



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
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Applicant for Security Clearance)

ISCR Case No. 20-00523

Appearances

For Government: Allison Marie, Esq., Department Counsel
For Applicant: *Pro se*

04/08/2021

Decision

MASON, Paul J., Administrative Judge:

Applicant's unproven claims of addressing her delinquent student loan accounts are insufficient to overcome the security concerns associated with the guideline for financial considerations. Eligibility for a security clearance is denied.

Statement of Case

Applicant signed an Electronic Questionnaire for Investigations Processing (e-QIP, Item 4) on February 15, 2019. She provided an interview (PSI, Item 5) to an investigator from the Office of Personnel Management (OPM) on April 25, 2019. On May 15, 2020, the Department of Defense (DOD), Defense Counterintelligence Security Agency (DCSA), issued an SOR detailing security concerns under the guideline for financial considerations. This case is adjudicated in accordance with Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 1992), as amended (Directive); and the adjudicative guidelines (AG) dated June 8, 2017.

The Government sent a copy of the Government's File of Relevant Material (FORM), the Government's evidence in support of the allegations of the SOR, to Applicant on November 24, 2020. The FORM included eight items of evidence. She received the FORM on December 18, 2020. The FORM recommended she file objections, submit additional information or provide explanations within 30 days of receiving the FORM. Applicant's response was due on January 17, 2021. DOHA received no response. I was assigned the case on March 25, 2021.

Rulings on Evidence

In a footnote on the second page of the FORM, the Government advised Applicant that she could make corrections to the February 15, 2019, personal subject interview (Item 5, PSI) to improve the exhibit's clarity and accuracy. Alternatively, she was advised that if she objected to the entire PSI on the ground that it was unauthenticated by a government witness, it would not be entered into evidence. Applicant did not object, and the exhibit is admitted into evidence. See, E3.1.20. of DOD Directive 5200.6, page 52. The typewritten page numbers in the upper right-hand corner of the page will be cited when referring to page or pages of the PSI.

Findings of Fact

The SOR alleges twelve delinquent student loan debts totaling \$67,844. These delinquent accounts appear in government credit bureau reports dated November 20, 2020 (Item 6), February 4, 2020 (Item 7), and March 23, 2019 (Item 8). In her answer, Applicant admitted the delinquent accounts. However, she declared that she was paying \$53 a month and the accounts were in good standing. She indicated that the accounts had been deferred in the past due to lack of work.

Applicant is 32 years old and single with no children. She has been living with her parents since February 2019. She received a high school diploma in May 2006, and a bachelor's degree in December 2011. Since January 2019, Applicant has been employed as a help desk engineer. Her only unemployment since 2011 was from September 2018 to January 2019, when she was hired at her current job.

During her four-month period of unemployment before her current job, she occasionally worked for two taxi companies. Her previous employment background has been as a property claims adjuster, a waitress, and in 2011, she was a front desk assistant in a work study program. (Item 4 at 7, 13-20; Item 5 at 4)

In her February 2019 e-QIP, Applicant reported that she had no debts. She vacationed in the Caribbean for two or three days in September 2018, and again in April 2015. (Item 5 at 4) In May 2018, she recreated in a Central American country for up to

five days. In August 2017, she spent between one and five days on vacation at a location in the Caribbean. (Item 4 at 27-29, 34)

After completing her e-QIP in February 2019, Applicant provided a PSI in April 2019 (Item 5). She claimed her student loans were deferred until August 2019, and not past due. The credit reports do not report any of the student loan accounts in a deferred status at any time. Rather, they are all posted as either in collection, transferred, or closed. The last payment activity date on most of the accounts is November 2017, while Applicant was employed as a claims adjuster. (Item 5 at 8; Items 6 at 6-7; Item 7 at 2; Item 8)

Applicant explained that repaying the student loan accounts became a problem six months after she graduated from college in December 2011. (Item 5 at 8) She recalled paying \$50 a month in the past on the accounts, and planned to consolidate the accounts in the future. She did not foresee these financial problems repeating themselves in the future because she was managing her financial obligations under a balanced budget. Applicant has never received financial counseling. (Item 5 at 8) She provided no supporting documentation to validate her claims of making any payments on the accounts or consolidating them. She provided no independent evidence to substantiate her claim of having a balanced budget.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are flexible rules of law, apply together with common sense and the general factors of 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."

