



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
 )  
 ) ISCR Case No. 21-00359  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Daniel O’Reilly, Esq., Department Counsel  
For Applicant: *Pro se*

11/03/2022

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**Decision**

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MASON, Paul J., Administrative Judge:

Applicant’s mitigating evidence does not overcome the security concerns raised by the guidelines for financial considerations and handling protected information. Based on the foregoing decisions, the allegation under guideline for personal conduct is withdrawn. Eligibility for security clearance access is denied.

**Statement of the Case**

On June 23, 2020, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) for security clearance eligibility so that she could work for a defense contractor. On July 14, July 16, July 23, July 28, and July 29, 2020, she provided personal subject interviews (PSIs) to an investigator from the Office of Personnel Management (OPM). On May 28, 2021, the Defense Counterintelligence Security Agency (DCSA) Consolidated Adjudications Facility (CAF) could not make the necessary affirmative finding to grant Applicant’s security clearance and issued an SOR to her detailing security concerns under financial considerations (Guideline F), handling protected information (Guideline K), and personal conduct (Guideline E). The action was taken under Executive Order (E.O.) 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 in the DOD on June 8, 2017.

Applicant submitted her answer to the SOR on June 29, 2021. The Defense Office of Hearings and Appeals (DOHA) assigned me the case on February 3, 2022. DOHA issued a notice of hearing to Applicant on April 26, 2022, for a TEAMS video teleconference hearing on May 31, 2022. I held the hearing as scheduled. The Government's 11 exhibits (GE) 1-11 were entered into evidence without objection. Applicant presented no exhibits at the hearing. She did testify. By June 27, 2022, Applicant submitted seven post-hearing exhibits (AE A-AE C4). Department Counsel had no objection to the exhibits, and they were admitted into evidence. DOHA received the transcript on June 15, 2022. The record closed on June 30, 2022.

### **Rulings on Procedure**

On March 17, 2022, Department Counsel filed a Motion to Amend the SOR (identified as Hearing Exhibit (HE 1)) seeking to add the following three allegations to the first paragraph of the SOR:

(1) Subparagraph 1.k:

“You are indebted to State A for a tax lien entered against you in 2019 in the approximate amount of \$13,094.68. As of the date of this SOR, the lien remains unpaid.”

(2) Subparagraph 1.l:

“You are indebted to the State A Central Collection for a judgment entered against you in 2019 in the approximate amount of \$403.50. As of the date of this SOR, the judgment remains unpaid.”

(3) Subparagraph 1.m:

“You are indebted to the State A Central Collection for a judgment entered against you in 2019 in the approximate amount of \$759.76. As of the date of this SOR, the judgment remains unpaid.”

On May 23, 2022, Applicant admitted the first two amended allegations (HE 2). She did not provide an answer to third amended allegation (SOR ¶ 1.m). I interpret her missing answer to this allegation as a denial. The Motion to Amend the SOR, adding ¶¶ 1.k, 1.l, and 1.m, is granted. Applicant's admissions in her May 23, 2022 response to the amended SOR confirm the ¶¶ 1.k and 1.l allegations. Based on her testimony, I find that she admitted SOR ¶ 1.m. (Tr. 57-59)

## Findings of Fact

The SOR contains 13 delinquent accounts under the financial considerations guideline. These accounts are installment loan accounts, credit-card accounts, a state tax lien, two state collection accounts, two medical accounts, and a telephone account. The total amount of delinquent debt is approximately \$38,144. Applicant admitted some accounts and denied others.

SOR ¶ 2.a (Guideline K) alleges that Applicant's employer terminated her employment in June 2020 for security infractions that occurred between January and June of that year. The allegation is cross-alleged under SOR ¶ 3.a as personal conduct (Guideline E). Applicant denied both allegations.

