



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



In the matter of:)	
)	
)	ISCR Case No. 21-02469
)	
Applicant for Security Clearance)	

Appearances

For Government: Karen Moreno-Sayles, Esq., Department Counsel
For Applicant: *Pro se*

06/21/2023

Decision

MURPHY, Braden M., Administrative Judge:

Applicant did not provide sufficient evidence to mitigate security concerns under Guideline F (financial considerations), Guideline G (alcohol involvement), or Guideline J (criminal conduct). Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on July 17, 2018. On February 4, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F, J, and G due to delinquent debts and alcohol-related driving offenses. The CAF issued the SOR under Executive Order (Exec. Or.) 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 Security Executive Agent Directive (SEAD) 4, *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on February 14, 2022, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on January 6, 2023. The hearing was initially set for February 21, 2023. That morning, Applicant requested a continuance so she could pursue retaining legal counsel. That request was granted when the hearing briefly convened, and the hearing was continued to a later date without objection. (Feb. 2023 Tr. 1-21)

On April 6, 2023, Applicant indicated that she had not been successful in retaining counsel, so she would be proceeding *pro se*. (Hearing Exhibit (HE) I). The parties then agreed upon a May 2, 2023 hearing date. (Tr. 7-8) A notice scheduling the hearing was issued on April 13, 2023.

The hearing convened as scheduled. Department Counsel submitted Government's Exhibits (GE) 1 through 12. Government Exhibit 2a, the unauthenticated summaries of Applicant's 2021 background interviews, was not admitted. (Tr. 22-26) The remaining government exhibits, GE 1, 2b, and 3 through 12, were admitted without objection. Applicant testified but offered no documentary evidence. I held the record open to provide her the opportunity to do so. She timely submitted five documents, which are marked as Applicant's Exhibits (AE) A through E and admitted without objection. They include a post-hearing statement (AE A), an updated SOR response (AE B), documents showing action on some of her SOR debts (AE C), and two reference letters (AE D and AE E). DOHA received the hearing transcript (Tr.) on May 15, 2023, and the record closed on May 16, 2023.

Findings of Fact

Applicant denied SOR ¶¶ 1.a and 1.b but admitted all other debts alleged (SOR ¶¶ 1.c-1.s). She admitted all the criminal conduct allegations (SOR ¶¶ 2.a-2.g) and admitted the cross-allegation under Guideline G (SOR ¶ 3.a). Her admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact.

Applicant is 38 years old. She has never married. She has a nine-year-old daughter. She earned a bachelor's degree in 2011. She worked as a bank teller beginning in 2007, initially earning \$23,000 annually. She began working as a federal contractor in 2014, with a clearance, and she has had one ever since. She initially earned a \$52,000 annual salary, later increased to \$60,000. She worked for contractor C from November 2016 to about October 2018. Her salary was reduced to \$30,000 from about June to October 2018 due to a change in the job. She worked for another contractor until September 2019, and since then, she has been with her current employer, a federal government contractor. She has worked at the same federal government department since March 2019 and has been in her current job since March 2021. She now earns \$85,000 annually. (GE 1; Tr. 13, 77-85; AE A)

Applicant listed various delinquent debts on her July 2018 SCA. (GE 1) GE 2a, the summary of her background interviews, was not admitted, but various financial documents she brought to those interviews are in the record. (GE 2b)

Applicant testified that she lived at her mother's house until 2014, when she purchased a home. Her mother moved in with her. Four months later, Applicant's child was born. Prior to that, she was only responsible for a few bills (cell phone and car note). As a new homeowner and single mother, she was responsible for all the expenses of managing a home and caring for a child. (Tr. 38)

In August 2018, Applicant was arrested and charged with driving under the influence of alcohol (DUI). She was pulled over on an interstate highway after she had been out drinking. She had several mixed drinks. (Tr. 52-53) She pled guilty and received probation before judgment. (SOR ¶¶ 2.a, 3.a) She also had an ignition interlock device installed, and she said it was voluntary. She also received multiple traffic citations, including driving on a suspended license, driving with suspended registration, negligent driving, speeding, operating a vehicle not in compliance with inspection requirements, and failure to display license to uniformed police. (GE 4; Tr. 114-117) The traffic citations related to this incident were not alleged in the SOR.

