



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



In the matter of:)	
)	
)	ISCR Case No. 22-01478
)	
Applicant for Security Clearance)	

Appearances

For Government: Alison O’Connell, Esq., Department Counsel
 For Applicant: *Pro se*
 02/07/2023

Decision

HEINTZELMAN, Caroline E., Administrative Judge:

Applicant did not mitigate the Guideline F (Financial Considerations) security concern. She has numerous unresolved delinquent debts. Eligibility for access to classified information is denied.

History of the Case

Applicant submitted a security clearance application (SCA) on November 3, 2021. On September 6, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline F. She submitted a September 30, 2022 response to the SOR, and requested a decision based upon the administrative record in lieu of a hearing (Answer).

On November 16, 2022, the Government sent Applicant a copy of the file of relevant material (FORM), dated November 15, 2022, including evidentiary exhibits identified as Items 1 through 7. She received the FORM on November 22, 2022, and was afforded a period of 30 days to file objections and submit material in refutation, extenuation, or mitigation. She did not respond, and Items 1 to 7 are admitted into evidence without objection. I was assigned to the case on January 26, 2023.

Findings of Fact

Applicant, age 33, is unmarried, and has been living with her partner since at least 2018. They have three children who are 4, 10, and 13 years old. She attended college courses from 2009 to 2015, but did not obtain a degree, and there is no record evidence of how many credit hours she completed. She has worked for Department of Defense (DOD) contractors since July 2015, and she has worked as a human resources consultant for her current employer since August 2019. This is her first DOD security clearance application, but she previously held a clearance during her 2010 to 2015 internship for another government agency. (Item 1; Item 7)

The SOR alleged that Applicant has nine delinquent debts totaling approximately \$89,917. Two of the alleged delinquent debts are student loans totaling \$76,031. She admitted all of the allegations and indicated that she was working to repay and negotiate settlement arrangements. The debts are substantiated by the two credit bureau reports (CBRs) in the record. She attributed her financial problems largely to being a single mother, living beyond her means in the past, and not managing her money well. (Item 1; Item 3; Item 5; Item 6; Item 7)

SOR ¶ 1.a: This cable account was placed for collection in 2021, in the amount of \$594. During Applicant's January 2022 interview with a government investigator, she acknowledged the debt and indicated her intent to resolve it. She claimed in her Answer that she "was slowly working to repay the debt in full." This debt does not appear on her August 2022 CBR; however, she did not provide documentation to demonstrate payments or resolution of the debt. (Item 3; Item 6 at 4; Item 7 at 5)

The debts alleged SOR ¶¶ 1.b, 1.c, and 1.d are for credit-card accounts that Applicant opened between July 2011 and October 2016, and they were charged off or placed for collection in the following amounts: \$712; \$422; and \$485, respectively. She stopped making payments on these accounts between 2016 and 2019. During her January 2022 interview, she said she was going to reach out to the creditors and set up payment agreements. In her Answer, she indicated she was working to settle each of the debts with the creditors but provided no supporting documentation. (Item 3; Item 5 at 3-4; Item 6 at 4-5; Item 7 at 3-4)

The debt alleged in SOR ¶ 1.e is for a vehicle that Applicant purchased in July 2016 for \$17,211. The monthly payment was \$718, and she stopped making payments in approximately July 2017, because she could no longer afford the vehicle. It was voluntarily repossessed at a date not in the record. The deficiency balance is \$10,397, and she provided no documentation to demonstrate payments or resolution of the debt. (Item 3; Item 4 at 39-40; Item 5 at 5; Item 6 at 10; Item 7 at 3-4)

The federal student-loan debts alleged in SOR ¶¶ 1.f (\$46,891) and 1.g (\$29,140) were opened by Applicant in February 2018 as consolidated federal student loans with the Department of Education (ED). She last attended college in 2015, and was required to start making payments toward her student loans in 2017. She told the investigator that she believed she made four \$189 payments in early 2018. Her August 2022 CBR indicates that her last payments were made in April 2018. There is no evidence in the

record that she has made any other payments toward her student loan accounts. (Item 3; Item 4 at 35-39; Item 5 at 6; Item 7 at 2-3, 5)

