



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



In the matter of:)	
)	
)	ISCR Case No. 22-02201
)	
Applicant for Security Clearance)	

Appearances

For Government: Rhett Petcher, Esq., Department Counsel
For Applicant: *Pro se*

06/15/2023

Decision

HYAMS, Ross D., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns arising from her delinquent debts. Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on October 26, 2021. On January 17, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. She responded to the SOR on February 2, 2023, and requested a decision by an administrative judge from the Defense Office of Hearings and Appeals (DOHA) based on the administrative (written) record in lieu of a hearing.

On March 6, 2023, Department Counsel submitted the Government’s file of relevant material (FORM) including Items 1-5. A complete copy of the FORM was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. She received the FORM on March 10, 2023, and submitted a timely response and Applicant’s exhibits (AE) A-C. The case was assigned to me on June 1, 2023. Item 1 is the SOR and Applicant’s Answer, which are the pleadings in the case. Items 2-5 and AE A-C are admitted without objection.

Findings of Fact

In her Answer, Applicant denied all the SOR allegations. She claimed that she did not recognize the accounts in SOR ¶¶ 1.b, 1.f, 1.h, 1.i, 1.j, 1.k, and 1.l. She claimed that the debt amounts are incorrect in SOR ¶¶ 1.a, 1.c, 1.d, 1.e, and 1.g. Her assertions regarding these debts are incorporated into the findings of fact. After a thorough and careful review of the pleadings and evidence submitted, I make the following additional findings of fact.

Applicant is 55 years old. She was married in 1995 and has three adult children. She has worked as an advanced distributed learning specialist since 2020. She has been consistently employed since 2008. She earned a bachelor's degree in 1990, master's degree in 2007, and a doctorate in 2020. She served on active duty in the Army from 1991-1997 and received an honorable discharge. She has held a security clearance since about 2017. (Item 2)

Applicant reported that her financial troubles started in 2020 when her husband lost his job due to the COVID-19 pandemic and claims that he was unable to find work until mid-2022. She did not provide information about how much monthly income they lost as a result of his unemployment. She also reported that in 2021 she had to move after being given 30 days notice, because her landlord sold the home that they rented. This amount of time is standard when a month-to-month rental agreement is terminated. In early 2022, she purchased land from a family member and paid their back taxes on the land, so they had a place to live. She did not provide any documentation showing the amount of the purchase or the taxes paid, or state how she was able to do this while her husband was out of work. (Answer)

Applicant stated that her poor credit was brought to her attention in 2022, and she started working with a credit repair agency after receiving the SOR. The agency was supposed to assist her with debt verification and removing items from her credit report. She provided documentation from the credit repair agency that several negative accounts were removed from her credit report. However, this documentation did not state what accounts were removed from her credit report or why they were removed. She did not provide sufficient documentation showing that any of the accounts alleged in the SOR were removed from her credit report. (Answer; Response; AE A-C)

The SOR alleges ten delinquent debts totaling about \$32,000. The status of the debts is as follows:

SOR ¶ 1.a is an auto loan that has been charged off for \$23,167. She reported that she voluntarily returned her car, because they could not afford two vehicles after her husband lost his job. She stated that the creditor was supposed to sell the car and she would be responsible for the difference. She claimed that the amount charged off was the balance when she returned the vehicle, but has not been given the sale price or the remainder owed, and she has not taken any action on the debt. The loan was charged off in 2021. This debt is unresolved (Answer; Items 3, 4, 5)

SOR ¶ 1.b is an account placed for collection for \$998. Applicant claimed that she does not recognize this account. The account appears on her 2021 and 2022 credit reports. In 2021, she stated in her background interview that she would research this account. She did not provide any documentation showing that this account has been found invalid or that she is not responsible for the debt. This debt is unresolved (Answer; Items 3, 4, 5)

SOR ¶¶ 1.c and 1.d are credit-card accounts that have been charged off for \$856 and \$846, respectively. Applicant denied the accounts and claimed that she had an account with this creditor in 2016 and the balance was under \$400. These accounts appear on her 2021 and 2022 credit reports. In 2021, she stated in her background interview that she would research these accounts. She did not provide any documentation showing that these accounts have been found invalid or that she is not responsible for the debts. These debts are unresolved (Answer; Items 3, 4, 5)