In December 2019, Applicant's mother had a severe stroke at age 58, leaving Applicant solely responsible for managing the household and caring for her mother and child. Her mother passed away eight months later, in mid-2020. (Tr. 38-39, 122-123; AE A)

In July 2021, Applicant was arrested and charged with three related counts: driving while impaired by alcohol (DWI), DUI, and DUI while transporting a minor. At the time of the SOR (February 2022), these charges were pending. (SOR ¶¶ 2.b, 2.c, 2.d, 3.a) This incident also led to traffic offenses or infractions, including driving with a suspended registration (SOR ¶ 2.e), reckless driving (SOR ¶ 2.f), and negligent driving (SOR ¶ 2.g). These citations led to fines, of \$150, \$510, and \$240, respectively. (GE 3; Tr. 34-37, 114-116)

Applicant reported her July 2021 DUI arrest to her security officer a few days later. She reported that she was driving with her daughter at about 11:30 pm, went off the road, and struck a pole. She reported failing a field sobriety test and that she was arrested for DUI and other charges. (GE 5; Tr. 114-115)

Applicant testified that after her first DUI, in 2018, she did not drink and drive. The 2021 DUI arrest occurred about a year after her mother died following her stroke, and she was still processing the trauma of those tragic events. Applicant had been at a family social function and had consumed several mixed drinks between 4 pm and 11 pm when she left to drive home. She said she "had a lot going on" at the time, but also asserted that sleep deprivation was a related cause, and she thinks she fell asleep at the wheel. She did not believe she was intoxicated at the time. She was very disappointed in herself, particularly since she had her daughter in the car. She said the

accident was “a shock” to herself and her family and she deeply regrets it. (Tr. 39-42, 53-54, 118-119)

In late January 2022 (days before the SOR was issued), Applicant pled guilty to DWI. She received a 60-day suspended jail sentence, and two years of probation. She was also fined \$446. (GE 11) Disposition of the two lesser charges (DUI and DUI while transporting a minor) is not indicated but they may have been dismissed as part of the guilty plea. Applicant remains on probation until January 2024. (GE 11; Tr. 114-115)

Applicant asserted that she was told in her plea hearing that she was on probation only for a year, but then was later told it was two years. She was given the opportunity to submit post-hearing documentation showing that she was no longer on probation, but she did not submit any such verification. She also explained that she was allowed to travel internationally while on probation, and did so, as discussed below. (Tr. 43-52) She took a six-hour alcohol class as part of her probation requirement. (Tr. 132-133)

Applicant said she is only a social drinker, and she recognizes her responsibilities as a mother, homeowner, and clearance holder. She has had no subsequent arrests or offenses. She no longer drinks to intoxication. (Tr. 42, 54, 117-118)

Under Guideline F, the SOR alleges 19 delinquent debts. This includes about \$75,000 in past-due federal student loans, and over \$21,000 in other delinquencies, mostly consumer credit accounts in collection. The debts are established by credit reports in the record from December 2021, December 2020, April 2020, December 2019, and February 2023. (GE 7-10, 12)

Applicant testified that she is trying to work on paying her debts. She said many of them are either paid or being paid. She took a part-time job at a large retailer for a time to earn more money, in about 2017 or 2019. (Tr. 81-82) She does not have anyone to help her financially. She is able to maintain her household, feed her child, and care for her pets. She acknowledged not making the best financial decisions and said sometimes she will “rob Peter to pay Paul.” (Tr. 54-56) Her financial issues began in 2018 or 2019 with the pay cut noted above. (Tr. 75-76) She is working with a financial advisor to improve her credit. It has taken time to improve her finances and unexpected situations like the COVID pandemic and her mother’s condition and death in 2020 were also factors that impacted her finances (Tr. 56-59)

