



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 20-00554  
)  
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Applicant for Security Clearance )

**Appearances**

For Government: Patricia Lynch-Epps, Esq., Department Counsel  
For Applicant: *Pro se*

04/20/2021

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On May 28, 2020, the Defense Counterintelligence and Security Agency (DCSA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DCSA acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective June 8, 2017 (AG).

Applicant answered the SOR on June 15, 2020, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's File of Relevant Material (FORM) on November 23, 2020. The evidence

included in the FORM is identified as Items 3-12 (Items 1-2 include pleadings and transmittal information). The FORM was mailed to Applicant, who received it on December 11, 2020. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. She did not submit any evidence or file objections to the Government's evidence. Items 3-12 are admitted into evidence without objections. The case was assigned to me on March 22, 2021.

### **Findings of Fact**

Applicant admitted two of the SOR allegations (SOR ¶¶ 1.c and 1.g), with explanations, and denied the remaining allegations. There is no SOR ¶ 1.f. The admissions are adopted as findings of fact. After a careful review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is 54 years old. She has worked for a government contractor since July 2016. She has also been a member the National Guard-Army Reserve since 2002. She received her bachelor's degree in 2012 and her master's in 2015. She is married for the second time, has four adult children, and is supporting three minor grandchildren. (Item 3)

Applicant sought a security clearance in connection with her military position, which was denied in October 2004. Applicant sought reconsideration of the denial decision, but in August 2009 the denial was reaffirmed based upon her unresolved financial issues. In August 2012, a second reconsideration was undertaken and Applicant was granted a conditional security clearance. The reconsideration letter included a warning that any future failure to resolve her delinquent debts or incurring other unfavorable financial information could lead to the suspension of her clearance. (Items 4-7)

The SOR alleged six delinquent debts totaling approximately \$53,000. The debts are comprised of a past-due mortgage note, collections accounts (credit card, consumer debt, and student loans), and a charged-off credit card. The debts are established by her security clearance application (SCA), credit reports from September 2019 and March 2020, and her SOR admissions in her answer. The SOR also included an allegation stating that Applicant had a history of failing to meet her financial obligations, which included: being denied a security clearance in 2004 and 2009 because of financial problems; being criminally charged for writing insufficient fund checks in 1999; and filing for Chapter 7 bankruptcy in 1997. (Items 2-7, 9-12)

Applicant attributes her financial problems to not being "a good steward of my personal finances over the years." She also claimed that she hired a financial advisor in January 2020, but she provided no further information regarding how the financial advisor assisted her. She failed to supply any information about her current financial picture. (Item 2)

The status of the SOR debts is as follows:

**Mortgage Note (SOR ¶ 1.a)-\$24,804 past due.** Applicant claimed that a decrease in her income caused her to get behind on her mortgage payments. Her credit report indicates that her original loan was opened in April 2017 and the date of her first delinquency was in December 2017. It also shows a history of missed payments from 2018 through 2020. Applicant documented that she sought a mortgage modification agreement in approximately March 2020. She failed to provide documentation showing that the modification was ever executed, or showing her monthly mortgage payments were being made. The loan modification documents she provided were all unsigned. This debt is unresolved. (Items 2 (including her attachment with loan modification documents), 11-12)

**Student Loans (SOR ¶ 1.b)-\$19,520 collection.** Applicant claimed that her student loans have been paid and documents this with a statement by a student loan collection service showing Applicant has “paid in full” on the student loans with an original balance of \$19,158. This same documentation lists three additional student loans with a total balance of \$2,825. There is no indication that these three loans are delinquent. This debt is resolved. (Item 2 (including her attachment with student loan documentation))

**Credit Card (SOR ¶ 1.c)-\$7,219 collection.** Applicant admitted this debt and claimed she entered into a settlement agreement with a collection company. Although she presented documentation showing the terms of the proposed settlement offer, she failed to present documentation that she actually executed the offer and made the settlement payments. This debt is unresolved. (Items 2 (including her attachment with settlement offer), 11-12)

**Credit Card (SOR ¶ 1.d)-\$961 charged off.** Applicant documented that she settled this debt with a collection company in May 2020. This debt is resolved. (Item 2 (including her attachment with settlement documentation))

**Consumer (telecommunications) (SOR ¶ 1.e) \$526 collection.** Applicant disputed this debt claiming that it was wrongfully assessed against her for failing to turn in cable equipment. She also claimed she paid a collection company to settle the debt in June 2020. While she does not supply documentation corroborating the settlement transaction, the absence of this debt on the latest credit report does corroborate her assertion of payment. This debt is resolved. (Items 2, 12)

The final SOR allegation (SOR ¶ 1.g, note: there is no SOR ¶ 1.f) details Applicant’s history of financial difficulties. She admitted this allegation, including that she was denied a security clearance in 2004 and 2009 because of her financial problems; that she was criminally charged for writing insufficient fund checks in 1999; and that she filed and received a Chapter 7 bankruptcy discharge in 1997-1998. Her admissions are supported by documents from her 2004-2012 security clearance adjudication; a Federal

Bureau of Investigation (FBI) identification record; and a docket report from her 1997 Chapter 7 bankruptcy. (Items 2, 4-7, 9-10).

## **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 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(a), 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, 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 to obtain 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 about 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

AG ¶ 18 expresses the security concern for financial considerations:

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.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶ 19 and the following potentially apply:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Two of Applicant's delinquent debts remain unpaid or unresolved. Her history of financial difficulties dates back to 1997. I find the above disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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 has a long history of financial difficulties. The SOR debts are recent and two remain unresolved. She did not provide sufficient evidence to show that her financial problems are unlikely to recur. On the contrary, the evidence shows that she has had financial difficulties tracing back to 1997. AG ¶ 20(a) does not apply. Applicant admitted that she was not financially responsible in the past. I find AG ¶ 20(b) does not apply. Her efforts to resolve her student loans and two other debts are commendable, but insufficient to conclude that her overall financial problems are being resolved or are under control. Likewise, she has failed to establish a good-faith effort to resolve her remaining delinquent debts. Although she claimed that she hired a financial counselor, there is no documentation of what that gained for her. AG ¶¶ 20(c) and 20(d) do not fully 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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant has not established a track record of financial stability.

Overall, the record evidence leaves me with 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.

**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.c; 1.g:	Against Applicant
Subparagraphs 1.b; 1.d-1.e:	For Applicant

**Conclusion**

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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Robert E. Coacher  
Administrative Judge