



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



In the matter of:)	
)	
[Name Redacted])	ISCR Case No. 21-02259
)	
Applicant for Security Clearance)	

Appearances

For Government: Erin Thompson, Esq., Department Counsel
For Applicant: Bonnie S. Gould, Esq.

01/29/2024

Decision

ERIN C. HOGAN, Administrative Judge:

On November 20, 2021, the Department of Defense (DOD) issued a Statement of Reasons to Applicant detailing security concerns under Guideline E, Personal Conduct, and Guideline F, Financial Considerations. The DOD acted under Executive Order (Exec. Or.) 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) implemented by the DOD on June 8, 2017. Applicant timely answered the SOR and requested a hearing. She denied all of the SOR allegations.

The case was assigned to me on August 11, 2023. The hearing was originally scheduled on November 14, 2023, but was continued and held on January 11, 2024. At the close of the evidence and after receiving the electronic transcript of the proceedings, I proposed to the parties that this case was appropriate for a summary disposition in Applicant’s favor. Applicant’s counsel did not object. Department Counsel had 10 days to consider the matter. On January 19, 2024, Department Counsel provided notice that they had no objection.

[Names and other identifiers have been redacted from the decision in the interest of Applicant's privacy. The case file contains the complete information.]

Applicant was terminated from a former employer on February 10, 2019, for allegations of: theft/embezzlement of at least \$5,000; making unauthorized expenditures in the amount of \$18,000; disrespectful treatment of subordinate employees; and disrespectful treatment of customers. Applicant worked for over 15 years for a female employer. This employer did not have great book-keeping standards. She oversaw the business well into her 90s when she began to have medical issues. Around 2016, the employer's niece and her niece's husband took over running the business. They were interested in turning the business into a for-profit enterprise. They gave Applicant additional duties of overseeing the financial operations in addition to her other duties. Applicant did not have a financial background.

In early 2019, Applicant had a legitimate disagreement with one of her subordinates. After this occurred, the subordinate and another subordinate alleged that Applicant was mishandling money from the business for her own gain. The niece's husband launched an investigation and concluded Applicant mishandled funds and embezzled money. Based on his conclusions, Applicant was terminated for cause.

During the hearing, the niece's husband testified, Applicant testified, two former customers who knew and worked with Applicant testified, and Applicant's mother testified. Upon review of the testimony and case file, the evidence consisted of hearsay statements and unfounded allegations. While the niece's husband sincerely believes Applicant embezzled funds from the business, the evidence was insufficient to conclude Applicant mishandled or embezzled funds. At most, there was evidence of negligence due to poor bookkeeping.

The SOR also alleged that Applicant falsified a September 23, 2019, electronic questionnaire for investigations processing application in response to Section 13 A – Employment Activities when she did not list that she was terminated for cause from her previous employment. She listed that she left by mutual agreement following notice of unsatisfactory performance. She also provided the contact information of her former employer's niece, who along with her husband was the one who terminated her. I conclude that Applicant's failure to disclose that she was "terminated for cause" was not deliberate. There was no indication that she intended to mislead the government about her employment history.

I find SOR ¶¶ 1.a, 1.b and 2.a for Applicant. I note the favorable references Applicant received. I also note that Applicant was hired by a DoD contractor in May 2019. Her duty performance is excellent and she is highly regarded by her supervisor. She lives with her parents and has no financial issues.

Based on the record evidence as a whole, I conclude that Applicant provided substantial evidence to disprove the allegations. The evidence is insufficient to create doubt about her reliability, trustworthiness, good judgment, and ability to protect

classified information. In reaching this conclusion, I weighed the evidence as a whole and considered if the favorable evidence outweighed the unfavorable evidence or *vice versa*. I also gave due consideration to the whole-person concept. Accordingly, I conclude that she met her ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant her eligibility for access to classified information. This case is decided for Applicant.

Erin C. Hogan
Administrative Judge