The debts are detailed as follows:

SOR ¶¶ 1.a (\$47,788) and 1.b (\$27,545) are federal student loans, alleged as past due. Applicant denied both debts. The SOR is based on GE 8, her December 2020 credit report, showing both accounts in collection status, with no activity since December 2018. (GE 8 at 2; GE 9)

Since March 2020, federal student loans have been in forbearance status by Presidential executive order due to the COVID-19 pandemic. Credit reports from December 2021 and February 2023 show the same amounts listed as alleged but the accounts were in “pays as agreed” status, likely for this reason. (GE 7 at 7; GE 12 at 5; Tr. 60-61, 66-67)

Applicant took out student loans to finance her college degree, earned in 2011. She believes she had made payments on them in the past but was not certain. She also had private student loans, which she prioritized because there was no way to defer them. She said her private loans have been paid off. She acknowledged that her federal student loans were delinquent before they were placed in forbearance status due to COVID. The loans may have been delinquent in 2014 when she bought her house. This was due to her limited income and inability to pay. She recognizes that payments will soon be due, and that she will owe between \$400 and \$600 a month. (Tr. 60-66, 99-101)

Congress recently passed a law preventing further extensions of the COVID-related federal student loan payment pause. The Department of Education recently announced that federal student loan repayments will resume in October 2023. <https://studentaid.gov/announcements-events/covid-19>.

Applicant said that many of her consumer SOR debts are being paid through automatic monthly payments. Some monthly payments are for \$250 and others are for between \$25 and \$50. (Tr. 67-68, 70-71)

SOR ¶ 1.c (\$2,224) is a debt placed for collection by a bank. (GE 8) As of February 2023, Applicant owed \$1,565. (GE 12 at 7) Post-hearing documentation shows a debt balance of \$1,521. (AE B, AE C) This debt is being paid.

SOR ¶ 1.d (\$2,213) is a debt placed for collection by the same bank as SOR ¶ 1.c. (GE 8; GE 2b; Tr. 68-70) As of February 2023, Applicant owed \$2,186. (GE 12 at 6) Post-hearing documentation shows a debt balance of \$1,830. (AE B; AE C) The debt is being paid.

SOR ¶ 1.e (\$2,083) is an account placed for collection by another bank. (GE 8; GE 2b; Tr. 68-70) The debt is not clearly identified on a recent credit report. (GE 12) Applicant said post-hearing that she contacted the creditor and was told they had no record of the debt. She believes it has been satisfied. (AE B) This debt is not resolved.

SOR ¶ 1.f (\$1,901) is an account placed for collection by a department store. (GE 7, 8; GE 2b; Tr 68-69) As of February 2023, Applicant owed \$1,310. (GE 12 at 8) Post-hearing documentation shows a balance of \$1,273. (AE B; AE C) This debt is being paid.

SOR ¶ 1.g (\$1,826) is an account placed for collection by another department store. (GE 8) The account has now been charged off. (GE 12; Tr. 111-112) Applicant

said she made several \$228 payments. Her last such payment, \$228 on May 2, 2023, satisfied the debt. (AE B; AE C) This debt has been paid.

SOR ¶ 1.h (\$1,718) is an account placed for collection by Bank S. (GE 6; GE 7; GE 8; Tr. 111-112) As of February 2023, Applicant owed \$1,093. (GE 12 at 8) The post-hearing balance is now \$1,042. (AE B; AE C) This debt is being paid.

SOR ¶¶ 1.i (\$1,479), 1.j (\$1,365), and 1.k (\$1,361) are accounts placed for collection with agency M by the same bank, Bank S. (GE 6; GE 7, GE 8; Tr. 110-111) They are all listed as past due as of February 2023. (GE 12 at 6-7) As to SOR ¶ 1.i, the account balance is now \$628. As to SOR ¶ 1.j, the account balance is now \$603. As to SOR ¶ 1.k, the account balance is now \$1,061. (AE B; AE C; Tr. 73-74) These debts are being paid.

