



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



In the matter of:)	
)	
)	ISCR Case No. 19-03827
)	
Applicant for Security Clearance)	

Appearances

For Government: Adrienne Driskill, Esq., Department Counsel
For Applicant: *Pro se*

09/21/2021

Decision

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 March 4, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued Applicant a statement of reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DCSA CAF acted 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 July 30, 2020, and requested a hearing before an administrative judge. The scheduling of this hearing was delayed because of the COVID-19 pandemic. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on June 30, 2021, and the hearing was convened as scheduled on July 15, 2021, using the Defense Collaboration Services (DCS) video conferencing capabilities. The

Government offered exhibits (GE) 1 through 6, which were admitted into evidence without objection. The Government's exhibit list was marked as a hearing exhibit (HE I). Applicant testified and offered exhibits (AE) A and B, which were admitted without objection. The record was kept open until June 30, 2021, to allow Applicant to submit additional evidence. She complied and submitted AE C through E, which were admitted without objection. DOHA received the hearing transcript (Tr.) on July 23, 2021.

Findings of Fact

In her SOR answer, Applicant admitted all but one of the allegations (denied SOR 1.d, as a duplicate debt), with explanations. Her admissions are adopted as findings of fact. After a review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is a 42-year-old employee of a defense contractor. She began working at her present job, a production line supervisor, in December 2016. She previously worked for this same employer from 2008 to 2010, but was dismissed because of a positive drug test. (I have not used this information for disqualification purposes because it was not alleged in the SOR.) She experienced periods of unemployment from May 2010 to July 2011, December 2013 to May 2015, and September 2015 to December 2016. She married in 2015. She has three children, ages 25, 23, and 8. She claimed that many of her accrued debts arose when she was a single mother. She previously held a security clearance and has never had a security violation. (Tr. 6, 19-23, 31-32 GE 1)

The SOR alleged eight collection accounts and one charged-off debt (medical debts, apartment rent debts, utility debts, a car repossession, and consumer debts) totaling approximately \$23,088. The debts are established by credit reports from August 2018, May 2019, and December 2019; Applicant's personal subject interview (PSI) with a defense investigator in August 2018; and her SOR admissions. (SOR ¶¶ 1.a – 11p) (GE 2-5; Answer to SOR)

Applicant explained that her financial issues began when she was a single mother and she was involved in an abusive relationship which caused her to have to vacate her apartment before the end of her lease term. Her periods of unemployment also contributed to her financial problems. Her husband lost his job in 2020 due to the pandemic, which also contributed to their financial distress. She admitted that she was also foolish with her finances and did not understand how delinquent debts could impact her job. She hired a debt repair company (DRC) to clean up her credit report. She stated that the DRC did not assist with paying her debts, but it did help repair her credit report and it offered her some strategies on how to address her delinquent debts. (Tr. 19, 31-33, 37-38)

The status of the SOR debts is as follows:

SOR ¶ 1.a-\$1,152. Applicant incurred this medical debt in 2013. She presented documentation showing this debt was paid in November 2020. This debt is resolved. (Tr. 24; AE E)

SOR ¶¶ 1.b and 1.c-\$7,211 each. Applicant claims that these two debts are duplicates arising out of the same transaction. A credit report supports her assertion. SOR ¶ 1.c is found in favor of Applicant. This debt resulted when Applicant vacated her apartment before the end of her lease in order to escape an abusive relationship. She claimed she entered a payment arrangement with the creditor. She stated that she could provide supporting documentation showing her payments since March 2020. She was given until July 30 from the date of the hearing to provide this documentation, but she failed to do so. Her post-hearing submissions do not address this debt. This debt is unresolved. (Tr. 26-27; GE 3; AE C-E)

SOR ¶ 1.d-\$3,248. Applicant incurred this repossession debt in approximately 2012, which became delinquent in approximately 2014. She claimed she entered into a payment arrangement with the creditor. She stated that she could provide supporting documentation showing her \$161 payments for the last six months. She was given until July 30 from the date of hearing to provide this documentation, but she failed to do so. Her post-hearing submissions do not address this debt. This debt is unresolved. (Tr. 27-28; GE 3; AE C-E)

