



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 22-02041
)
Applicant for Security Clearance)

Appearances

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

09/13/2023

Decision

MASON, Paul J., Administrative Judge:

There are ten delinquent debts listed in the Statement of Reasons (SOR). Applicant has repaid six of them, following her plan that began in June 2022, to resolve the smaller overdue accounts first, and then to work on the larger delinquencies. The nine-page attachment to her December 2022 answer to the SOR substantiates her resolution of at least five unalleged debts. Based on her verifiable progress in attacking her delinquent debts, I am confident she will continue the repayment process until she eliminates the remaining past due accounts while maintaining currency in her other financial obligations. Applicant's security clearance application is granted.

Statement of Case

Applicant signed an Electronic Questionnaire for Investigations Processing (e-QIP, Item 1) on May 13, 2022. She provided an interview (PSI, Item 4) to an investigator from the Office of Personnel Management (OPM) on June 30, 2022. On November 7, 2022, the Department of Defense (DOD), Defense Counterintelligence Security Agency

(DCSA) Consolidated Adjudication Services (CAS), issued an SOR detailing security concerns under the guideline for financial considerations. This case is adjudicated in accordance Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 1992), as amended (Directive); and the adjudicative guidelines (AG) dated June 8, 2017.

Applicant's answer to the SOR (GE 1) is dated December 12, 2022. She decided to have her case decided on an administrative record rather than a hearing. The Government sent a copy of its File of Relevant Material (FORM), the Government's evidence in support of the allegations in the SOR, to Applicant on March 31, 2023. She received the FORM on April 24, 2023. The FORM recommended she file objections, submit additional information or provide explanations within 30 days of receiving the FORM. Applicant's response was received by the Defense Office of Hearings and appeals (DOHA) on May 30, 2023. I was assigned the case on July 17, 2023.

Rulings on Evidence

At the bottom of page 1 of the FORM, in bold letters reading '**Important Notice to Applicant**', the Government advised Applicant that she could make corrections to the February 20, 2020 personal subject interview (Item 4, PSI) to improve the exhibit's clarity and accuracy. Alternatively, she was advised that she could object to the entire PSI on the ground that it was unauthenticated by a government witness, and it would not be entered into evidence. Applicant did not object, and the exhibit is admitted into evidence. See, E3.1.20. of DOD Directive 5200.6, page 52. Various locations of Items 4 and 5 (May 2022 credit bureau report (CBR)) may be cited utilizing the typewritten page number appearing in the upper right corner of the page of each exhibit.

Findings of Fact

The SOR alleges ten accounts totaling \$21,125, that have been delinquent since December 2019 to May 2022. (Item 5 at 3-7) In her answer to the SOR, Applicant admitted all ten allegations with explanations. When her husband unexpectedly abandoned the family in May 2017, she became a single mother with two young children. In May 2022, Applicant was hired into a position that pays her more money. She has used that extra money to pay off her several delinquent bills. She is current on her car loan and her credit score has improved. See the nine-page attachment to her December 2022 answer to the SOR.

Applicant is 34 years old. She has been renting at her current residential location since April 2021. Prior to that date, she moved her residence about 20 times since 2012. She received an unidentified certification in October 2012. She collected several community college credits in 2019 and early 2020, but received no degree. Since May 2022, Applicant has been employed as a human resource generalist performing various

tasks related to monitoring her employer's workforce. Her previous jobs since 2012 were as a teller, a medical billing officer, a receptionist, a customer service officer, and a field service coordinator. She was unemployed from July 2018 to March 2019, and from March 2014 to September 2017. She was married from October 2016 to March 2018. She has two children, eight and six years old. She has never had a security clearance before. (GE 1 at 6-25, 38)

As Applicant explained in her June 2022 PSI, she acknowledged her delinquent debts, and planned to pay off the smaller delinquent accounts within the year and then handle the larger accounts. She believes that she is living within her means. Before she landed her current job in May 2022, she was living paycheck-to-paycheck, but she has always tried to handle her own financial problems. She predicted the smaller accounts should be paid within a year, whereas the larger delinquent accounts will take longer. She provided documentary evidence in her December 2022 answer to the SOR of paying off five unalleged debts. (GE 4 at 9, 10; December 2022 answer to SOR at 1-9)

SOR ¶ 1.b – Applicant purchased a car in 2012. She developed pregnancy-related problems that prevented her from working. Her boyfriend at the time told her that they could not afford the payments and decided to have the car repossessed. The car was sold at auction, leaving a deficiency balance that Applicant has not been able to pay. (GE 4 at 6; GE 5 at 3) The account has not been paid.

SOR ¶ 1.a – In April 2017, Applicant's former husband purchased a car without her knowledge. He furtively had her sign the paperwork as primary account holder. In May 2017, Applicant decided to stay at home to provide day-care for her children. In the same month, her husband suddenly left her, and the car was repossessed within months because she could not afford the payments. (GE 4 at 6; GE 5 at 8) The account is unresolved.

