



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



In the matter of:)	
)	
)	ISCR Case No. 22-01772
)	
Applicant for Security Clearance)	

Appearances

For Government: Sakeena Farhath, Esq., Department Counsel
For Applicant: *Pro se*

11/17/2023

Decision

KATAUSKAS, Philip J., Administrative Judge:

Applicant has not provided evidence sufficient to mitigate the national security concern arising from her problematic financial history. Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted her security clearance application (SCA) on November 18, 2021. On February 21, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) sent her a Statement of Reasons (SOR) alleging security concerns under Guideline F, financial considerations. The DCSA CAF acted 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 the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016).

Applicant submitted an answer (Answer) to the SOR on March 14, 2023 and elected a decision on the written record by an administrative judge of the Defense Office of Hearings and Appeals (DOHA). On April 26, 2023, Department Counsel submitted the Government's file of relevant material (FORM), including documents identified as Items 1 through 7. DOHA sent the FORM to Applicant on April 28, 2023, who received the FORM on May 11, 2023. She was afforded 30 days after receiving the FORM to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not respond to the FORM. The SOR and the Answer (Items 1 and 2, respectively) are the pleadings in the case. Items 3 through 7 are admitted without objection. The case was assigned to me on September 28, 2023.

Findings of Fact

Applicant is 66 years old, was married in May 1975 and divorced in October 1989. She has two adult sons. She was married briefly in February 1996, but that was annulled in May 1997. From September 1991 to April 1998, she attended college but did not earn a degree. From October 1997 to March 2006, she worked for a defense contractor. Since March 2006, she has worked for another defense contractor. She reported no periods of unemployment. She has owned her home since June 1997. (Item 3.)

Under Guideline F, the SOR alleged seven delinquent debts totaling \$39,944. (SOR.) Each SOR debt is supported by the credit reports of record, showing those accounts being charged off or in collections. (Items 4 through 6.) They are also supported by the March 7, 2022 personal subject interview (PSI). (Item 7.)

The Answer

Before addressing each SOR debt, Applicant stated: "I do not recall all of the accounts noted below but do acknowledge I fell behind on some credit card payments due to the loss of relationship in which we shared expenses and found I could not maintain all of my payments." She gave no basic details about when that loss occurred. (Answer.)

Applicant admitted SOR ¶ 1.a (\$6,709), claiming she has requested proof of indebtedness and "will proceed accordingly when the documentation is received." Her response cited a March 6, 2023 letter from creditor's counsel requesting a resolution agreement. (Answer.) She did not provide documents evidencing her request for proof of indebtedness or a copy of the March 6, 2023 letter she referenced.

Applicant admitted SOR ¶ 1.c (\$9,551), claiming this debt is now paid due to wage garnishment from August 2022 through March 10, 2023. (Answer.) The most current credit report in the record is April 26, 2023, which may have been too recent to capture a satisfaction through garnishment. That credit report does not show this debt. (Item 4.) She provided no documents evidencing a garnishment or a satisfaction of this debt.

Applicant denied the remaining five SOR debts. Those denials have the following common themes. She does not know the type of debts involved; she has requested or

will request detailed information; and when she receives that information, she “will proceed accordingly.” (Answer.) She provided no documents evidencing her attempts to obtain information from her creditors or collection agencies about her overdue accounts, or their responses

The PSI

During Applicant’s March 7, 2022 PSI, she discussed her SOR debts. (Item 7 at 2-5.) SOR ¶ 1.a is a credit card account she opened in September 2015. She did not charge anything on that card until October 2016, when she used it for a vacation. She made regular monthly payments. It became delinquent in about June 2020, when she became unable to make minimum monthly payments. She does not dispute the information in the credit report. She plans to contact the creditor and try to negotiate a monthly payment plan when she is able to do so .(Item 7 at 2.)

Applicant discussed the circumstances that caused her financial problems. Her financial situation began to change, after a storm inflicted significant damage to her home in 2016. Only a part of the damage was covered by her homeowner’s insurance. She had to pay about \$12,000 to replace a leaking roof; \$3,000 for replacing interior carpeting; replacing and painting a deck; and updating appliances. She had to use credit cards to pay her bills. Initially, she managed to juggle her finances to stay afloat, but over time, her financial situation became worse. (Item 7 at 2.)

Applicant discussed her plans to resolve her financial problems. She is already in the process of putting her home on the market, and she expected it to be listed by April 2022. After the home is sold, she plans to move in with her daughter. (Note: There is no reference in the record to her having a daughter.) She currently owes \$43,000 on her mortgage. An online estimate of the value of her home was \$140,000. The balance on her auto loan is \$1,000, which will be paid off in six months. She will use the profit from the sale of her home to pay off her delinquent debts. (Item 7 at 2.)

