



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



In the matter of: )  
)  
) ISCR Case No. 17-03801  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andrea Corrales, Esq., Department Counsel  
For Applicant: *Pro se*

12/21/2018

**Decision**

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F, financial considerations and Guideline E, personal conduct. Eligibility for access to classified information is denied.

**Statement of the Case**

On January 24, 2018, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations and Guideline E, personal conduct. The action was taken under Executive Order (EO) 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 on June 8, 2017.

Applicant answered the SOR on February 14, 2018, and March 12, 2018, and requested a hearing before an administrative judge. The case was assigned to me on August 3, 2018. The Defense Office of Hearings and Appeals (DOHA) issued a notice of

hearing on September 5, 2018. I convened the hearing as scheduled on October 17, 2018. The Government offered exhibits (GE) 1 through 6. Applicant testified and offered Applicant Exhibit (AE) A. There were no objections to any exhibits offered, and all were admitted into evidence. DOHA received the hearing transcript on October 24, 2018.

### **Findings of Fact**

Applicant admitted the allegations in SOR ¶¶ 1.a through 1.j, 1.l, 1.n, 1.p, 1.q, 1.u through 1.w, 1.aa, and 1.dd through 1.kk. She denied the SOR allegations in ¶¶ 1.k, 1.m, 1.o, 1.r, 1.s, 1.t, 1.x, 1.y, 1.z, 1.bb, and 1.cc stating they were duplicates of debts she admitted. She did not respond to SOR ¶ 1.ll, and it will be considered a denial. She admitted the allegations in SOR ¶¶ 2.a and 2.b, stating she made an error. Her explanation will be considered denials for those two allegations. After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 46 years old. She married in 2003. She and her husband have been separated at different times, but are reconciled. They have two children, ages 27 and 20 years old. In 2010, she earned an associate's degree.<sup>1</sup>

Applicant disclosed on her May 2016 security clearance application (SCA) that she had been employed by a federal contractor since May 2013, but has had periods of unemployment due to contract changes. Applicant has had other periods of unemployment to include: February 2018 to May 2018; September 2012 to March 2013; and May 2011 to August 2011. These may be periods when she was between contracts. She testified that she has been working for a temporary agency since August 2018.<sup>2</sup>

Applicant attributed her financial problems to unemployment, underemployment, lack of health insurance, and when she and her husband were separated. Their children were minors when they were separated, and he did not pay child support. He occasionally contributed to household expenses. She stated that in May 2011 she lost her job where she had worked for more than seven years. She had some debts at that time. She did not earn enough to pay her bills. She lost her health insurance when she was laid off. She did not have medical insurance from approximately 2011 to 2016. She testified that she has not intentionally neglected her debts, but she cannot afford to pay them.<sup>3</sup>

Applicant decided to go back to school in 2007 so she could earn more money. She needs three more classes to earn her bachelor's degree. She accumulated more than \$80,000 in student loans. She testified the loans were deferred, and she began

---

<sup>1</sup> Tr. 17-18.

<sup>2</sup> Tr. 18-24. On her SCA, Applicant disclosed she was unemployed from May 2013 to July 2013 and in February 2014 which is inconsistent with her disclosure that she has been employed by a federal contractor since May 2013.

<sup>3</sup> Tr. 40-45, 66-68.

making \$120 payments in August 2018. The creditor wanted her to pay \$400, but she was able to defer that amount for six months. She testified that she now has a budget and has \$218 remaining at the end of the month after paying her bills.<sup>4</sup>

Applicant's admissions, bankruptcy documents, and credit reports from September 2017 and July 2016, corroborate the SOR allegations.<sup>5</sup> SOR ¶¶ 1.m, 1.s, 1.t, 1.y, 1.bb and 1.cc are duplicate accounts of other allegations. I find in Applicant's favor on these allegations.<sup>6</sup>

In January 2003, Applicant filed Chapter 7 bankruptcy and her debts were discharged in May 2003. She stated that she had two credit cards and medical debts, and she was not managing her money properly at the time. The amount of the debts that were discharged is unknown.<sup>7</sup>

In February 2018, Applicant again filed Chapter 7 bankruptcy. Her debts were discharged in May 2018. It appears that the debts alleged in the SOR are included in this bankruptcy petition. The debts discharged were medical, a vehicle loan, a credit card, satellite television, cell phone, and for an apartment. She stated a medical creditor placed a lien on her checking account for a debt she owed from 2012, so she had to pay \$75 a month beginning in October 2017. She stated this payment was to a collection agency. She stopped paying the account when she filed bankruptcy. She stated she also owed her state taxing authority for failure to have insurance. She had a \$100 balance and planned to pay it in two increments by November 2018. Applicant testified that prior to her bankruptcy she was making small payments on some delinquent accounts.<sup>8</sup>

In April 2014, Applicant completed a Public Trust Position Questionnaire. Under Section 22, it asked if she was over 180 days delinquent on any loan or financial obligations. She answered "no." At the time, Applicant had numerous delinquent debts that she failed to disclose.<sup>9</sup>

When Applicant completed her SCA in May 2016, she answered "no" to all of the questions under Section 26, Financial Delinquency Involving Routine Accounts, which asked if in the past seven years she had bills or debts turned over to a collection agency; and if she had any account or credit card suspended, charged off, or canceled for failing to pay as agreed.

---

<sup>4</sup> Tr. 45-49, 61.

