



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



In the matter of:)	
)	
)	ISCR Case No. 20-01316
)	
Applicant for Security Clearance)	

Appearances

For Government: Rhett E. Petcher, Esq., Department Counsel
For Applicant: Leon J. Schachter, Esq.

11/10/2021

Decision

LOUGHRAN, Edward W., Administrative Judge:

On September 22, 2020, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations.¹ Applicant responded to the SOR and requested a hearing before an administrative judge. The case was assigned to another administrative judge on September 1, 2021, and reassigned to me on September 22, 2021. The hearing was held as scheduled on October 25, 2021. On November 8, 2021, I proposed to the parties that this case was appropriate for a summary disposition in Applicant’s favor. Department Counsel did not object.

Applicant’s financial problems were caused by her divorce, her ex-husband’s failure to pay his share of the marital debt, and her child’s cancer treatment. She started addressing her problems in 2016. She paid or settled five debts not alleged in the SOR, totaling about \$25,000, well before the SOR was issued.

¹ This case is adjudicated 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, which became effective on June 8, 2017.

The SOR alleges a past-due auto loan; 12 delinquent debts totaling about \$21,100; and defaulted first and second mortgage loans. The auto loan is now current. She paid, settled, or otherwise resolved 10 of the 12 SOR debts. She contacted the creditors for two of the debts (\$829 and \$603) about paying or settling the debts. She was told that the debts had been charged off, and the creditors were no longer collecting the debts.

Applicant and her ex-husband bought a house in 2005 at the height of the housing bubble. The purchase was financed with first (80%) and second (20%) mortgage loans. The housing market collapsed, and the house was worth much less than what they paid for it. Applicant's divorce decree stated that Applicant would live in the house and pay the mortgage loans until their child turned 18 in 2018, at which time the house would be sold, and they would split the profits or losses.

Applicant negotiated for a short sale of the house. The house was under contract for about six months, when mold was discovered in the hot, empty house after a home inspector turned the air conditioning off in the house. The sale was cancelled, and the house was lost to foreclosure. The creditors for the first mortgage loan issued an IRS Form 1099-C (Cancellation of Debt) forgiving the deficiency of \$88,733. Applicant negotiated with the creditor holding the second mortgage loan to settle the debt for about \$31,000. The creditor wants the settlement to be paid over 12 months. She is still in negotiations with the creditor to pay the settlement over 24 months. Thus far, she has been unable to convince her ex-husband to pay his share. She will pay it by herself if necessary.

Applicant established a plan to resolve her financial problems, and she took significant action to implement that plan. Based on the record evidence as a whole, I conclude that the Government established security concerns under disqualifying conditions AG ¶¶ 19(a) and 19(c). Those security concerns are mitigated under the following mitigating conditions: AG ¶¶ 20(a), 20(b), and 20(d).

The concerns over Applicant's history of financial problems do not create doubt about her current reliability, trustworthiness, good judgment, and ability to protect classified information. In reaching this conclusion, I weighed the evidence as a whole and considered if the favorable evidence outweighed the unfavorable evidence. I also gave due consideration to the whole-person concept. Accordingly, I conclude that she met her ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant her eligibility for access to classified information. This case is decided for Applicant.

Edward W. Loughran
Administrative Judge