



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



In the matter of: )  
)  
) ISCR Case No. 23-00192  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Jeff A. Nagel, Esq., Department Counsel  
For Applicant: *Pro se*

02/26/2024

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**Decision**

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MURPHY, Braden M., Administrative Judge:

Applicant incurred delinquent debts several years ago due to the failure of her husband’s trucking business during the COVID pandemic. Once their finances stabilized, she established a responsible track record of repaying her creditors. All but two of the SOR debts are resolved and the remaining debts will be paid soon. She provided sufficient evidence to mitigate the security concern under Guideline F (financial considerations). Applicant’s eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on December 14, 2021, in connection with her employment in the defense industry. On February 15, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (CAS) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F. The CAS issued the SOR under Executive Order 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 within the DOD on June 8, 2017.

Applicant answered the SOR on March 3, 2023. She initially elected to have her case decided by an administrative judge from the Defense Office of Hearings and Appeals (DOHA) on the administrative (written) record, instead of a hearing. In an email to DOHA personnel on April 18, 2023, she changed her mind and requested a hearing. The case was assigned to me on October 31, 2023. On November 15, 2023, DOHA issued a notice scheduling a video-teleconference hearing for December 11, 2023.

The hearing convened as scheduled. Department Counsel offered documents that I marked as Government's Exhibits (GE) 1 through 7. Applicant testified and submitted documents that I marked as Applicant's Exhibits (AE) A through H. All exhibits were admitted without objection. At the end of the hearing, I held the record open until December 20, 2023, to provide Applicant the opportunity to supplement the record.

On December 14, 2023, Applicant submitted an updated chart regarding the status of her SOR debts (AE I) and multiple new exhibits in support (AE J – AE T). All are cited in the Facts section, below. All her post-hearing exhibits were admitted without objection. The record closed on December 18, 2023, when she said she had no further documents to submit. DOHA received the hearing transcript (Tr.) on December 26, 2023.

### **Findings of Fact**

In Applicant's answer to the SOR, she admitted each debt alleged (SOR ¶¶ 1.a-1.k). She also provided a chart detailing the status of each debt alleged, and a narrative explanation. Her admissions are accepted as findings of fact. Additional findings follow.

Applicant is 44 years old. She has a bachelor's degree. She has been employed in the defense industry since at least 2001, with a clearance. She has worked for her current employer since 2012. She is currently a technical writer. Applicant and her future husband met in 2011, and were in a long-term relationship together until they married in March 2021. They have no children together. (GE 1; Tr. 12, 18-19. 81-82)

With Applicant's help, her husband, then her boyfriend, started a trucking business in 2014. In about 2016 or 2017, his trucks needed costly maintenance and repairs. They took out loans in both their names to help the business. The COVID pandemic crippled his company in early 2020, and their financial problems worsened from there. She trusted him to handle the finances of the business. All the SOR debts relate to this circumstance, as Applicant testified throughout the hearing that she took out credit accounts to get him set up in the business. She had no prior financial problems. After his business failed, he got a stable, well-paying job in auto sales in December 2020, and they began addressing their debts. She owns their home, and they recently refinanced the mortgage, using some of the equity to address their debts. (Tr. 18-19, 81-82)

Applicant learned a hard lesson about tying her credit to someone else, particularly before marriage. After receiving the SOR, Applicant talked to her security officer and learned that she remained responsible for many of her delinquent debts, like charge offs or debts in collection. (Tr. 18-19, 38-45, 80-81).

Applicant disclosed several debts on her December 2021 SCA and discussed them in her April 2022 background interview. They are established by credit reports from November 2021, January 2022, August 2022, and March 2023. (GE 2 – GE 6) The Government also added a December 2023 credit report before the hearing. (GE 7) The debts in the SOR total about \$107,500.

SOR ¶ 1.a (\$9,229) is the amount owed to Bank S from a judgment entered against Applicant in 2021. The debt concerns a past-due consumer credit card that H used for gas. The debt was resolved as of May 2023, through the equity in her home when they refinanced. (Tr. 52-55, 68-69; AE G AE I, AE J) This is the same debt as SOR ¶ 1.h (\$6,270), an account placed for collection by a bank. (Tr. 77-78)

SOR ¶ 1.b (\$13,264) is the amount owed to a credit union on a judgment entered against Applicant in 2019. The amount, \$14,901 with fees and costs, was paid in full in May 2023. The debt concerned one of her husband's trailers from the trucking business. (Tr. 55-57; AE I, AE K)

SOR ¶ 1.c (\$1,827) is the amount owed to Bank C on a judgment entered against Applicant in 2019. During her testimony, she was unsure what this debt concerned. However, she later provided a letter from Bank C's successor, Bank G, reflecting that she had a checking account there that was charged off in September 2019, with a balance due of about \$416. The account was paid in full in March 2020. (Tr, 57; AE I, AE L)

SOR ¶ 1.d (\$36,749) is a charged-off auto debt. (GE 7) This debt concerns Applicant's husband's truck that he used to haul the trailer for his business. The amount is the charged-off remainder after the vehicle was sold at auction. Applicant put her name on the vehicle so he could buy it, in about 2014 or 2015. They fell behind on payments during the COVID pandemic. In 2023, they negotiated a settlement of \$20,000, with \$2,000 monthly payments beginning in April or May 2023. As of December 2023, \$12,000 had been paid and \$8,000 remained. (Tr. 58-61, 73; AE A, AE, AE M) This debt is being resolved.