SOR ¶ 1.l (\$1,246) is a credit account that has been charged off by a furniture retailer. (GE 8) Applicant now owes \$1,320. (GE 7 at 5; GE 12 at 10) She asserted that she has been making payments but this is undocumented. (Tr. 109-110) She reached out to the creditor to determine the debt's current status but was unsuccessful. (AE B) This debt is not resolved.

SOR ¶ 1.m (\$1,287) is a credit account placed for collection by a department store. (GE 7; GE 8) It has now been charged off. (GE 12 at 5) The debt remains unpaid. (Tr. 108-109) Applicant asserted that she received a 1099-C form from the creditor canceling the debt, and said she filed it with her 2022 taxes (after the hearing). (AE B) This is undocumented. This debt is not resolved.

SOR ¶ 1.n (\$604) is an account placed for collection by a bank. (GE 8) The debt is now charged off and had not been resolved. Tr. 107-108) The account balance is now \$873, following a \$272 payment on May 12, 2023. (AE C) Applicant asserted that the debt is now satisfied following this payment. (AE B) This debt is being paid.

SOR ¶ 1.o (\$443) is a credit-card account placed for collection by a federal credit union. (GE 7, GE 8) The debt is unpaid, and Applicant had not made payment arrangements (Tr. 107) She asserted post-hearing that the debt has now been paid, on May 12, 2023, but this is not documented. (AE B) This debt is not resolved.

SOR ¶ 1.p (\$222) is a retail credit account placed for collection by a bank. (GE 7, GE 8) Applicant asserted the debt has been paid. (Tr. 106; AE B) She provided no corroborating documentation. This debt is not resolved.

SOR ¶ 1.q (\$187) is a medical account placed for collection. (GE 8) This account is shown as paid. (GE 7 at 2; Tr. 105-106) This debt is resolved.

SOR ¶ 1.r (\$2,279) is an account placed for collection by a bank. (GE 7; 8) It is now charged off. (GE 12 at 4) She had taken no action to resolve it by the hearing. (Tr.

104-105) The balance is now \$2,748, though post-hearing, Applicant received a settlement offer of \$950. (AE B, AE C) This debt is not resolved.

SOR ¶ 1.s (\$699) is a retail credit account placed for collection by a bank. It has now been charged off. (GE 8, GE 12 at 14) Applicant was not aware that she has made any payments to resolve it. (Tr. 101-104) Post-hearing, she asserted that the debt was paid in 2021, but she was unable to access the payoff letter. (AE B) This debt is not resolved.

The February 2023 credit report shows a new past-due account, for \$6,009. (GE 12) This account relates to the car that was wrecked in July 2021 when Applicant incurred her second DUI. She has not heard from the creditor about the debt and will have to look into it. (Tr. 112-113, 119-121) Post-hearing, she contacted the creditor and intends to resolve the debt through a payment plan. (AE B)

Applicant does not have a 401(k) retirement plan. She receives no child support. She pays a \$1,350 monthly mortgage. She does not own a car. During most of the pandemic, she worked at home full time. She now works at the office three days a week. She takes public transportation and ride-sharing services to go to work. She was also “traumatized” by her 2021 DWI, so she is reluctant to get another car. She has not participated in credit counseling. (Tr. 85-89, 125, 131-132)

Applicant also acknowledged that, although she has a tax preparer and she filed a request for an extension, her 2021 federal and state income tax returns remained unfiled at the time of the hearing. Her 2022 returns, due weeks before the hearing date (absent an extension) were also unfiled. She had no explanation for the delays but is in contact with her tax preparer to address the filings. She does not have any outstanding tax balance. (Tr. 126-133)

Applicant has taken several international vacations since 2016, including to the Caribbean (2016, 2018, 2019, 2021, and April 2023, two weeks before the hearing), Mexico (2017, 2021), and to Europe and the United Kingdom (UK) (2018, 2022). Her trips to the UK are financed by a former romantic partner whom she visits there, but she has paid for the other trips. These trips are for a few days at a time and she says her trips cost about \$1,200. (Tr. 89-98, 123-125) Applicant does not see these expenses as related to her clearance eligibility since she can afford to pay for them. (Tr. 98-99)

