



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



In the matter of:)
)
) ISCR Case No. 21-00623
)
Applicant for Security Clearance)

Appearances

For Government: Tara R. Karoian, Esq., Department Counsel
For Applicant: *Pro se*

01/18/2022

Decision

LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On July 23, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant responded to the SOR on August 6, 2021, and requested a hearing before an administrative judge. The case was assigned to me on November 29, 2021.

The hearing was convened as scheduled on December 14, 2021. Government Exhibits (GE) 1 through 7 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through I, which were admitted without objection.

Findings of Fact

Applicant is a 31-year-old employee of a defense contractor. She has worked for her current employer or a predecessor contractor since 2016. She seeks to retain a security clearance, which she has held since about 2017. She is attending college but has not yet earned a degree. She married in 2010 and divorced in 2017. She has two children. (Transcript (Tr.) at 18-19, 28, 37-39; GE 1, 2)

Applicant admitted that she and her ex-husband were reckless with their spending when they were younger. They took out a consolidation loan to pay their credit cards, and then had a difficult time maintaining the payments. They engaged the services of a debt-resolution company in 2016. They paid \$1,000 per month into the company's debt-relief program (DRP) for a period, but Applicant was unable to continue the payments after her divorce, and she had to withdraw from the program. (Tr. at 18-19, 26; Applicant's response to SOR; GE 1-3)

Neither Applicant nor her ex-husband used an attorney in their divorce, and Applicant accepted less in the division of assets and liabilities than she might otherwise have received, because she just wanted the marriage to end. She received all of the marital debt, including the debts in the SOR, except for one credit card debt. They maintain joint custody of their children, and neither party has to pay child support. He is supposed to pay half of the children's healthcare costs, but he rarely does. She maintains the health insurance for the children. (Tr. at 19-21, 28-30; Applicant's response to SOR; GE 1, 2)

Applicant's finances stabilized for a period after her divorce. She and a partner shared a home and expenses, and she was able to start paying her debts again. He moved out in 2019, and left her with a home she could not afford. She eventually was able to move into a cheaper home and resumed paying her debts. (Tr. at 19)

The SOR alleges 13 delinquent debts. However, the \$357 debts in SOR ¶¶ 1.h and 1.j are duplicate accounts. The 12 non-duplicate debts include a \$47,242 consolidation loan; 4 medical debts totaling \$2,454; and 7 miscellaneous debts totaling \$36,925. Applicant admitted owing all of the debts at one time, but she stated that she paid several debts and was in the process of paying others.

Applicant settled and paid the \$695 and \$357 debts alleged in SOR ¶¶ 1.f and 1.h in August 2021. (AE D, F) She paid the four medical debts totaling \$2,454 (SOR ¶¶ 1.g, 1.i, 1.l, and 1.m) between July 2021 and December 2021. (Tr. at 24-25, 32-33; Applicant's response to SOR; GE 5-7; AE D-H)

Applicant considered filing for Chapter 7 bankruptcy protection, but she was advised that her disposable income was too great for a bankruptcy discharge. She reengaged the services of the debt-resolution company in December 2021. She enrolled four debts totaling \$25,537 (SOR ¶¶ 1.b-1.e) in the company's DRP. She agreed to pay the debt-resolution company \$293 per month. The company will negotiate settlements with her creditors, and pay the settlement amounts out of the accumulated

funds, minus their fees. The \$10,336 debt in SOR ¶ 1.k is not included in the DRP because it is reported as charged off and transferred with a \$0 balance on the most recent credit report. It is unclear who if anyone is currently collecting the debt. Applicant stated that the debt will be added to the DRP if a creditor is located. (Tr. at 21-26, 31-35; Applicant's response to SOR; GE 5-7; AE C)

Applicant contacted the creditor for the \$47,242 defaulted consolidation loan (SOR ¶ 1.a). She agreed to pay \$80 per month. She realizes that it will take a long time to pay the debt at that rate. She plans to add the debt to the DRP after other debts are paid. (TR. at 23-24, 30-31; Applicant's response to SOR; GE 5-7; AE B)

Applicant receives financial counseling from the debt-resolution company. She realizes that her financial situation is not ideal, but it is improving. She is committed to paying her debts. She is responsible for two children, and she knows that financial security is a necessary part of providing for them. Her ex-husband finally agreed to help with the children's medical bills after she threatened to take him to court. (Tr. at 26, 29, 35-40; AE C)

Applicant submitted letters attesting to her excellent job performance and strong moral character. She is praised for her dedication, honesty, trustworthiness, work ethic, reliability, and integrity. (AE I)

Policies

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 (AG), which became effective on June 8, 2017.

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 to be 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, administrative judges apply the guidelines 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(c), 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.”

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 the applicant or proven by Department Counsel.” The applicant 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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

The security concern for financial considerations 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

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

Applicant has a history of financial problems, including multiple delinquent debts. The evidence is sufficient to raise the above disqualifying conditions.

SOR ¶¶ 1.h and 1.j allege duplicate accounts. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005). SOR ¶ 1.j is concluded for Applicant.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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 admitted that she and her ex-husband were reckless with their spending when they were younger. They attempted to resolve their financial issues through a DRP, but that proved impossible to maintain when they divorced in 2017. Applicant became responsible for almost all of the marital debt, and her ex-husband rarely paid his share of their children's healthcare costs. Applicant's finances stabilized for a period after her divorce, but her partner moved out, leaving her with a home she could not afford.

Applicant moved into a cheaper home and resumed paying her debts. She paid six debts; she has a payment plan for one debt; four debts are in the DRP; and the last debt will be added to the DRP if a creditor is located. She credibly stated that she is committed to paying all of her debts and to eventually attain financial security.

A security clearance adjudication is not a debt-collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant has a plan to resolve her financial problems, and she took significant action to implement that plan. She acted responsibly under the circumstances and made a good-faith effort to pay her debts. It may take time, but I am convinced that she will eventually resolve her financial problems.¹ The above mitigating conditions are sufficiently applicable to mitigate financial considerations security concerns.

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 relevant 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 guidelines and the whole-person concept. I have incorporated my comments under Guideline F in my whole-person analysis. I also considered Applicant's favorable character evidence.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

¹ See ISCR Case No. 08-06567 at 3 (App. Bd. Oct. 29, 2009) and ISCR Case No. 09-08462 at 4 (App. Bd. May 31, 2011): "Depending on the facts of a given case, the fact that an applicant's debts will not be paid off for a long time, in and of itself, may be of limited security concern."

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:	For Applicant
Subparagraphs 1.a-1.m:	For Applicant

Conclusion

It is clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Edward W. Loughran
Administrative Judge