SOR ¶ 1.e (\$21,939) is a charged-off auto debt. This is another of Applicant's husband's trucks. The amount is the charged-off remainder after the vehicle was sold at auction. In April 2023, the creditor initially offered to settle the debt for \$15,000, in six installments. (AE A) By December 2023, the balance had been reduced to just under \$19,000. The creditor offered a new settlement, for \$8,500, with one payment of \$1,416 due in December 2023, and six payments of \$1,181, with final payment due in early June 2024. (AE I, AE N; Tr. 61-63, 74-76) This debt is being resolved.

SOR ¶ 1.f (\$6,854) is a bank credit card with a hardware store, an account placed for collection. The account, another one Applicant set up for her husband, was paid in full as of May 2023. (AE G, AE I, AE O; Tr. 63-67)

SOR ¶ 1.g (\$5,709) is an account placed for collection by Bank C. This account is another that Applicant set up for her husband's business. She provided a satisfaction of judgment showing that this account has been paid. (AE I, AE P; Tr. 67-68)

SOR ¶ 1.i (\$3,355) is an account placed for collection by Bank S. This account is another that Applicant set up for her husband's business. She made payments totaling \$7,183 to resolve this account, and it was satisfied in August 2023. (Tr. 68-69, 78; AE F, AE I, AE Q)

SOR ¶ 1.j (\$1,458) is a charged-off credit account that was used for Applicant's husband to purchase tires for his business. In February 2023, the creditor offered to settle the account for \$875, which she promptly paid with a credit card. (Tr. 69; AE I, AE S)

SOR ¶ 1.k (\$797) is a charged-off credit card from a tire company. As with other debts, Applicant took out the account to help her husband with his business. The account was settled and paid in August 2023. (Tr. 69-70; AE I, AE T)

Applicant has an annual salary of \$105,000, a 401(k) pension with about \$65,000, and about \$10,000 in savings. Since her husband changed careers in December 2020 to become an auto salesman, their finances have stabilized. She estimated that her husband would earn about \$250,000 in annual income by the end of 2023. She is now actively involved in the family finances and is the one who pays the bills. They have a joint bank account. She is also trying to pay down other household debts beyond the SOR accounts. She has no new credit cards or debts. She took a course at work through a nationally known and reputable credit counseling service that teaches clients the "snowball" way of paying debts (smallest debt first, one by one). They have no past-due taxes or returns. Her plan is to continue to resolve the two debts that remain. (Tr. 19, 46-52, 66, 70-71, 81-87; GE 7)

Applicant is highly experienced and highly rated at work, earning ratings of either "Outstanding" or "Exceeds Expectations" across the board in recent performance evaluations. (AE B, AE C) Two supervisors of either 4 or 10 years of experience working with Applicant, as well as her facility security officer (FSO) attested to her ability to get along with others, her dependability, accountability, integrity, judgment, responsibility, trustworthiness, and overall clearance worthiness. (AE D)

## **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 the Navy v. Egan*, 484 U.S. 518, 531 (1988)

The adjudicative guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines 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 access to classified information 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 avoided drawing 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 as to obtaining 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 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.

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for financial considerations is set out, in relevant part, 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. . . .

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. 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. Applicant incurred numerous financial responsibilities starting in about 2014 when she helped her thenboyfriend, now her husband, start a trucking business. The business failed during the COVID pandemic in 2020, and the accounts all became delinquent. The disqualifying conditions at AG ¶¶ 19(a) (inability to satisfy debts) and 19(c) (a history of not meeting financial obligations) both apply.

The following mitigating conditions under AG ¶ 20 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; and

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

All the delinquent debts in the SOR were accounts Applicant set up years ago, in helping her thenboyfriend, now husband, start his trucking business. This included financing of multiple trucks, related tire and other accounts, as well as consumer credit cards. The business failed in 2020, the year the COVID pandemic started. Applicant's efforts to help her husband were well-intentioned, but she learned through experience the risks that resulted when things later got out of hand. She testified credibly about the impact this had on her, and I believe her when she says she will not make this mistake again. Her husband soon took a new job as an auto salesman, has prospered, and now makes about \$250,000 annually, she estimated. They began using a reputable credit counseling service and have steadily paid down their debts. She provided extensive documentation of her efforts. All but two of the accounts (SOR ¶¶ 1.d and 1.e) have been paid in full or have been settled and resolved. These last two debts are under a reasonable and responsible repayment plan and look to be resolved soon. They have incurred no new debts and their financial stability has steadily improved. Applicant also has a long career as a cleared employee in the defense industry and is highly respected and highly trusted in her job. The above mitigating conditions fully apply.