Under Directive ¶ E3.1.14, the Government must 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 applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

Analysis

Financial Considerations

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 sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other trust 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.

Responsibly managing one's financial obligations is an essential attribute for an individual seeking security clearance eligibility. An individual who displays financial irresponsibility may also demonstrate irresponsible or negligent conduct in safeguarding classified information.

AG ¶ 19. The disqualifying conditions relevant in this case are:

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

Applicant's PSI, the Government credit bureau reports, and her undated answer to the May 2020 SOR establish the Government's case under the financial considerations guideline. It is well-settled that negative information, i.e. delinquent accounts and charged off or collection accounts within credit bureau reports, can establish a history of not meeting financial obligations under Guideline F.

Applicant has twelve delinquent student loan accounts totaling \$67,844. She stated that repayment of the student loans became a problem about six months after she graduated from college. The credit reports show that she stopped paying on most of the student loan accounts in November 2017. AG ¶¶ 19(a) and 19(c) apply.

An applicant has the ultimate burden of persuasion of producing evidence that rebuts or mitigates the Government's case and meets her burden of demonstrating she merits eligibility for security clearance.

AG ¶ 20. Conditions that could mitigate trustworthiness concerns include:

- (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 nonprofit 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.

The only mitigating condition that is partially applicable is AG ¶ 20(b). Applicant's four-month period of unemployment between September 2018 and January 2019 was an unanticipated event beyond her control. However, the credit reports reflect that she stopped paying most of the student accounts approximately 10 months earlier in November 2017, when she was employed. While Applicant receives some mitigation under the first prong of the mitigating condition because of the unforeseen unemployment, she receives no mitigation under the second prong of the condition, "acting responsibly under the circumstances." She resumed working in January 2019, but furnished no documentary evidence of addressing the student loan accounts.

None of the other mitigating conditions apply. AG ¶ 20(a) does not apply because the accounts, which became delinquent less than three years ago, are 12 in number. The likelihood that the debts will continue in the foreseeable future raises doubt about Applicant's reliability, trustworthiness and judgement. AG ¶¶ 20(c) and 20(d) do not apply because Applicant has not received financial counseling and there are no indications the accounts are being resolved or under control, and Applicant produced no evidence of a balanced budget.

Though the loan accounts became delinquent less than three years ago, in her April 2019 PSI and her answer to the May 2020 SOR, Applicant made several claims about the status of her student loan accounts. However, she provided no documentary corroboration of those claims, such as: (1) proof of payments; (2) ongoing proof of communication with her student loan creditors of the reasons why she was unable to maintain payments and when she would be able to resume payments; or (3) attempts to negotiate payment plans or deferral arrangements of payments altogether.

Whole-Person Concept

I have examined the evidence under the guideline for financial considerations in the context of the nine general factors of the whole-person concept 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 common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

I have carefully evaluated the disqualifying and mitigating conditions in the context of the entire record. Applicant's unsupported claims that the student loan accounts are being paid and in good standing have not been established. It is important to note that in 2017 and 2018, instead of addressing her delinquent student loan accounts, she was taking vacations in the Caribbean and Central America. There are no indications that Applicant's indebtedness is being reduced or is under control. Having weighed the evidence from a commonsense point of view, Applicant has not overcome the security concerns arising from the guideline for 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.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 security interests of the United States to grant Applicant eligibility for access to classified information. Eligibility for a security clearance is denied.

Paul J. Mason
Administrative Judge