



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



In the matter of:)	
)	
)	ISCR Case No. 21-01908
)	
Applicant for Security Clearance)	

Appearances

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

08/29/2023

Decision

PRICE, Eric C., Administrative Judge:

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

Statement of the Case

On June 26, 2020, Applicant submitted a security clearance application (SCA). On September 24, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F. The DCSA CAF acted under Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), for all adjudicative decisions on or after June 8, 2017.

Applicant responded to the SOR (Answer) on December 8, 2021, and requested a hearing before an administrative judge. The case was assigned to me on May 8, 2023. On May 17, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice

of hearing scheduling the hearing via video teleconference. I convened the hearing as scheduled on June 27, 2023. The Government's exhibit list and pre-hearing disclosure letter are marked as Hearing Exhibits (HE) I and II. Department Counsel offered six exhibits marked as Government Exhibits (GE) 1 through 6. Applicant testified but offered no exhibits at the hearing. The record was held open until July 18, 2023, to permit Applicant to submit documents, which she did not do. I sustained Applicant's objection to GE 6 (unauthenticated summary report of her July and September 2020 interviews with a government investigator), and there were no other objections to the proffered exhibits. GE 1 through GE 5 are admitted in evidence. DOHA received the hearing transcript (Tr.) on July 7, 2023.

Findings of Fact

Applicant is a 46-year-old program integrator employed by a defense contractor since April 2020. She was employed by several contractors that supported the same DOD client from January 2011 to April 2020, and she worked for other federal contractors from November 2005 to February 2010. She worked as an insurance agent from February 2010 to January 2011, and was unemployed from May 2005 to July 2005. She has held a security clearance since 2009. (GE 1; Tr. 31-32, 58)

Applicant earned a bachelor's degree in 2013. She was married from July 1995 to August 2002, January 2004 to June 2005, and May 2006 to May 2017, each marriage ended in divorce. She has three children, ages 26, 24, and 20. (GE 1; Tr. 29-31, 52, 58)

The SOR alleges eight delinquent accounts totaling \$22,251. (SOR ¶¶ 1.a through 1.h) In her Answer to the SOR, Applicant denied all SOR allegations with explanation.

In her June 2020 SCA, Applicant disclosed that she had been delinquent on her mortgage from June 2017 to June 2018. (GE 1 at 45-46) She said that she first learned about some of the SOR debts during her security clearance background investigation and that she then tried to resolve those debts. (Answer; Tr. at 60-61) She attributed her financial problems to her former husband's gambling problems, his unemployment, his depletion of their bank accounts, and their 2017 divorce. (GE 1 at 46; Tr. 29-30, 55-57)

The evidence concerning the specific SOR allegations is summarized below.

SOR ¶ 1.a: credit card collection account for \$9,413. Applicant denied the allegation. (Answer) She stated that she had entered a payment agreement with the creditor that required monthly payments of \$229.59 until July 2024, that the account balance had been reduced to \$6,887, and she submitted a receipt for a \$229.59 payment in December 2021. (Answer at 1, 3, attachment A) She testified that her debt was originally over \$11,000, that she had made every monthly payment required by the payment plan and would fully resolve the account after several more payments. She said that she would submit documentary evidence of her payments but did not do so. (Tr. 28-29, 32-33, 70-71) Credit reports from July 2020, April 2021, and July 2022 show the account as in collection with declining past due balances of \$11,020, \$9,413, and \$5,740,

respectively. (GE 3 at 5, GE 4 at 2, GE 5 at 14) A June 2023 credit report does not list this account. This debt is resolved or is being resolved.

SOR ¶ 1.b: credit account charged off for \$1,530. Applicant denied the allegation and stated that she had made payments in accordance with a payment agreement. (Answer at 2-3) She submitted evidence that she had entered a payment agreement in August 2020, that the account balance was \$669.48 as of December 27, 2021, and that she had authorized the company to debit her bank account for the January 2022 payment. (Answer at attachment B) She testified that she had made all required monthly payments under the payment plan and had almost paid off the debt. (Tr. 33-35, 71-72) Credit reports from July 2020, April 2021, and July 2022 show the account had been charged off for \$2,295 with declining past due balances of \$2,295, \$1,530, and \$191, respectively. (GE 3 at 5, GE 4 at 2, GE 5 at 14) A June 2023 credit report shows the charge off was paid in full. This debt is resolved.

SOR ¶¶ 1.c, 1.d, and 1.g: medical collection accounts for \$306, \$146, and \$1,300. Applicant denied the allegations and said that she had paid each account in full. (Answer at 2-3) She testified that she had paid the medical debts and would submit documentary evidence but did not do so. (Tr. 35, 40-41, 72, 75-77) An April 2021 credit report shows the debts alleged in SOR ¶¶ 1.c and 1.d accounts as in collection. (GE 4 at 2-3) An April 2020 credit report shows the debt alleged in SOR ¶ 1.g as in collection. (GE 5 at 14) A credit report from July 2022 shows the debt alleged in SOR ¶ 1.d in collection and two other delinquent medical accounts in collection for \$150 and \$135. (GE 3 at 2) A credit report from June 2023 does not reflect any delinquent medical accounts. (GE 2) I find Applicant's testimony credible and that the credit reports corroborate it. These debts are resolved.