Applicant is 46 years old and single with a 28-year-old son. She graduated from high school in 1993 and attended college for a short period. She was 18 years old in 1993. (Tr. 6) At the time of the hearing, she was unemployed, but scheduled to begin employment on June 6, 2022. Between May 2009 and June 2022, Applicant has been unemployed about four times, with the period of unemployment lasting up to three months. She has held a security clearance since 2015. (GE 1 at 14-22, 39)

Before her current unemployment, Applicant worked as a security specialist for three months from **February to May 2022**, when the program manager terminated her because of "a conflict of attitude with the program, with the team lead." (Tr. 68) The team lead repeatedly disrespected her in front of customers. She complained to the team manager, but she indicated management took no action. (Tr. 64-68) This unalleged conduct, which cannot be used as the sole basis for an unfavorable decision, will be considered to assess Applicant's credibility, to assess her case in mitigation, and to provide evidence in the whole-person section of this determination. ISCR Case No. 16-02877 at 3 (App. Bd. Oct 2, 2017)

From **August 2020 to February 2022**, Applicant worked in a non-personnel security job for another contractor. During her employment, she received two bonuses for professionalism and notable work performance. She voluntarily left this job because she wanted to return to personnel security. Before this job and after her termination from the employer identified in SOR ¶ 2.a (next paragraph), she was unemployed for about two months. (Tr. 64-68)

From **November 2019 to June 2020**, Applicant was employed by a defense contractor (SOR ¶ 2.a) as a personnel security specialist. She indicated that she was terminated in June 2020 because she was not "a good fit" for the job. She left by mutual agreement following notice of unsatisfactory job performance. She never received a written warning, officially reprimanded, or suspended for misconduct in the workplace, such as a violation of security policy. (GE 1 at 15-16)

## Financial Problems

Applicant initially testified that her financial difficulties began in 2000. Then she indicated that the trouble started when, at about age 19 (circa 1994), she received her first credit card under bait-and-switch circumstances. She explained the cycle of making payments on the card for a period then losing her job, only to resume employment and resuming payments for a while, and then losing her job again. In the past ten-year period, she signed up with five credit repair services. If Applicant did not see promises fulfilled by the credit services within a 45-day period, i.e., debts removed from her credit report, she would move onto a different credit repair service. When she discovered she could send out the same letters to creditors or agencies that the credit repair firms were sending, she terminated her link to the credit services. Applicant provided no documentation to substantiate her claims of participation in the credit-repair services or sending letters to the creditors. She provided no evidence of financial counseling. (GE 1 at 40-41; GE 2 at 6; Tr. 59-61)

SOR ¶ 1.a – Applicant opened this auto loan in January 2012. The account became delinquent in July 2016. In her July 2020 PSI, she explained that the creditor repossessed the car. She subsequently requested a statement from the creditor. She has not resolved the delinquent account. (GE 2 at 9; GE 6 at 4; GE 7 at 3, 6)

At the hearing, Applicant claimed that the car was totaled some time in 2013 to 2015. She promised to obtain documentation from a car insurance company indicating that they paid off the delinquency. In her post-hearing documentation, she was unable to locate documentation bolstering her claim that the car was totaled rather than repossessed. (Tr. 31-33; AE C at 2) This account is unresolved. Applicant provided considerable testimony about other cars she has owned over the years. The testimony has no probative value to this allegation.

SOR ¶ 1.b – This is a past-due medical account transferred to a collection agency. The account became delinquent in June 2020. Applicant was disputing the amount because she made a \$978 copayment before she had surgery. She spoke with the collection agency about three weeks before the hearing, but had not taken additional action on the account. (GE 2 at 8-9; Tr. 33-35) The debt is unpaid.

SOR 1.c – This account became delinquent in March 2019. In her July 2020 PSI, she was not aware of the account. Applicant contacted the collection agency about three weeks before the hearing and requested documentation for a payment plan. She has received no response. (GE 2 at 8; Tr. 36-38) The account is not resolved.

SOR ¶¶ 1.d, 1.e – These are two credit-card accounts. Documentation shows that Applicant was scheduled to pay \$225 on August 5, 2020, and a final payment for the same amount on August 12, 2020, to resolve the balance due on the SOR ¶ 1.d credit card. Applicant furnished no documentation indicating that she made the last two payments. She provided no documentation describing the status of SOR ¶ 1.e. She did not understand how she could be delinquent on a credit card when she had another

current credit card from the same company. (GE 2 at 8; GE 3; GE 6 at 3; Tr. 38-39) SOR ¶¶ 1.d and 1.e are not satisfied.