Applicant concluded her testimony by stating that she recognizes that her personal life is rather “chaotic,” but she attested that it has not affected her job. She is learning from her mistakes and has had to learn many life lessons firsthand. She is the first person in her family to graduate from college. She is trying to do right and raise her daughter and care for her pets. She wants to keep her clearance and her job and keep moving forward. (Tr. 141-145)

In her post-hearing statement, Applicant said she has made huge strides in clearing up her debts and wants to be debt free in 2024. She also said that her second

DUI was one of the biggest mistakes of her life. She recognizes that alcohol is dangerous and should be consumed responsibly. She was not able to verify the status of her probation and asserts that she will continue to abide by probation requirements until her probation ends in January 2024. She will also file her tax returns. (AE A)

Applicant said she has worked hard to get where she is, and the loss of her clearance would have a significant negative impact upon her professional and personal life. She has tried to get her life back to normal since her 2021 DUI, despite many hardships. (AE A)

A friend and a co-worker provided reference letters. The friend attested to Applicant's fine and responsible character, as well as her remorse for her bad decision (likely the 2021 DUI). She is committed to rehabilitation. (AE D) The co-worker attested to Applicant's work ethic, professionalism, and dedication, as well as her positive attitude, friendliness, and proactive willingness to help others. (AE E)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

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 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(a), 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 not drawn 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. Under Directive ¶ E3.1.15, 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 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.

Analysis

Guideline G, Alcohol Consumption

The security concern regarding alcohol consumption is set forth in AG ¶ 21:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.

The guideline notes several conditions that could raise security concerns under AG ¶ 22. The following disqualifying condition is applicable in this case:

(a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with an alcohol use disorder.

Applicant has incurred two alcohol-related driving offenses, one in August 2018 (SOR ¶ 2.a) and one in July 2021 (SOR ¶¶ 2.b, 2.c, 2.d), all alleged under Guideline J and cross-alleged under Guideline G (SOR ¶ 3.a). As to the latter offense, the three charges (DUI, DWI, and DUI while transporting a minor) are alleged separately in the SOR but they are all part of the same circumstance, so I consider them as such. AG ¶ 22(a) applies to both arrests.

Conditions that could mitigate alcohol consumption security concerns are provided under AG ¶ 23. The following are potentially applicable:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment; and

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant's two DUI/DWI arrests both occurred after she submitted her SCA, in July 2018, one only a month later. They occurred only about three years apart. She remains on probation for her second offense until January 2024. These two offenses are recent enough that they remain a security concern, as evidenced by the fact that she remains on probation. They did not occur under unusual circumstances, indeed, they both occurred after social drinking. Applicant is given some credit for acknowledging her issues with alcohol and for compliance with the requirements of probation. However, the fact that both DUIs occurred after she submitted her SCA is particularly problematic since the timing undercuts a finding of reform and rehabilitation. Applicant has also not yet demonstrated a track record of responsible conduct when she is no longer subject to the state's restrictions. With time, she may be able to demonstrate that she is again a suitable candidate for eligibility for access to classified information by establishing a longer period of responsible alcohol use and compliance with the law. But more time is needed for Applicant to demonstrate that her alcohol issues are behind her and that she handles life stresses in a more responsible manner than turning to alcohol. She did not establish that her offenses occurred under unusual circumstances, that her alcohol-related misconduct is unlikely to recur, or that her behavior no longer casts doubt on her current reliability, trustworthiness, or judgment. AG ¶¶ 23(a) and 23(b) do not fully apply to mitigate the Guideline G security concerns.

Guideline J: Criminal Conduct

AG ¶ 30 details the security concern for criminal conduct:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness;

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted; and

(c) individual is currently on parole or probation.