SOR ¶ 1.e: credit account charged off for \$1,141. Applicant denied the allegation and said that she disputed the account because the company refused to honor a warranty for furniture that broke shortly after purchase. (Answer; Tr. 35-37, 73-74) She said that she would pay the debt if necessary to protect her job, but that she had not and did not want to pay the debt. (Tr. 36-37, 73) Credit reports from July 2020 and April 2021 show the account was charged off with a past due balance of \$1,141, and the 2021 report reflects Applicant disputed the account. (GE 4 at 12, GE 5 at 14) Credit reports from July 2022 and June 2023 show an account dispute was resolved and \$0 balance due. (GE 2 at 14, GE 3 at 14) This debt is resolved.

SOR ¶ 1.f: mortgage account past-due for \$7,975. Applicant denied the allegation. (Answer) She said that she paid the mortgage in full when she sold her house in August 2021 and submitted a settlement statement dated August 6, 2021. (Answer at 1, attachment F) She testified that she had missed several mortgage payments after her divorce and while trying to straighten out her finances. She said that she sold her home to pay off the mortgage and some other debts, and that it took some time because she was financially responsible for her children at that time. (Tr. 25-26, 37-40, 54, 66-67, 74-75) An April 2021 credit report shows the account as past due in the amount of \$7,975 with a total mortgage balance of \$146,791, and that foreclosure proceedings had been

initiated. (GE 4 at 3) Credit reports from July 2022 and June 2023 show that the mortgage was paid in full in July 2021, and that the debt was resolved. (GE 2 at 15, GE 3 at 11)

SOR ¶ 1.h: collection account for \$440. Applicant denied the allegation and said that the debt had been paid. (Answer; Tr. 28-29, 76-78) She submitted evidence this debt was resolved in August 2020. (Answer at attachment H) This debt is resolved.

Applicant's income has increased, and her financial situation has improved. Her gross annual salary was about \$68,000 in 2016, ranged from \$77,000 to \$93,000 over the next several years, was \$125,000 in April 2020, and is currently \$132,000. She said that she has a remainder of about \$2,500 a month after expenses. She has about \$6,300 in the bank, \$5,000 in stocks, \$45,000 in a retirement account, and about \$1,000 in stock options. She has rented a house since selling her own home. She purchased a 2013 model-year vehicle for her daughter, and a 2018 model-year vehicle for herself. (Tr. 25-26, 42-52, 58-59, 66-69, 75; GE 2-5)

Applicant has not received financial counseling. She said that she has a written budget but did not submit a copy. During the hearing I informed Applicant of the importance of documentary evidence of debt payments, contact with creditors, and efforts to resolve or otherwise address delinquent debts. (Tr. 22-26, 62-85)

I found Applicant's responses and demeanor at the hearing to be credible and consistent with someone who was reliably telling the truth. I also found her explanation that a debt not alleged in the SOR but reported as charged off and then paid off was attributable to an online company's delayed retrieval of a trade-in vehicle credible. (Tr. 26-28; GE 2 at 13, GE 3 at 6) After reviewing the entire record, I find that her hearing testimony is largely corroborated by documentary evidence submitted by the government and evidence that she submitted with her Answer. She credibly responded to all questions and was keenly aware of the significance of resolving her debts.

Policies

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An

administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

“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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.” Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988); see AG ¶ 2(b).

The protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt “will be resolved in favor of the national security.” Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F: Financial Considerations

The security concern under this guideline 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 a person might knowingly compromise classified or sensitive information to raise money. It encompasses concerns about a person’s self-control, judgment, and other qualities essential to protecting classified or sensitive information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified or sensitive information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The record evidence, including credit reports and Applicant's statements, establishes two disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts") and AG ¶ 19(c) ("a history of not meeting financial obligations"). The following mitigating conditions 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;

(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;

(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), 20(b), and 20(d) are established. Applicant's financial situation was damaged by circumstances partially or fully beyond her control. She acted responsibly by prioritizing and resolving her delinquent debts. She entered into and complied with payment agreements for two debts (SOR ¶¶ 1.a-1.b), sold her home and paid off her delinquent mortgage (SOR ¶ 1.f), paid several smaller debts (SOR ¶¶ 1.c-1.d, and 1.g-1.h), and resolved a disputed debt (SOR ¶ 1.e).

There are clear indications that her financial problems are being resolved and are under control. Her financial circumstances have improved, and she understands the security implications of delinquent debt. Her debts were incurred under circumstances making recurrence unlikely, and her conduct does not cast doubt on her current reliability, trustworthiness, or good judgment.

AG ¶ 20(c) is not established because Applicant did not receive financial counseling.

AG ¶ 20(e) is established for the debt alleged in SOR ¶ 1.e. Credit reports show the account was disputed and that the debt was resolved when the dispute was resolved.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

I have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I considered the entire record, including Applicant's work history and security clearance history, and that her financial problems were caused, in part, by circumstances beyond her control.

A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not held to a standard of perfection in his debt-resolution efforts or required to be debt-free. "Rather, all that is required is that [she] act responsibly given [her] circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). Applicant has taken reasonable actions under her unique financial circumstances to address her delinquent debts and has established a "meaningful track record of debt reduction." See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). Applicant has mitigated security concerns raised under Guideline F, financial considerations.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a-1.h:	For Applicant

Conclusion

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

Eric C. Price
Administrative Judge