

KEYWORD: Financial

DIGEST: Applicant is a 37-year-old employee of a defense contractor. Her delinquent debts total more than \$35,000. Applicant has not mitigated the security concerns based on her financial problems. Clearance is denied.

CASENO: 07-00995.h1

DATE: 06/22/2007

DATE: June 22, 2007

In re:)	
)	
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SSN: -----)	ISCR Case No. 07-00995
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
EDWARD W. LOUGHRAN**

APPEARANCES

FOR GOVERNMENT

Emilio Jaksetic, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 37-year-old employee of a defense contractor. Her delinquent debts total more than \$35,000. Applicant has not mitigated the security concerns based on her financial problems. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On March 9, 2007, DOHA issued a Statement of Reasons¹ (SOR) detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations) 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 in writing on March 29, 2007, and elected to have a hearing before an administrative judge. The case was assigned to me on May 2, 2007. A notice of hearing was issued on May 3, 2007, scheduling the hearing for June 4, 2007. The hearing was conducted as scheduled to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government offered three exhibits that were marked as Government Exhibits (GE) 1 through 3, and admitted without objections. Applicant testified but did not submit any documentary evidence. DOHA received the hearing transcript (Tr.) on June 13, 2007.

FINDINGS OF FACT

Applicant's admissions to the allegations in the SOR are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 37-year-old employee of a defense contractor. She has never been married and has no children.²

Applicant was employed by a company for about ten years, from 1991 to 2001. She went to a different company in about January 2001. In about August 2002, Applicant was laid off from her job. Applicant struggled financially while she was unemployed. She survived through loans from family and friends, and by credit. While she was unemployed, she decided to use that opportunity to further her education. She obtained an associate degree in about October 2003. By the time she finished school, Applicant was in serious debt. From November 2003 to present, Applicant has worked for a government contractor.³

Applicant admitted to all the debts listed in the SOR. The medical debts in SOR ¶¶ 1.a, 1.b, and 1.c, totaling \$440, are to a collection agency, collecting on behalf of a medical provider. Applicant testified the medical bills resulted either from when she was unemployed and did not have

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

²Tr. at 20, 43; GE 1.

³Tr. at 18-21; GE 1.

insurance, or when she was insured, made a partial payment, and thought the debt was fully paid, when it was not. She has paid several medical debts, but she admits she has not paid these debts.⁴

The debt in SOR ¶ 1.d in the amount of \$10,130, is to a collection agency, collecting on behalf of a credit card company. Applicant testified she attempted to make payment arrangements, but the creditor would only accept payments of \$900 at a time, and Applicant was unable to make payments that large.⁵

The debt in SOR ¶ 1.e in the amount of \$8,375, is to a collection agency, collecting on a loan Applicant received. This debt is still outstanding.⁶

The debts in SOR ¶¶ 1.f through 1.i, in the total amount of \$17,314, are for delinquent student loans. Applicant testified that her wages have been garnished for these debts for about the past six to seven months, at approximately \$115 to \$120 per week, and more if she works overtime.⁷

SOR ¶ 1.j lists a debt to a medical provider in the approximate amount of \$487. The SOR does not list the creditor's name. The credit reports introduced as GE 2 and 3, also do not list the creditor's name. After scrutinizing the credit reports, I am unable to determine if the debt listed in SOR ¶ 1.j, is a separate debt, or an aggregate of the three medical debts listed in SOR ¶¶ 1.a, 1.b, and 1.c.⁸

A judgment of \$3,604 was obtained against Applicant in about November 2006, by a credit collection company, on behalf of a department store, as listed in SOR ¶ 1.k. Applicant testified she attempted to make payment arrangements, but the creditor would only accept larger payments than she was able to make.⁹

Applicant testified she has contacted a few credit counseling organizations, but did not utilize their services, as their services amounted to Applicant taking a loan from them at a higher interest rate than her debts. Applicant is living pay check to pay check, and would not be able to maintain the payments of a consolidation loan.¹⁰

⁴Tr. at 27-28; Applicant's response to SOR; GE 2 at 2; GE 3 at 3.

⁵Tr. at 26-27; Applicant's response to SOR; GE 3 at 1.

⁶Tr. at 34-35; Applicant's response to SOR; GE 2 at 2; GE 3 at 3.

⁷Tr. at 22-24; Applicant's response to SOR; GE 3 at 2-3.

⁸GE 2 at 2, 8; GE 3 at 1, 3.

⁹Tr. at 24-26; Applicant's response to SOR; GE 3 at 1.

¹⁰Tr. at 29-30, 38-39.

POLICIES

“[N]o one has a ‘right’ to a security clearance.”¹¹ As Commander in Chief, the President has “the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information.”¹² 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.”¹³ 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.¹⁴ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.¹⁵ 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.¹⁶

The revised Adjudicative Guidelines 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).

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, are set forth and discussed in the conclusions section below.

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

¹¹*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

¹²*Id.* at 527.

¹³Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

¹⁴ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

¹⁵*Id.*; Directive, ¶ E2.2.2.

¹⁶Exec. Or. 10865 § 7.

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.

Based on all the evidence, 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*) apply in this case. Applicant accumulated substantial delinquent debt, which remains mostly unpaid.

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*).

Applicant has numerous unpaid debts. She has serious current financial problems. FC MC 20(a) does not apply. Much of Applicant's financial difficulties started when Applicant lost her job, a condition that was largely beyond her control. However, Applicant has worked for her current employer since November 2003, and has done very little to pay her debts. I do not find that Applicant acted responsibly under the circumstances. FC MC 20(b) is partially applicable.

Applicant has not received counseling for her problems. Her wages are being garnished for her defaulted student loans, but there is minimal evidence of any voluntary payments of her delinquent debts. Applicant has not shown a good-faith effort to repay overdue creditors or otherwise resolve debts, and there is no clear indication that the problem is being resolved or is under control. FC MC 20(c) and FC MC 20(d) do not apply.

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's financial issues stem mainly from a period of unemployment, but she has worked for her current employer for more than three years, and has done very little to address her delinquent

debts. I also considered that there is nothing adverse in Applicant's record other than her financial problems. Applicant appears to be a hard-working woman who is just trying to make her way in life. Unfortunately her delinquent debts total more than \$35,000. Applicant does not have a viable plan for addressing her debts. This makes her vulnerable to pressure, coercion, exploitation, or duress.

After weighing the disqualifying and mitigating conditions and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns based on her financial issues.

FORMAL FINDINGS

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

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	Against Applicant
Subparagraph 1.j:	For Applicant
Subparagraph 1.k:	Against Applicant

DECISION

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 or continue a security clearance for Applicant. Clearance is denied.

Edward W. Loughran
Administrative Judge