<sup>5</sup> GE 1, 2, 3, 4, 5, 6; AE A.

<sup>6</sup> Applicant claimed other allegations were also duplicates. A review of the evidence supports that these accounts have different numbers and were opened on different dates. See GE 2 and 3.

<sup>7</sup> Tr. 58-59.

<sup>8</sup> Tr. 32-58, 69-70, 75-76; GE 4.

<sup>9</sup> GE 6.

Applicant testified that she misunderstood the questions when she answered “no.” She said that she believed that she had disclosed on a 2014 Public Trust Position Questionnaire the requested information and her current 2016 SCA had populated the information, and she did not have to disclose it. She testified that she was aware of her delinquent debts, but did not read the question, did not understand the question, or was in a rush when completing the document. She stated she was aware that some medical debts had been turned over to collection accounts. She also had debts that became delinquent after 2013, the date she said she completed an SCA. She also had debts that were more than 180 days when she completed her 2014 Public Trust Position Questionnaire, but did not disclose them on that document. I did not find Applicant’s testimony credible. I find she deliberately failed to disclose her delinquent debts on her 2014 Public Trust Position Questionnaire and 2016 SCA.<sup>10</sup>

Applicant’s admissions, testimony, bankruptcy documents, and credit reports corroborate the SOR allegations. Applicant testified that she completed the financial counseling required to file bankruptcy.<sup>11</sup>

### **Policies**

When evaluating an applicant’s national security eligibility, the administrative judge must consider the 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 national security eligibility will be resolved in favor of the 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.

---

<sup>10</sup> Tr. 24-40; GE 1, 6.

<sup>11</sup> GE 1, 2, 3, 4, 5, 6; AE A. I have not considered any derogatory information that was not alleged in the SOR for disqualifying purposes. I may consider such information when applying the mitigating conditions, in making a credibility determination, and in my whole-person analysis.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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 EO 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 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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

- (a) inability to satisfy debts; and

(c) a history of not meeting financial obligations.

Applicant had numerous delinquent debts that began accumulating in 2012. She had her debts discharged in Chapter 7 bankruptcy in 2003. 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 downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant had her debts discharged in bankruptcy in 2003 and again in 2018. Insufficient evidence was provided to conclude future financial problems are unlikely to recur. Applicant's financial history casts doubt on her reliability, trustworthiness, and good judgment. AG ¶ 20(a) does not apply.

Applicant attributed her financial problems to unemployment, underemployment, lack of health insurance, and marital separation. These are conditions that were beyond her control. Applicant provided minimal evidence of actions she may have taken after her first bankruptcy to prevent a second one. It appears the lack of health insurance is the greatest impact on Applicant's finances. AG ¶ 20(b) has some application.

Applicant completed financial counseling required to file bankruptcy. However, she did not provide sufficient evidence to show her financial situation is under control. She estimated she had about \$218 a month remaining after paying bills. She obtained a deferment for six months on her student loans and is paying a reduced payment at this time. It is unclear if she has a plan for making the required payments when due. I find AG ¶ 20(c) does not apply. Although, Applicant's delinquent debts have been resolved

through bankruptcy again, this does not constitute a good-faith effort to pay overdue creditors or otherwise resolve debts. I find AG ¶ 20(d) does not apply.

### **Guideline E, Personal Conduct**

AG ¶ 15 expresses the security concern for 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 provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I find the following potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant deliberately did not disclose on her 2014 Position of Public Trust Questionnaire that she had any debts that were delinquent for more than 180 days. Applicant was aware of her lack of health insurance, and financial distress. She again deliberately failed to disclose she had any delinquent debts or financial problems when she completed her 2016 SCA. The above disqualifying condition applies.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. I have considered the following mitigating conditions under AG ¶ 17:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

There is insufficient evidence that Applicant made a prompt good-faith effort to correct the omissions and disclose her financial problems before being confronted. Applicant testified that she did not have medical insurance. She was aware of the numerous delinquent medical bills she had because one creditor had placed a lien on her checking account. She stated she received collection notices. Applicant's failure to

truthfully provide answers on a Position of Public Trust Questionnaire in 2014 and an SCA in 2016 is not minor. The Government relies on those seeking security clearances to honestly disclose information, which may sometimes be derogatory. Failure to do so raises questions about a person's reliability, trustworthiness, and good judgment. I find AG ¶¶ 17(a) and 17(c) do not apply.

### **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(d):

- (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 Guidelines F and E in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment.

Applicant is 46 years old. She had her debts discharged in bankruptcy in 2003. She again filed for Chapter 7 bankruptcy and her debts were discharged in May 2018. She has an unreliable financial track record, which continues to raise security concerns. More serious is that on her 2014 Public Trust Position Questionnaire and again on her 2016 SCA, she deliberately failed to disclose any of her derogatory financial issues, as was required. The record evidence leaves me with serious 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 and Guideline E, personal conduct.



## 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
Subparagraphs 1.a-1.l:	Against Applicant
Subparagraph 1.m:	For Applicant
Subparagraphs 1.n-1.r	Against Applicant
Subparagraphs 1.s-1.t:	For Applicant
Subparagraphs 1.u-1.x:	Against Applicant
Subparagraph 1.y:	For Applicant
Subparagraphs 1.z-1.aa:	Against Applicant
Subparagraphs: 1.bb-1cc:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a-2.b:	Against Applicant

## Conclusion

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

---

Carol G. Ricciardello  
Administrative Judge