



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



In the matter of:  XXXXXXXXXXXXXXXXXXXX  Applicant for Security Clearance	) ) ) ) )	ISCR Case No. 16-00791
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**Appearances**

For Government: Philip J. Katauskas, Esquire, Department Counsel  
For Applicant: *Pro se*

12/11/2018

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I deny Applicant’s clearance.

On 20 August 2016, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations, Guideline J, Criminal Conduct, and Guideline E, Personal Conduct.<sup>2</sup> 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 25 March 2017, when Applicant’s response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 1 October 2017.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-8 .

<sup>2</sup>DoD 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. On 10 December 2016, the Director of National Intelligence (DNI) signed Security Executive Agent Directive 4, implementing new AG, effective with any decision issued on or after 8 June 2017.

## Findings of Fact

Applicant is a 46-year-old configuration manager employed by a U.S. defense contractor since October 2013. She has served previously in similar positions with a series of defense contractors since May 1992. She has had small gaps in employment as her currently employer lost its bid on the renewal contract, only to have herself be hired by the successor contractor. The longest such gap was from December 2005 to June 2006. She seeks to retain the clearance she was issued in July 2007 (Item 5, 6).

The SOR alleges, and Government exhibits (Items 6-8) establish, 12 delinquent debts totaling nearly \$12,000, and a May 2005 Chapter 7 bankruptcy petition which was discharged in June 2005. Applicant admitted some debts, and the bankruptcy; claimed that some debts had been included in her bankruptcy; and claimed to have been unaware of some other debts. She listed no delinquent debts on her December 2014 clearance application (Item 5), but was confronted with them during an April 2015 interview with a Government investigator (Item 6) based on a January 2015 credit report (Item 7). She similarly failed to disclose a handful of criminal arrests/citations (SOR 2.a-2.f), but was confronted with them during her interview.<sup>3</sup>

Applicant documented no efforts to address her debts, either after her interview or after she received the SOR. She attributed her 2005 bankruptcy filing to her August 1997 divorce, but it is difficult to see this as anything but attenuated. She provided no budget or financial statement. She has not documented any financial or credit counseling. She provided no work or character references, or any 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(d). 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 guidelines are Guideline F (Financial Considerations), Guideline J (Criminal Conduct), and Guideline E (Personal Conduct).

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<sup>3</sup>Applicant claimed that she thought the felony question (SOR 2.f) referred to the last seven years, and in any event, she had discussed the offense during her 2007 background investigation. She provided no corroboration for this latter claim, but given the age of the offense (nearly 25 years at the time of her clearance application) I find the allegation to hold little security significance. Regarding her omissions of her more-recent criminal history and financial problems, she variously claimed to have forgotten them or to have listed them on her clearance application. These explanations are less credible.

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.<sup>4</sup>

### 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 for which she did not provide any documentation of efforts to resolve her debts.<sup>5</sup>

Applicant meets none of the mitigating conditions for financial considerations. She has not clearly documented any efforts to resolve them.<sup>6</sup> Applicant did not document that her financial problems were due to circumstances beyond her control, and she documented no efforts to resolve them, either after her subject interview or after she received the SOR or FORM.<sup>7</sup> Applicant has had no credit or financial counseling, and there is no evidence any of the debts are being resolved.<sup>8</sup> Her lack of effort does not constitute a good-faith effort to address her debts.<sup>9</sup> In addition, Applicant has not demonstrated a track record of living within her means. Furthermore, Applicant provided no "whole-person" evidence to mitigate the security concerns raised by her inaction on the debts. Accordingly, I conclude Guideline F against Applicant.

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<sup>4</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>5</sup>19(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so; (c) a history of not meeting financial obligations;

<sup>6</sup>¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

<sup>7</sup>¶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;

<sup>8</sup>¶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;

<sup>9</sup>¶20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

In similar fashion, the Government established cases for disqualification under Guidelines J and E. At a minimum, the circumstances of her criminal conduct and her clearance application omissions bespeak an inattentiveness to detail which is inconsistent with access to classified information. Her response to the SOR is largely a plea to save her job, but without a more thorough explanation of her criminal conduct and the clearance application omissions, she cannot mitigate the security concerns raised by these allegations. Accordingly, I conclude Guidelines J and E against Applicant.

### **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-m:	Against Applicant
Paragraph 2. Guideline J:	AGAINST APPLICANT
Subparagraphs a-e:	Against Applicant
Subparagraph f:	For Applicant
Paragraph 3. Guideline E:	AGAINST APPLICANT
Subparagraphs a-b, d:	Against Applicant
Subparagraph c:	For Applicant

### **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.

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JOHN GRATTAN METZ, JR  
Administrative Judge