

<sup>7</sup>Tr. 58.

<sup>8</sup>AE K (Credit Report, dated November 28, 2007).

<sup>9</sup>AE F (Letter from District Attorney's office, dated June 26, 2007).

Applicant has paid or settled 6 of 9 debts in the SOR. However, two large bills remain unpaid. The student loan is in deferment and Applicant will start payments again when the deferment expires. As to the home repossession, Applicant has called numerous times to locate the current holder of the collection account. She has spoken to an associate to settle the matter. At first, she was told they could not locate any record or any amount in Applicant's name. Although Applicant was advised that their legal department would research the matter and contact her, she has yet to be advised of any result. Applicant stands ready to resolve the matter. Applicant emphasized that she made the choice to have the mobile home repossessed rather than file bankruptcy. She is unsure of the amount of the debt because she has not been informed of the amount received at the auction. She is actively attempting to settle this matter. Applicant disputed the hospital and medical bill (\$7,062) because insurance should have covered the bills. She is now trying to resolve the bill and pay the amount owed to the hospital.<sup>10</sup>

Applicant's current net monthly income is \$2,525. After expenses and debt repayment, she has a net monthly remainder of \$200. She is current on her car loan and other bills at this time.

Applicant's project manager highly endorses her and recommends her for a security clearance. She is described as a solid citizen, and an outstanding worker who manifests the right attitude toward security related matters. She has been employed with the company for more than four years and has received promotions. She is described as an outstanding employee and a valued asset.<sup>11</sup>

Applicant's supervisor has known her for twelve years as a friend. She is trustworthy and loyal in all respects. He attests that she can be trusted not to discuss confidential matters and handles personnel records and training documents as one of her responsibilities.<sup>12</sup>

The sheriff in Applicant's home county has known Applicant for a number of years. He attests to her professional, knowledgeable, hardworking attitude. He finds her trustworthy and honest.<sup>13</sup>

## **POLICIES**

“[N]o one has a ‘right’ to a security clearance.”<sup>14</sup> As Commander in Chief, the President has “the authority to . . . control access to information bearing on national security and to determine

---

<sup>10</sup>Tr. 37.

<sup>11</sup>AE I (Letter from Business Manager, dated August 14, 2007).

<sup>12</sup>AE J (Letter from Supervisor, Central Support, undated).

<sup>13</sup>AE G (Letter from Sheriff, dated November 28, 2007).

<sup>14</sup>*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information.”<sup>15</sup> The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.”<sup>16</sup> An applicant has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance. The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.<sup>17</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.<sup>18</sup> The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.<sup>19</sup>

The revised Adjudicative Guidelines (AG) set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the adjudicative process factors listed in the Directive and AG ¶ 2(a).

## CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

### **Guideline F: Financial Considerations**

*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.*<sup>20</sup>

Applicant’s history of delinquent debts establishes Financial Considerations Disqualifying Condition (FC DC) 19(a) (*inability or unwillingness to satisfy debts*) and FC DC 19(c) (*a history of not meeting financial obligations*). Her admissions and credit reports confirm the delinquent debts.

---

<sup>15</sup>*Id.* at 527.

<sup>16</sup>Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

<sup>17</sup>ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

<sup>18</sup>*Id.*; Directive, ¶ E2.2.2.

<sup>19</sup>Exec. Or. 10865 § 7.

<sup>20</sup>AG ¶ 18.

I have considered all the Financial Considerations Mitigating Conditions (FC MC), and especially considered FC MC 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*), FC MC 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*), FC MC 20(c) (*the person received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control*), and FC MC 20(d) (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

Although FC MC 20(a) does not provide a temporal or specific definition of what constitutes “recent” conduct, Applicant’s overall conduct with creditors in resolving her debts show she is now reliable, trustworthy and has good judgment. Applicant divorced her third husband in 2002. He had bad credit and during the marriage, Applicant used her credit and was responsible for many of the bills. Her divorce and then her illness in 2003 exacerbated the financial conditions. She is now earning a steady income with her current employer. She extricated herself from her marriage. She chose not to file bankruptcy but to pay her creditors as much as she was able. I find that FC MC 20(b) is applicable. FC MC 20(c) is also applicable for the reasons stated above. Even though, Applicant did not receive counseling, she is resolving her financial problems. Finally, Applicant paid 6 of 9 bills in the SOR and her student loan is in deferred status. She is actively trying to settle the account for the home repossession.<sup>21</sup>

## **Guideline E: Personal Conduct**

*Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified information. Of special interest is any failure to*

---

<sup>21</sup>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 Financial Considerations Mitigating Condition 6, 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 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) in order to claim the benefit of Financial Considerations Mitigating Condition 6.

(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)).

*provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.*<sup>22</sup>

The adverse information concerning the bench warrant for the faulty check is resolved. Counsel did not dispute this at the hearing. Applicant explained the situation concerning the faulty deposit which resulted in the check for NSF. She produced documentation that the issue has been resolved since June 2007.

### **Whole Person Analysis**

The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating Applicant's case, I have considered the adjudicative process factors listed in the Directive and AG ¶ 2(a). I have also considered all the evidence, and every finding of fact and conclusion discussed above.

Applicant had a history of good credit and no financial problems until her third marriage. She has earned praise and promotions with her current employer. She is described as trustworthy and is endorsed for a security clearance. She paid or settled six of the nine SOR debts. One debt is in abeyance, one debt is disputed, and one debt is being researched. She weathered her 2000 divorce and supported her family while earning a low wage for a period of time. Her illness created the medical bills. She has not ignored them. She lives within her means. She was forthright and candid at the hearing. She produced documentation and a credible account of her efforts to resolve all her financial difficulties.

After weighing the disqualifying and mitigating conditions and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on her financial issues, and personal conduct. She is eligible for a security clearance.

### **FORMAL FINDINGS**

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline F:	FOR APPLICANT
Subparagraph 1.a:-1.i:	For Applicant
Paragraph 2. Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

### **DECISION**

---

<sup>22</sup>AG ¶ 15

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Noreen A. Lynch  
Administrative Judge