SOR 1.f – This is a credit-card account that became delinquent in December 2015. Applicant explained that she lost her job and her son became ill. Applicant has taken no action on the debt, but intended to contact the creditor after the hearing. (GE 6 at 4; GE 7 at 7; Tr. 40) This account has not been satisfied.

SOR ¶ 1.g – This is a car loan account that Applicant opened in September 2019, and became delinquent in December 2020. Applicant referred to her job loss and son's illness as reasons for the delinquent account. Applicant provided documentation that she satisfied the account on May 31, 2022. (GE 2 at 9; GE 6 at 4; AE C4; Tr. 40) This account is paid.

SOR ¶ 1.h – This is a telecommunications account that became delinquent in November 2014. Applicant indicated the property was for television, phone, and internet equipment. The creditor claimed that she did not return the equipment and she disputed that claim. (GE 2 at 8; GE 7 at 6; Tr. 52) The account is unresolved.

SOR ¶ 1.i – This is a medical account transferred to a collection agency. The account became delinquent in November 2019. In July 2020, Applicant was unaware of the account, because she has always had health insurance. She promised to investigate the debt. (GE 2 at 7; GE 7 at 4; Tr. 25) There is no evidence to show that Applicant has paid the debt.

SOR ¶ 1.j – This account, which Applicant denied, appears in one out of three Government credit reports. The most recent credit report lists the correct creditor, but displays the account number matching the debt posted at SOR ¶ 1.b. (GE 2 at 8; GE 7 at 8; GE 8 at 4) The Government has not presented adequate evidence that validates the account. The account is resolved in Applicant's favor.

SOR ¶ 1.k – Documentation indicates a lien (\$13,094) was filed by the state tax agency in August 2019. Someone told Applicant in 2021 that she owed the taxes. Her tax preparer processed her state taxes incorrectly. The state tax agency withheld the \$1,421 refund for tax year 2021. She did not receive a federal tax refund either. Applicant had not arranged a payment plan with the state tax agency. She wanted to hire a private tax service to handle the delinquent tax balance. In her post-hearing submission, Applicant noted that she could not start a repayment plan with the state tax agency until she received a full check to supply a down payment. (GE 9; Tr. 53-57; AE C at 2) The state tax balance has not been paid nor has a payment plan been established.

SOR ¶¶ 1.l, 1.m – These two accounts are judgments filed against Applicant in August 2019 by the state central collection agency. The total of both judgments is \$1,162. Applicant testified that the judgments are for parking tickets and tolls. She explained that she established a payment plan with the state agency about two years

ago. According to Applicant, if a person is not in an active payment plan, they cannot renew their license plates or stickers. She believes she has documentation indicating that she has been making payments under the plan. (GE 10 at 1; GE 11 at 1; Tr. 57-59) Applicant provided no proof of a payment plan or a record of payments.

Regarding a budget, Applicant testified that she has a written monthly budget because she is trying to get control over her financial obligations. She prepares the budget on her computer and would be able to produce that documentation with her other post-hearing material. (Tr. 84-86) She did not submit a budget.

SOR ¶ 2(a) alleges that Applicant was terminated for cause from her employment for noted security infractions that occurred between January and June 2020, despite counseling and remedial training. The security infractions appear in a report dated June 22, 2020. See GE 4 at 1-3. The program executive officer, the corporate security officer, and Applicant's team leader contributed to the report. The report identified 13 security infractions culminating in Applicant not responding to a security company's May 31, 2020 request for her to rearm an area of the facility that was unarmed. Applicant contends that the listed security infractions and violations in the report were based on missing security forms that were filled out on a daily basis by the employee on duty to verify a safe was properly locked or a room was properly armed. Applicant's team leader accused Applicant of not filling out the security form on May 31, 2020, and on other occasions. Applicant denied the accusation, asserting that she had filled out all security forms as required. Applicant viewed the security infractions as a manifestation of the team leader's antipathy towards her. Because the team leader's mother passed away from the same illness Applicant's son was suffering from, Applicant mistakenly thought she had formed a bond with the team leader. (GE 2 at 4-6; GE 4 at 1-3; Tr. 74-75)