Applicant discussed the other six SOR debts, SOR ¶¶ 1.b through 1.g. These accounts are all credit cards. Her discussions of those accounts shared certain features. First, she does not dispute any of the information in the credit reports, even though she could not recall details of many of the accounts. Second, the delinquencies occurred in about the 2016 to 2020 timeframe. Third, the accounts became delinquent when she could no longer make the minimum monthly payments. Fourth, she plans to contact the creditors to attempt to negotiate monthly payment plans. Some of those plans may have to wait until she has sold her home. She did not provide any documents about the seven delinquent accounts. (Item 7 at 2-5.)

In a follow-up PSI, Applicant discussed her current financial situation. Her gross monthly income is \$6,651, with total payroll deductions of \$2,049, leaving a monthly net salary of \$4,602. Her basic monthly expenses are \$2,430 (food, clothing, utilities, car, etc.). Her monthly debt payments (including mortgage of \$580) total \$1,435. Her monthly net remainder is \$737. (Item 7 at 6.)

Applicant's assets are the following: \$135,000 (her home); \$500 in savings, and; \$4,200 (car). Her total assets are \$139,700.

Law and Policies

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

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law that apply together with common sense and the general factors of the whole-person concept. An administrative judge must consider all available and 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, then 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

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. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise any 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. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The guideline notes 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.

Applicant's SOR debts are established by her admissions and the Government's credit reports. AG ¶¶ 19(a) and (c) apply.

AG ¶ 20 includes the following conditions that could mitigate security concerns arising from financial difficulties:

- (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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

I have considered mitigating condition AG ¶ 20(a). In her Answer, Applicant refers to "the loss of a relationship" where she shared expenses but could not maintain her payments when that relationship ended. That event is not mentioned any further in her Answer, the PSI, or anywhere else in the record. More credibly, it seems that her financial woes stemmed from storm damage she suffered in 2016. That is quite a while ago, but her indebtedness persists to this day. That is, it is recurring. Her debts are not mitigated under AG ¶ 20(a).

I have considered mitigating condition AG ¶ 20(b), which has two requirements. First, the conditions causing financial problems must have been "largely beyond" Applicant's control. Second, she must have "acted responsibly" under the adverse circumstances she confronted.

In her PSI, Applicant went into credible detail about the damage the 2016 storm wreaked on her home. She detailed \$15,000 of damage alone for a leaking roof and interior carpeting. That is a significant amount. She also explained how she initially used credit cards to keep herself afloat to pay for uninsured losses. At some point, however, her juggling of finances worsened to the point where she could no longer manage them. I find that the circumstances that caused her financial problems were "largely beyond" her control. She satisfied the first requirement of AG ¶ 20(b).

The next inquiry under AG ¶ 20(b) is whether Applicant acted responsibly in confronting the adverse circumstances she faced. In her PSI, she did not dispute the SOR debts reported in her credit reports. Her plan at that time was to contact each creditor for details and attempt some form of resolution. Her plan was to put her home up for sale, move in with a family member, and use the expected profits from the sale of her home to pay her delinquent debts. She was candid enough to note that one or more of those resolutions might have to await the sale of her home. That was a reasonable plan.

The problem is that in her Answer, a year after her PSI, she expressed the same plan, but she provided no evidence that she had taken *any steps* towards achieving that plan. She produced no evidence of her contacts with her creditors, no evidence that she had placed her home on the market, no responses (even negative ones) from her creditors about her reaching out to them. In short, on this record her plan of a year earlier remains just that, a plan. The Appeal Board respects an applicant's reasonable plan to resolve debts. The Board also expects an applicant to have taken some steps towards the execution of that plan. See, e.g., ISCR Case No. 09-08462 at 3 (App. Bd. May 3, 2011). Here, Applicant has taken no such steps, She has not, therefore, acted responsibly as required by AG ¶ 20(b). Therefore, her SOR debts have not been mitigated. By the same reasoning, AG ¶ 20(d) does not apply.

The Whole-Person Concept

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. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the "whole-person" concept and factors). In my analysis above, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case.

Applicant leaves me with questions about her eligibility and suitability for a security clearance. For these reasons, I conclude that Applicant did not mitigate the security concerns arising under Guideline F, financial considerations.

Formal Findings

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

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

Conclusion

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

Philip J. Katauskas
Administrative Judge