



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



In the matter of: )  
)  
) ISCR Case No. 20-03466  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Brian Farrell, Esq., Department Counsel  
For Applicant: *Pro se*

04/27/2022

---

**Decision**

---

RICCIARDELLO, Carol G., Administrative Judge:

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

**Statement of the Case**

On January 7, 2021,<sup>1</sup> the Defense Counterintelligence and Security Agency issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on June 8, 2017.

On January 17, 2021, Applicant's answered the SOR, and she elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted

---

<sup>1</sup> Based on the SOR allegations, it appears the SOR is dated incorrectly. It states January 7, 2020, and it should be January 7, 2021.

the Government's file of relevant material (FORM), and Applicant received it on January 12, 2022. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 1 through 8. Applicant submitted a timely response and documents that are marked as Applicant's exhibits (AE) A through D. There were no objections to any evidence and it was all admitted. The case was assigned to me on March 2, 2022.

### **Findings of Fact**

Applicant denied all of the SOR allegations. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 31 years old. She is a high school graduate She enlisted in the Navy in 2012 and was honorably discharged in 2018. She anticipates being awarded a bachelor's degree in August 2022. She has been on the Dean's list for three semesters and anticipates graduating with honors. She was married from 2016 to 2018. She currently is in a cohabiting relationship. She has no children. Applicant has worked for her current federal contractor since October 2018. (Items 2, 3; AE A)

Applicant attributes her past financial difficulties to being uneducated generally about finances, credit, interest rates, and debt-to-income ratio. She explained that she was never taught how finances work and was raised in a home where they lived paycheck to paycheck. She watched as her family decided which bills to pay or not pay to make ends meet. Applicant accepted responsibility for the financial mistakes she made in her twenties. In 2019, she learned her wages were being garnished and was confronted with the reality of the dire financial position she was in. She was barely able to pay her living expenses at the time. (Item 2; AE A)

Applicant sought the assistance of a mentor who helped her while she transitioned from the military to civilian life. They reviewed her finances, and she learned her income was far too low and her debt was too high. She realized she could not pay all of her debts. During this period, she learned her wife was taking money and claiming the car loans and consumer debts were being paid, but she was not actually paying them. Applicant obtained personal loans in an attempt to pay the delinquent debts, but was unable to do so. Her mentor recommended she file Chapter 7 bankruptcy to get a fresh financial start. Applicant sought advice from a lawyer, who also advised her to file bankruptcy. (Item 2; AE A)

Applicant filed Chapter 7 bankruptcy in September 2020 and all the debts alleged in the SOR, except one medical debt (1.h-\$113), and others not alleged were discharged in December 2020. She stated in her answer that she would resolve this debt immediately. Applicant completed the financial counseling required to file bankruptcy, but also attended other financial management courses to learn more about debt resolution, interest rates, and budgeting. She embraced the lessons she learned from the financial classes and learned about the Dave Ramsey financial management theories. She is following his

theories. She has placed all of her bills on auto pay, so she does not miss a payment. She is keenly aware of the negative implication of the bankruptcy, but is also aware of the positive impact it has had on her financial well-being. She has learned how to responsibly manage her finances. Since she filed for bankruptcy she is no longer living paycheck to paycheck for the first time in her life, and all of her accounts are being paid on time. She has a solid savings plan. She is practicing fiscal discipline. She stated that this change started with the bankruptcy, but has developed into a lifestyle of financial security that she hopes to pass on to others. (Item 2; AE A)

Applicant provided a character letter from her immediate supervisor. He describes her as an exemplary employee who exceeded all of his expectations and went above and beyond the requirements, especially during the pandemic, to ensure their customers were taken care of. She has taken on critical roles in helping her team. She has kept him apprised of her financial problems. He recognized her service to the Navy and considered her honest, hardworking, responsible, and eager to learn. (AE B)

Another supervisor provided a letter of support for Applicant. He noted that she is one of his strongest and most trusted members of his staff and has been a huge benefit to the organization. She is an integral member of the team who has proven herself over and over to be worthy of her supervisor's trust and confidence. (AE C)

A coworker of Applicant provided a letter of support stating that Applicant has learned from her past financial errors. She is valued and can be trusted. She believes Applicant has gained confidence from dealing with her financial problems and is able to accomplish her goals. (AE D)

## **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). 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(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." In reaching this decision, I have

drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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 as to obtaining 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 as to 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**

The security concern relating to the guideline 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. 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

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

Applicant had numerous delinquent debts that were discharged in Chapter 7 bankruptcy in December 2020. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 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 persons 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 attributes her financial problems to being uneducated in how finances and credit works, her divorce, and her former spouse failing to pay their bills she said she was paying, unbeknownst to Applicant. I find her spouse's nefarious actions and the divorce were beyond Applicant's control. I find Applicant's lack of education in how to handle her finances was somewhat beyond her control, although, she is ultimately responsible for her choices and could have taken control over learning about how to

handle her finances much earlier in her life. For the full application of AG ¶ 20(b), Applicant must have acted responsibly under the circumstances. Bankruptcy is a legal means to allow people a fresh financial start and under the circumstances her actions likely made the most sense. AG ¶ 20(b) has some application.

Applicant's debts were discharged in bankruptcy in December 2020. There is no evidence she has accumulated new debts. Resolving debts through bankruptcy does not constitute a good-faith effort to pay her delinquent debts. AG ¶ 20(d) does not apply.

Applicant completed the financial course required as part of her bankruptcy. She also sought other financial management classes to learn how to manage her finances. It is clear she has embraced this opportunity to start over financially and is committed to being fiscally responsible. Although the bankruptcy resolved her delinquent debts, I found Applicant credible in her stated commitment to being fiscally responsible in the future. She pays her bills on time, saves money, and is no longer living paycheck to paycheck. The question remains whether enough time passed since her December 2020 bankruptcy to conclude that future financial issues are unlikely to recur. I believe Applicant has taken the tools she learned in her financial management classes and has implemented them into her lifestyle. There are no bright - line rules for determining when conduct is recent. The determination must be based on a careful evaluation of the totality of the evidence. If the evidence shows a significant period of time has passed without any evidence of problematic conduct, then an administrative judge must determine whether that period of time demonstrates changed circumstances or conduct sufficient to warrant a finding of reform or rehabilitation. I believe Applicant does not want to fall back into being constantly under stress due to her finances and that she is truly committed to ensuring she does not slide back into fiscal problems. I believe she has reformed. I find AG ¶ 20(c) applies. I believe future financial problems are unlikely to recur and her behavior does not cast doubt on her current reliability, trustworthiness and good judgment. AG ¶ 20(a) 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 guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the 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.

Applicant's bankruptcy resolved her delinquent debts. It has only been a year since her bankruptcy, but I believe it has had a positive impact on her life. She is aware of the dire consequences that would occur if she were to again accumulate delinquent debts. Unlike many who fall back into their usual conduct after bankruptcy, she has actually changed her conduct. She has educated herself on how to manage her finances and live within her means. She is accomplishing what bankruptcy is meant to do, give people a fresh financial start so they move on and be productive. Many never accomplish that goal, but I believe Applicant is committed to accomplishing it. I believe her circumstances are compelling, and she has met her burden of persuasion. The record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns raised 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: FOR APPLICANT

Subparagraphs 1.a-1.i: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

---

Carol G. Ricciardello  
Administrative Judge