



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



In the matter of: )  
)  
) ISCR Case No. 18-00452  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Allison O’Connell, Esq., Department Counsel  
For Applicant: *Pro se*

02/22/2019

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**Decision**

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LYNCH, Noreen A., Administrative Judge:

This case alleges security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

**Statement of the Case**

On March 2, 2018, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines F. The SOR further informed Applicant that, based on information available to the Government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant’s security clearance.

Applicant answered the SOR on May 9, 2018, and requested a hearing before an administrative judge. (Answer.) The case was assigned to me on September 12, 2018. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on November 7, 2018, scheduling the hearing for January 11, 2019. The hearing was convened as scheduled. The Government offered Exhibits (GE) 1 through 4, which were admitted. Applicant testified on her own behalf. She submitted Applicant Exhibits (AE) A through E. The record was left open until January 25, 2019, and Applicant timely submitted

a packet of documents, which was marked as AE F, and was accepted into the record without objection. DOHA received the transcript of the hearing (Tr.) on January 23, 2019.

### **Findings of Fact**

Applicant, age 44, is single. She obtained her associate's degree in 2000, and has been studying for her undergraduate degree for a few years. She is not attending classes at this time. She is a senior administrative assistant for a defense contractor. Applicant completed her security clearance application (SCA) on March 28, 2016. (GE 1) She has held a security clearance for about 12 years. (GE 1) She has worked for her current employer since June 2018. She previously worked as a contractor since about 2005. (Tr. 18)

The SOR alleges in 1.a through 1.n, 14 delinquent debts totaling about \$34,000, which include four student loan accounts, charged-off consumer accounts, and medical accounts. (GE 2-4) Applicant admitted the SOR allegations and provided explanations for each one. (Answer)

### **FINANCIAL**

Applicant acknowledged her financial hardship, and explained that she believed her finances were under control when she submitted her SCA, but explained that six knee surgeries, other medical issues in 2016 through 2018, including a back surgery, 2016 sexual assaults in the workplace, and lost days of paid employment for months resulted in her current delinquent debt. (Tr. 8) Applicant missed many days of employment due to the workplace issue and did not have a full paycheck for about one and a half years. Applicant was unemployed when she left the workplace after the late 2016-2017 sexual assaults and took a reduction in pay in her next job. (Tr. 22) She has spoken to a bankruptcy attorney, but she does not want to pay her debts. (Tr. 9) She is in the process of consolidating student loans.

Applicant recounted how the sexual assaults at work led to depression and because she was afraid to report the incidents to her employer, she would take sick days maybe one or two days a week. (Tr. 21-24) She spoke to an attorney and had a case worker and found the experience traumatic. Her emotional instability prevented her from concentrating on her finances. This was the time period of 2016-2017 before she looked for other employment. She knows that she has to take full responsibility for the financial situation.

Applicant has paid the following SOR accounts: 1.j, an account in the amount of \$581; 1.e, an account in the amount of \$1,126; 1.f, a medical account in the amount of \$245; 1.g, a medical account in the amount of \$103; 1.h, a collection account in the amount of \$89; 1.i, a medical account in the amount of \$181; and 1.n, a phone account in the amount of \$202. (AE D-F)

Applicant has the following SOR accounts in a payment plan: 1.a, a charged-off account in the amount of \$11,215 that has a term of 45 monthly payments of \$250. (AE

A) SOR 1.c, a charged-off account in the amount of \$5,536 that has a term of 44 monthly payments of \$125. (AE B) Applicant has made one or two payments on each account, but did not provide documentation.

As to the student loans at issue, SOR 1.b, 1.d, 1.k, and 1.l, Applicant believes they total about \$25,000. (Tr. 32) She started making payments on the loans but stopped in 2016. (Tr.32) Her student loans are not in deferment as she is not taking any classes. Applicant's intention was to return to class, but that did not occur. She has been in contact with the Department of Education and is in the process of arranging a payment plan that she can afford. At the present time, she cannot afford the offered \$700 a month. A collection agency now is handling the loans and Applicant has been in touch with them and hoping for a \$300 a month payment. This has not been approved. (Tr. 35)

Applicant admitted that she was indebted to a state university for a registered class that she did not take and did not timely withdraw. (SOR 1.m) The amount owed is \$1,797. She explained that she has not attempted to resolve this account. She explained that there were times when she was depressed that she did not open her mail. (Tr. 42)

Applicant is working with her father to develop a budget and a strategy to handle her finances. She earns about \$70,000 a year and lives with her two brothers. She has no new delinquent debt and no car loan. Applicant has also spoken to the collection agent for the student loans concerning financial counseling. She has a monthly net remainder of about \$365 after expenses. She has health insurance.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, “The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of EO 10865, “Any determination under this order adverse to an applicant shall be a determination 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 concern under this guideline 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 . . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions, corroborated by her credit reports, establish two disqualifying conditions under this guideline: AG ¶ 19(a) (“inability to satisfy debts”), and

AG ¶ 19(c) (“a history of not meeting financial obligations”).

The security concerns raised in the SOR may be mitigated by any of the following potentially applicable factors:

AG ¶ 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;

AG ¶ 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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(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

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant's financial difficulties are the result of many surgeries, medical problems, unemployment, and workplace sexual assaults in a particular period of time. She attended classes and obtained school loans but has not been financially able to begin a consolidation payment plan. These events were beyond her control and do not cast doubt on her trustworthiness. AG ¶ 20(a) is partially established.

AG ¶ 20(b) is not fully established. Applicant's unemployment, health issues, and medical problems, and other issues were beyond her control, and she has acted responsibly recently toward the majority of her smaller delinquent debts, with the exception of the student loans and state university account. She has only recently established two payment plans and made only one or two payments. She has not produced sufficient information to show that she has been proactive in her actions.

AG ¶ 20(c) and 20(d) are not fully established. Applicant did not produce evidence of any financial counseling nor are there clear indications that her financial situation is under control. She has not been able to consolidate her student loans and owes money to a state university. She has recently started payment plans but has only made one or two payments on each. She has made strides, but her financial problems are not under control.

## **Whole-Person Concept**

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the applicable guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guideline F, and evaluating all the evidence in the context of the whole person, including her credibility and openness at the hearing. Applicant had circumstances that occurred beyond her control and she has made strides in rectifying her financial situation. However, at this time, Applicant has not mitigated the security concerns raised by her financial indebtedness. Accordingly, Applicant has not carried her burden of showing that it is clearly consistent with the national interest to grant her eligibility for access to classified information.

## **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): **AGAINST APPLICANT**

Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraphs 1.e-j:	For Applicant
Subparagraphs 1.k-m:	Against Applicant
Subparagraph 1.n:	For Applicant

## **Conclusion**

I conclude that it is not clearly consistent with the national interest to continue Applicant's eligibility for access to classified information. Clearance is denied.

Noreen A. Lynch  
Administrative Judge