SOR ¶ 1.c – This is an account for delinquent rent. The account became delinquent in May 2022. Before her rental lease ended, Applicant moved out of her apartment. She agreed to pay for breaking the lease. The landlord also claimed damage to the apartment and charged her for breaking the lease and damage. She agreed to pay the broken lease and damages when she is able. (GE 4 at 7; GE 5 at 5) The account has not been resolved.

SOR ¶ 1.e – This is a medical account that became delinquent in January 2022. Applicant had her blood tested in 2020 and her insurance would not pay the bill. (GE 4 at 7; GE 5 at 5) The debt is not paid.

Applicant has paid the following six listed creditors.

SOR ¶ 1.d – This is a car insurance account that became delinquent in December 2019. When Applicant’s husband left in May 2017, she could not continue to pay car insurance for the repossessed car described in SOR ¶ 1.a. (GE 4 at 7; GE 5 at 5) On May 12, 2023, Applicant provided documentation indicating that she paid the outstanding balance due on the account. (May 2023 response to FORM at 1) The account is resolved in Applicant’s favor.

SOR ¶¶ 1.f, 1.g, 1.h, 1.i, and 1.j – These are medical accounts that Applicant’s insurance would not pay. The accounts became delinquent between July 2021 and January 2022. On May 11, 2023, Applicant provided documentation confirming that she paid the five listed medical accounts. (GE 5 at 8-9; May 2023 response to FORM at 2-3) The five accounts are resolved in Applicant’s favor.

Policies

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are flexible rules of law, apply together with common sense and the general factors of 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 applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

Analysis

Financial Considerations

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 sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other trust 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.

A security clearance holder occupies a fiduciary relationship with the Government that requires compliance with all security regulations at all times and in all locations. An important way to ascertain whether an applicant possesses the requisite judgment to safeguard classified information is to examine how she manages her personal matters. For example, if the applicant shows irresponsibility with her financial obligations, then there is a probability she may adopt the same kind of irresponsible attitude toward security rules and regulations.

AG ¶ 19. The disqualifying conditions relevant in this case are:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has ten delinquent commercial accounts totaling \$21,125. Her May 2022 e-QIP, her June 2022 PSI, the Government May 2022 CBR (Item 5), and her December 2022 answer to the SOR, establish the Government's case under the financial considerations guideline. It is well settled that negative information within credit bureau reports can establish allegations of debt delinquencies. See ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010) The accounts became delinquent between December 2019 and May 2022. AG ¶¶ 19(a) and 19(c) apply. Based on Applicant's documented resolution of ten alleged and unalleged delinquent debts in the past nine months, I conclude that AG ¶ 19(b) does not apply to the circumstances of this case.

Applicant has the ultimate burden of persuasion by producing evidence that rebuts or mitigates the Government's case and meets her burden of demonstrating she warrants eligibility for security clearance.

AG ¶ 20. Conditions that could mitigate trustworthiness concerns include:

- (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 identify theft, and the individual has 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 nonprofit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

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

All of the mitigating conditions identified above apply to mitigate the security concerns in this case. In her professional career, she encountered a significant period of unemployment between 2014 and 2017. Before the SOR was issued in November 2022, Applicant informed OPM in June 2022 of her plan to satisfy all her delinquent accounts by addressing the smaller bills first, then moving to the larger ones. In her December 2022 answer to the SOR, she provided documentation of paying off five unalleged creditors. In May 2023, she provided additional evidence of satisfying five listed medical accounts. Though she has provided no evidence of counseling, there are clear indications she is making a good-faith effort to repay the past-due debts.

Whole-Person Concept

I have examined the evidence under the guideline for financial considerations in the context of the nine general factors of the whole-person concept 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 common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

I have carefully evaluated the disqualifying and mitigating conditions in the context of the entire record. Applicant is 34 years old and is raising two young children. In 2012, she received a certificate and collected some college credits. She had pregnancy-related problems in 2012 followed by unemployment for a three-year period between 2014 and 2017.

However, she has produced documentary proof of eliminating ten delinquent debts in a nine-month period between June 2022 and May 2023. In Guideline F cases, the DOHA Appeal Board has repeatedly held that, to establish her case in mitigation, an applicant must present a “meaningful track record” of debt repayments that result in debt reduction. See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007) While an applicant is not required to show that every debt listed in the SOR is paid, the applicant must show that she has a plan aimed at debt resolution and has taken significant action to implement the plan. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006) From the record presented, Applicant has demonstrated that she has a plan in place and has furnished documented evidence of paying off debts pursuant to that plan. After a full review of the entire record from an overall common-sense point of view, Applicant has mitigated the security concerns stemming from the guideline for 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.j:	For Applicant

Conclusion

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

Paul J. Mason
Administrative Judge