Applicant's two alcohol-related arrests and offenses (SOR ¶¶ 1.a-1.d) also satisfy AG ¶¶ 31(a) and (b) under Guideline J. The other allegations (driving with a suspended registration, reckless driving, negligent driving, SOR ¶¶ 2.e, 2.f, and 2.g) all occurred in July 2021 at the same time as the second DUI arrest. As such, they are not separate incidents. They are also traffic offenses, rather than criminal conduct. Either way, they are not established as a Guideline J security concern. Thus, no disqualifying conditions under Guideline J apply to them. Having pled guilty to DWI in January 2022 for the July 2021 incident, she remains on probation until January 2024. AG ¶ 31(c) applies.

AG ¶ 32 sets forth the potentially applicable mitigating conditions:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

AG ¶¶ 32(a) and 32(d) do not apply to mitigate Applicant's two DUI/DWI offenses under Guideline J under the same rationale as set forth under Guideline G. She also remains on probation, a specific disqualifying condition. Applicant simply needs more time to demonstrate compliance with legal requirements and general good judgment before her alcohol-related offenses can be considered mitigated.

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).

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.

The Government established that Applicant has \$75,000 in federal student loans that became delinquent, and about \$21,000 in other delinquent debts. AG ¶¶ 19(a) and (c) apply.

AG ¶ 20 sets forth conditions that could mitigate security concerns arising from financial difficulties. 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, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant has had a difficult few years. Her mother had a debilitating stroke in 2020 that proved fatal within a year, leaving Applicant to raise her daughter and

manage her household alone. The second DUI, occurring about a year later, was likely caused in part by the impact of these events. Applicant has made payments reducing most of her consumer debts. Some smaller debts have been paid and she has documented that she has made payments on others. These accounts are found in her favor given her efforts to resolve them. She is not required to pay them all off, or to do so in a particular way. She must show a plan, must show that the plan is reasonable, and must take steps towards implementing the plan with a track record of payments. For some of her debts, she has done this.

However, there is also evidence that weighs against mitigation of her whole financial situation. Applicant has not shown that she has ever addressed her federal student loans. She also has incurred more recent past-due debt that was not alleged. She owes another \$6,000 on her car – a car that was totaled in the July 2021 accident that led to her second DUI arrest in three years. At the time of the hearing, two recent years of tax returns were unfiled. The car debt and the unfiled returns are not alleged in the SOR, so they cannot be considered as disqualifying conduct (as they might have been, under AG ¶¶ 19(c) and 19(f), specifically concerning unfiled tax returns). But they can be considered in weighing mitigation.

Applicant also has a history of taking international vacations, including shortly before the hearing, when that money might have been better used to address her significant debt load. That evidence undercuts a finding that she is acting responsibly in addressing her debts. Her federal student loans have been in forbearance due to COVID for over three years. But they were delinquent before that, and Applicant will need to address them responsibly when the forbearance period soon ends. She has not yet set out a plan to do that.

For these reasons, while some of her debts are mitigated due to her repayment efforts, none of these mitigating conditions fully apply to her overall financial situation. Applicant's financial delinquencies are largely ongoing and unresolved and they continue to cast doubt on her current judgment, trustworthiness, and reliability. She has not shown enough reasonable action towards addressing her debts. AG ¶¶ 20(a), 20 (b), and 20(d) do not fully apply to mitigate the financial security concern.

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 Guidelines F, G, and J in my whole-person analysis. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance.

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.b:	Against Applicant
Subparagraphs 1.c-1.d:	For Applicant
Subparagraph 1.e:	Against Applicant
Subparagraphs 1.f-1.k:	For Applicant
Subparagraphs 1.l, 1.m:	Against Applicant
Subparagraph 1.n:	For Applicant
Subparagraphs 1.o, 1.p:	Against Applicant
Subparagraph 1.q:	For Applicant
Subparagraphs 1.r-1.s:	Against Applicant
Paragraph 2: Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a-2.d:	Against Applicant
Subparagraphs 2.e-2.g:	For Applicant
Paragraph 3, Guideline G:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Braden M. Murphy
Administrative Judge