SOR ¶ 1.e is a utility account placed for collection for \$613. Applicant denied the account and claimed that she has always paid her bill, and it was never over \$250. The account appears on her 2021 and 2022 credit reports. She discussed the account in her background interview. She did not provide any documentation showing that this account has been found invalid or that she is not responsible for the debt. This debt is unresolved (Answer; Items 3, 4, 5)

SOR ¶ 1.f is a utility account that has been charged off for \$463. Applicant denied the debt and claimed that she does not recognize this account. The account appears on her 2021 and 2022 credit reports. In 2021, she stated in her background interview that she would research this account. She did not provide any documentation showing that this account has been found invalid or that she is not responsible for the debt. This debt is unresolved (Answer; Items 3, 4, 5)

SOR ¶ 1.g is a credit-card account that has been charged off for \$431. Applicant denied the account and claimed that it was not accurate. The account appears on her 2021 and 2022 credit reports. She discussed the account in her background interview. She did not provide any documentation showing that this account has been found invalid or that she is not responsible for the debt. This debt is unresolved (Answer; Items 3, 4, 5)

SOR ¶¶ 1.h and 1.i are medical accounts placed for collection for \$156 and \$103, respectively. Applicant denied the debts and claimed these were not her accounts. These accounts appear on her 2021 and 2022 credit reports. In 2021, she stated in her background interview that she would research these accounts. She did not provide any documentation showing that these debts had been found invalid or that she is not responsible for them. These debts are unresolved (Answer; Items 3, 4, 5)

SOR ¶ 1.j is a deficiency balance on an auto loan for a vehicle that has been repossessed for \$4,803. Applicant denied the debt and claimed that it was not her account. The account appears on her 2021 and 2022 credit reports. In 2021, she stated in her background interview that she would research this account. She did not provide

any documentation showing that this account has been found invalid or that she is not responsible for the debt. This debt is unresolved (Answer; Items 3, 4, 5)

SOR ¶ 1.k is a debt for pet insurance that has been placed for collection for \$600. Applicant denied the debt and claimed that this was not her account. The account appears on her 2021 credit report. She discussed the account in her background interview. She did not provide any documentation showing that this account has been found invalid or that she is not responsible for the debt. This debt is unresolved (Answer; Items 3, 4)

SOR ¶ 1.l is an account that has been placed for collection for \$469. Applicant denied the debt and claimed that this was not her account. The account appears on her 2021 and 2022 credit reports. In 2021, she stated in her background interview that she would research this account. She did not provide any documentation showing that this account has been found invalid or that she is not responsible for the debt. This debt is unresolved (Answer; Items 3, 4, 5)

In her SOR Answer and FORM Response, Applicant did not provide any documentation concerning her current financial situation, such as her monthly income and expenses, and her assets. She did not provide evidence showing that she has received credit counseling or maintains a monthly budget. (Answer; Response).

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.

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. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

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
- (b) a history of not meeting financial obligations.

The SOR allegations evidencing Applicant's history of financial delinquencies are established by Applicant's background interview and the credit reports in the record. AG ¶¶ 19(a) and 19(c) apply.

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;
- (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 of the dispute or provides evidence of actions to resolve the issue.

AG ¶ 20(a) does not apply. Applicant failed to provide sufficient evidence showing that any of the SOR debts are resolved or being paid, or that they became delinquent under circumstances that are unlikely to recur. She also failed to provide sufficient documentation of her current financial situation, evidence which might establish her ability to address her debts responsibly. Her failure to pay her delinquent debt is recent, ongoing, and not isolated. Her failure to meet her financial obligations continues to cast doubt on her current reliability, trustworthiness, and good judgment.

AG ¶ 20(b) does not apply. While her husband's unemployment was beyond her control, she failed to provide sufficient evidence that she acted responsibly under the circumstances.

AG ¶ 20(d) could potentially apply, because Applicant provided documentation that she was working with a credit repair agency. However, she did not provide sufficient documentation of payment arrangements, payments made, or resolution of any of the SOR debts. AG ¶ 20(d) does not apply.

AG ¶ 20(e) could potentially apply, because she provided documentation that she was working with a credit repair agency to remove negative items from her credit report. However, she did not provide sufficient documentation to substantiate the basis for the dispute or show that any of the SOR debts had been successfully challenged. AG ¶ 20(e) does not apply.

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 considered her military service. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. Applicant did not provide sufficient evidence to mitigate the security concerns arising out of her delinquent debts under Guideline F.

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.l:	Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Ross D. Hyams
Administrative Judge