SOR ¶ 1.e-\$886. Applicant incurred this consumer debt in approximately 2013. She claims this debt was paid and she would provide supporting documentation. She documented a \$250 payment to settle this debt. This debt is resolved. (Tr. 29; GE 3; AE C)

SOR ¶ 1.f-\$2,281. Applicant incurred this telecommunications debt in approximately 2012. Applicant claimed she paid this debt and could provide supporting documentation. The document she provided does not address the SOR debt, rather it shows a payment to a different telecommunication company in December 2020 for approximately \$166. This debt is unresolved. (Tr. 30; GE 3; AE E)

SOR ¶ 1.g-\$588. Applicant incurred this medical debt in 2012. She presented documentation showing this debt was paid in December 2020. This debt is resolved. (Tr. 24; AE E) (Tr. 30; AE E)

SOR ¶ 1.h-\$313. Applicant incurred this utility debt in approximately 2012. Applicant claimed she paid this debt and could provide supporting documentation. She failed to provide such documentation. This debt is unresolved. (Tr. 30-31; GE 3; AE C-E)

SOR ¶ 1.i-\$178. Applicant incurred this utility debt in approximately 2018. Applicant claimed she paid this debt and could provide supporting documentation. She failed to provide such documentation. This debt is unresolved. (Tr. 30-31; GE 3; AE C-E)

Applicant testified that she and her husband now have a monthly net income of approximately \$6,000. They are working toward purchasing a home. Her most recent credit report shows no other delinquencies. She has approximately \$120 in savings. She also is current on a bank loan with payments of \$161 every two weeks. (Tr. 34-36; AE A, D)

Applicant provided a letter from a work colleague who has worked with her since 2015. He described Applicant as a trustworthy and ethical professional. He recommends her for a security clearance. (AE B)

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.

Applicant incurred nine delinquent debts, five of which remain unpaid or unresolved. I find all 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;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's debts are recent and, although she produced documentation of payment for three debts, she failed to produce supporting documentation that she has addressed the remainder of her debts. She failed to produce evidence showing that recurrence of her financial problems is unlikely. AG ¶ 20(a) is not applicable.

Applicant's unemployment periods and her husband's unemployment were circumstances beyond her control. In approximately 2013, she was the victim of domestic violence, which impacted her renter status and was also beyond her control. However, she did not act responsibly when she failed to engage five creditors in attempts to resolve those debts. AG ¶ 20(b) is not applicable.

Applicant did not present evidence of financial counseling, although she hired a DRC to clean up her credit report. Her track record to date does not support a good financial picture. Additionally, although she addressed four debts, she failed to put forth a good-faith effort to resolve the rest of her debts. Applicant's financial problems are not under control. AG ¶¶ 20(c) and AG 20(d) do not apply. Applicant successfully disputed SOR ¶ 1.c as a duplicate debt. AG ¶ 20(e) applies.

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 relevant facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

I considered Applicant's unemployment periods, her domestic violence situation, and the circumstances surrounding her indebtedness. However, I also considered that she has made insufficient efforts to resolve her debts, particularly the larger ones. She has not established a meaningful track record of debt management, which causes me to question her ability to resolve her debts.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the financial considerations security concerns. (I considered the exceptions under Security Executive Agent Directive (SEAD) 4, Appendix C, dated June 8, 2017, and determined they are not applicable in this case.)

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
Subparagraph: 1.a:	For Applicant
Subparagraph: 1.b:	Against Applicant
Subparagraph: 1.c:	For Applicant
Subparagraph: 1.d:	Against Applicant
Subparagraph: 1.e:	For Applicant
Subparagraph: 1.f:	Against Applicant
Subparagraph: 1.g:	For Applicant
Subparagraphs: 1.h-1.i:	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 interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Robert E. Coacher
Administrative Judge