Applicant indicated in her January 2022 interview that she hoped to enroll in a forgiveness program with the ED. In her Answer, she restated that she was “applying for loan forgiveness and payment arrangements,” but provided no documentation to support her assertions. There is no evidence in the record from either party regarding the applicability of the COVID-19 related Coronavirus Aid, Relief, and Economic Security (CARES) Act to Applicant’s federal student loans. Her loans continue to show as past due in the August 2022 CBR; however, her required monthly payment for both loans is reported as “\$0”; therefore, it is likely that it is applicable to her. (Item 3; Item 4 at 35-39; Item 5 at 6; Item 7 at 2-3, 5)

The \$736 utility account alleged SOR ¶ 1.h was placed for collection in approximately November 2021. Applicant believes this account is related to a home she rented from 2016 to 2017, and according to her Answer, she was working with the creditor “to pay off the final bill owed to [it].” This debt does not appear on her August 2022 CBR; however, she did not provide documentation to demonstrate payments or resolution of the debt. (Item 3; Item 6 at 4; Item 7 at 5)

Applicant indicated that the \$540 cable account alleged in SOR ¶ 1.i is seven years old, and she is working to resolve it. The account does not appear on her August 2022 CBR; however, she did not provide documentation to demonstrate payments or resolution of the debt. (Item 3; Item 6 at 5; Item 7 at 4-5)

Applicant’s current total yearly income is approximately \$99,000. In addition to her full-time job, she also works part time as a bartender and as an Uber/Lyft driver. She did not provide documentation regarding her partner’s income. There is no evidence that she has sought or received financial counseling or follows a written budget. (Item 3; Item 7)

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 concern under Guideline F (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

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.

The record evidence of Applicant's delinquent debts establishes the following disqualifying conditions under AG ¶ 19:

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

AG ¶ 20 describes conditions that could mitigate security concerns. The following are potentially applicable in this case:

- (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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis or provides evidence or actions to resolve the issue.

Applicant has over \$13,000 in delinquent non-student-loan debt. Despite her claims that she was working to resolve her debts, she failed to provide any evidence that she has contacted any of the creditors of the debts alleged in SOR ¶¶ 1.a to 1.e, and 1.i to establish payment arrangements. Nor has she provided documentation to demonstrate that she has resolved those debts or is not responsible for those debts.

Applicant attended college courses between 2009 and 2015. Starting in 2017, she was required to make student loan payments. She made approximately four \$189 payments toward her two consolidated student loans in 2018; her last payment was in April 2018. These loans total over \$76,000. There is no evidence in the record that she made any subsequent payments or contacted the ED prior to the enactment of the CARES Act in March 2020. It is very likely that her loans fall under the CARES Act, and her payments have been suspended since March 2020. However, the record reflects that

she was almost two years behind on her payments prior to March 2020, and she has not demonstrated a plan as to how she intends to make payments when the CARES Act is suspended.

I considered that Applicant is a single mother of three; however, the record is absent any evidence of an effort by her to resolve her debts or prove that the outstanding debts are not her responsibility. Accordingly, there is insufficient that she has acted responsibly or made a good-faith effort to resolve her financial issues.

Applicant's failure to resolve her debts, large and small, indicates her financial issues are an ongoing and continuing concern. Therefore, her behavior continues to cast doubt on her reliability, trustworthiness, and good judgment. For the foregoing reasons, Applicant failed to establish mitigation under AG ¶¶ 20.

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 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. I conclude Applicant has not met her burden of proof and persuasion. She did not mitigate the financial considerations security concerns or establish her eligibility for a security clearance.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraphs 1.a – 1.i: Against Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

CAROLINE E. HEINTZELMAN
Administrative Judge