Applicant was employed as a security specialist from November 2019 to June 2020. She claimed she never received training on how to handle classified information or adequate counseling and or training related to executing her job responsibilities. No one ever notified Applicant in writing about the security infractions. (Tr. 27-29, 71)

Applicant testified that this was the first time she had ever worked in a sensitive compartmented information facility (SCIF) within the larger facility. The team lead never showed her the procedures for maintaining accountability for entering and exiting the SCIF. Rather than receiving formal instruction through a Government network on how to operate a SCIF, Applicant's only training occurred by watching a coworker or the team lead perform the tasks needed to manage the SCIF. (Tr. 70-73, 78)

On May 31, 2020, an outside security company called Applicant, who was on duty at the time, to determine why the sixth floor of the facility was not armed. The team leader asked her a day or two later why she did not respond to the company's call by returning to the facility to arm the sixth floor. Applicant replied that: (1) she simply did not respond to the call from the security company; (2) she did not respond because of civil protests in the area; and (3) she was returning from an out-of-state location. She

testified she was not sure she was even on duty on May 31, 2020. Applicant denied the events occurred as outlined by the team lead and the corporate security officer. She intended to investigate her emails to support her claims. She also intended to contact a coworker who would back her claims. (Tr. 74-78) Applicant submitted no independent evidence to support her assertions.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines and all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. These guidelines, which are flexible rules of law, are applied together with common sense and the general factors of the whole-person concept. The protection of the national security is the paramount consideration. AG ¶ 2(d) 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 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.

AG ¶ 19. Conditions that could raise a security concern and may be disqualifying include:

- (a) inability to satisfy debts; and

(c) a history of not meeting financial obligations.

There are 13 delinquent accounts listed in the SOR totaling approximately \$38,144. The debts moved to a past-due status between November 2014 and June 2020, with most of the accounts transitioning to that status between 2018 and 2020. The record supports application of AG ¶¶ 19(a) and 19(c).

AG ¶ 20. Conditions that could mitigate security 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 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 has accumulated 13 debts since 2014. Eleven of the delinquent debts are still unpaid. There is insufficient evidence to conclude that Applicant's indebtedness will not recur in the future. Her overall inability to meet her financial obligations casts doubt on her trustworthiness and reliability. AG ¶ 20(a) does not apply.

AG 20(b) is available for mitigation when the conditions that resulted in the financial problems were largely beyond an applicant's control. Since May 2009 and June 2022, Applicant's four periods of unemployment entitle her to mitigation. However, the mitigation due is substantially reduced because on two occasions, the reasons for her unemployment were largely within her control. On several occasions, Applicant mentioned her son's medical condition as a reason for her financial problems, but she provided no documentation to show how his condition affected her finances.

In order to receive full credit under AG ¶ 20(b), an applicant must act responsibly regarding the unanticipated events. Applicant testified about contacting most of the creditors, but provided little documentation supporting her claims. In sum, Applicant receives only partial mitigation under AG ¶ 20(b).



Other than her undocumented association with five credit repair services, Applicant provided no independent evidence of actual financial counseling. She did not provide a budget. There is no evidence the 11 debts are being resolved or under control. Promises to pay the debts in the future is not a substitute for a meaningful track record of repaying debts. See ISCR Case No. 11-14570 at 3 (App. Bd. Oct. 23, 2013) AG ¶ 20 (c) has negligible application.

AG ¶ 20(d) applies to SOR ¶ 1.g even though the debt was not satisfied until May 31, 2022, the day of Applicant's hearing. Aside from the SOR ¶ 1.j account, which is unsubstantiated by the Government's evidence, Applicant has provided insufficient evidence of having taken good-faith actions on the remaining 11 delinquent accounts.

### **Handling protected Information**

The security concerns of the guideline handling protected information are set forth in AG ¶ 33:

Deliberate or negligent failure to comply with rules and regulations for handling protected information, which includes classified and other sensitive government information, and proprietary information, raising doubts about an individual's trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is serious security concern.

AG ¶ 34 describes conditions that could raise security concerns and may be disqualifying:

(g) any failure to comply with rules for the protection of classified or sensitive information; and

(h) negligence or lax security practices that persist despite counseling by management.

Applicant's pattern of security infractions from January to June 2020, ending in a deliberate decision not to return to the facility to arm a floor and secure safes at her employer's facility, clearly exposed the floor, the safes, and her former employer to possible exposure and compromise of protected information to unauthorized persons. Permitting employees in an unauthorized area, or allowing federal employees without proper identification into the security office, or not properly arming rooms, floors, or locking safes, over a six-month period, despite verbal counseling and training from management, fall within the scope of AG ¶¶ 34(g) and 34(h).

The pertinent mitigating conditions under AG ¶ 35 are:

(a) so much time has elapsed since the behavior, or it happened so infrequently or under such unusual circumstances, that it is unlikely to

recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(c) the security violations were due to improper or inadequate training or unclear instructions; and

(d) the violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern.

Given Applicant's 13 security infractions over a six-month period, less than three years ago, and her subsequent employment termination in May 2022 under similar circumstances, I am unable to find AG ¶ 35(a) in her favor.

Applicant denied that any of the security infractions occurred in the six-month period between January and June 2020. She denied receiving any written documentation concerning training or counseling for the security infractions. The only training she claimed that she received was brief verbal training by a coworker or the team leader. I find that Applicant's continuing unsubstantiated denials are not credible and undermine confidence in her judgment and reliability. Her security infractions, which are aggravated by their repetitive nature and frequency despite counseling and training, precludes mitigation from AG ¶¶ 35(c) and 35(d).

## **Personal Conduct**

The security concern for personal conduct is set forth in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation or further processing for national security eligibility.

The potential disqualifying conditions under AG ¶ 16 are:

(c) credible adverse information in several adjudicative areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that he may not properly safeguard classified or sensitive information;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information ...
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations; and
- (4) evidence of significant misuse of Government or other employer's time or resources.

Guideline E addresses conduct of a questionable nature, dishonesty, or unwillingness to obey rules and regulations that raise questions about an individual's judgment and ability to protect classified information. Since the evidence submitted under the guidelines for financial considerations and handling protected information is sufficient under either guideline for an adverse determination, discussion of the guideline for personal conduct is unnecessary. Neither AG ¶¶ 16(c) nor 16(d) apply.

### **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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant is 46 years old and has a 28-year-old son with a medical condition. She has held a security clearance since 2015. She indicated that she received two performance bonuses during her employment from August 2020 to February 2022.

Considering the evidence as a whole, the adverse evidence that disqualifies Applicant's security clearance application is more substantial. To Applicant's credit, she satisfied one car loan (SOR ¶ 1g) on May 31, 2022, and the Government did not present sufficient evidence concerning SOR ¶ 1.j. However, Applicant still owes 11 delinquent accounts.

Regarding the handling protected information, Applicant's uncorroborated claims that the security infractions never occurred are not credible. Her repeated claims that she never received written documentation regarding training, counseling, as well as written documentation about the security infractions, do not make the infractions less believable. The security infractions are even more convincing when weighed with Applicant's subsequent termination in May 2022 because of a similar personality conflict with her team leader. Judging by the totality of all the evidence under the whole-person concept, Applicant's evidence in mitigation is insufficient to dispel the security concerns raised by the guidelines for financial considerations and handling protected information.

### **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.f, 1.h-1.i, 1.k-1.m:	Against Applicant
Subparagraphs 1.g, 1.j:	For Applicant
Paragraph 2, Guideline K:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline E:	WITHDRAWN

### **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 access to classified information. Applicant's application for a security clearance is denied.

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Paul J. Mason  
Administrative Judge

