



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



In the matter of:	)	
	)	
COOPER, Quiana L.	)	ISCR Case No. 23-01400
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Mark Lawton, Esq., Department Counsel  
For Applicant: *Pro se*

04/25/2024

**Decision**

BENSON, Pamela C., Administrative Judge:

Applicant lost employment, which was soon followed by a divorce, which caused her to experience financial indebtedness. Notwithstanding these circumstances beyond her control, she has not provided sufficient evidence to establish that she has acted responsibly to address and resolve her financial delinquencies in a timely manner and when she had the financial means to do so. Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On July 31, 2023, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudication Services (CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The DCSA CAS acted under Executive Order (EO) 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 implemented by the DOD on June 8, 2017.

In Applicant’s October 5, 2023 response to the SOR (Answer), she admitted both allegations regarding the two delinquent debts alleged under Guideline F. She did not

provide an explanation or additional information with her Answer. She requested a hearing before an administrative judge. The case was assigned to me on December 27, 2023. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on February 15, 2024, setting the hearing for March 5, 2024. The Microsoft Teams video-teleconference hearing was held as scheduled.

During the hearing, Department Counsel offered Government Exhibits (GE) 1 through 4, and Hearing Exhibits (HE) 1 and 2. Applicant testified but did not offer any documents. The proffered exhibits were admitted into evidence without objection. I held the record open for two weeks in the event either party wanted to supplement the record with additional documentation. Applicant timely submitted four documents I labeled as Applicant Exhibits (AE) A through D, which were admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on March 12, 2024, and the record closed on March 19, 2024.

### **Findings of Fact**

Applicant is 44 years old. She was married in November 2008 and divorced in September 2010. She married a second time in September 2019 and was divorced in January 2022. She has one adult daughter and a 13-year-old daughter. In 2002 she attended college classes but did not earn a degree. She attended a truck-driving school in 2018 and received her diploma. Since then, she has worked as a long haul over-the-road truck driver. She is currently being sponsored by a government contractor for a security clearance, and her employment is conditional on her obtaining security clearance eligibility. She is currently working full time for another company as a truck driver, and she earns approximately \$1,600 to \$1,800 a week. Every couple of months she hauls cars with a family member to earn additional income, and she makes about \$1,600 a week doing this type of extra work. This is her first application for a security clearance. (Tr. 20-25, 27; GE 1)

### **Financial Considerations**

From May 2019 to February 2021, Applicant was employed in a company with her now ex-husband. Their trucking company started operating after they were married in 2019, and the company eventually had an inventory of approximately 24 trucks that were either financed or leased. She stated that the financial problems started in 2019 after they purchased five trucks from a broker and put the trucks in her name. They did not have a mechanic inspect the trucks before the purchase was finalized, which was a huge mistake because she stated all five trucks were "lemons." They spent too much money repairing the trucks, or lost money when an inoperable truck was parked without the ability to earn income. The costly repairs and unearned income from inoperable trucks continued, and they could no longer keep up with their overwhelming business expenses. Applicant found another truck driving employment in early 2021. (Tr. 26-29; GE 1)

SOR ¶ 1.a alleges that Applicant is indebted to a creditor in the amount of approximately \$28,595, the deficiency balance due after a tractor-trailer truck was

involuntarily repossessed in about March 2022. She admitted this debt in her Answer, and she testified that this truck was purchased in about October 2019 for their business. The last payment made on the truck loan occurred in late 2021. (Answer; Tr. 29-38)

Applicant stated that the divorce was finalized in January 2022, and the court did not order anyone to pay a monetary settlement to the other party in the divorce decree. They both were held responsible for their own liabilities. During her November 21, 2022, background interview, she told the investigator that she intended to begin making payments on this account and intended to have it fully resolved in the next couple of years. She was also enrolled in credit counseling. She had contacted the creditor on multiple occasions, with the last contact occurring in October 2023. During the hearing, she admitted she had not yet made any payments on this debt. Two days after the hearing, on March 7, 2024, she entered into a settlement agreement with the creditor. She agreed to begin making consecutive payments of about \$799 a month for the next 48 months, with the first payment due on March 20, 2024. She provided an authorization agreement to have the payments withdrawn directly from her bank account. (Answer; Tr. 29-38; AE B)

SOR ¶ 1.b alleges that Applicant is indebted to a creditor in the amount of approximately \$21,964, the deficiency balance due after a tractor-trailer truck was involuntarily repossessed. She admitted this debt in her Answer, and she testified that this truck was purchased in about October 2019 for their business. During her November 2022 background interview, she indicated that she planned to fully resolve this account within the next couple of years. She could not recall when the last payment was made. She last had contact with the creditor in December 2023, and she admitted that as of the day of the hearing she had not made any payments or payment arrangements for this debt because the creditor wanted the balance paid in full. Following the hearing, she submitted a letter dated March 31, 2021, which detailed the amount of the truck sale proceeds that had been applied to her unpaid loan balance, referred to as the “Deficiency Letter.” On March 7, 2024, Applicant provided an email from the creditor which stated:

We have received your email. (Note: Her email was not provided.) We can accept any amount on any date. Please keep in mind it needs to be via wire, money gram, or check. (Answer; Tr. 38-41; AE A)

Applicant provided a personal financial statement. After deducting her monthly expenses from her monthly income, to include monthly payments of approximately \$799 to the creditor alleged in SOR ¶ 1.a, and \$300 monthly payments to the creditor alleged in SOR ¶ 1.b, she was left with a monthly net remainder of \$252. (AE D)

### **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially

disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These 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(c), 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 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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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 for financial considerations 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. . . .

The guideline notes several 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 two delinquent accounts total approximately \$50,560. These debts have been delinquent since at least 2021 and remain delinquent. AG ¶¶ 19(a) and 19(c) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable in this case:

- (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 has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in her debt-resolution efforts or required to be debt-free. "Rather, all that is required is than an applicant 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). See, e.g., ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014).

Applicant attributed her financial delinquencies to loss of employment and her divorce, which were conditions beyond her control. There is no evidence of any debt-resolution efforts from early 2021, when she found other employment, to July 2023, after the SOR was issued. Both delinquent accounts remain unpaid despite her promise to start making payments during her November 2022 background interview. The absence of reasonable efforts undertaken by her to resolve these long-standing financial delinquencies causes security concerns.

It is well-established that the timing of debt payments is a relevant consideration for a judge to use to evaluate whether an applicant has acted in a reasonable and responsible manner in addressing financial problems. For example, to receive full credit under Mitigating Condition 20(d), an applicant must initiate and adhere “to a good faith effort to repay overdue creditors or otherwise resolve debts.” AG ¶ 20(d). Applicant’s recent actions to arrange payment plans for her delinquent debts two days after the hearing is too late to warrant full mitigating credit under AG ¶ 20(d).

Under AG ¶ 20(b), Applicant must establish circumstances largely beyond her control *and* that she acted responsibly under the circumstances. Notwithstanding the financial hardship due to her unemployment and divorce, and the purchase of defective trucks, Applicant has not established that she acted responsibly to address and resolve her delinquent accounts despite being employed for the past three years. I am unable to find that her current financial situation is under control or that additional financial problems will not develop in the future. None of the financial mitigating conditions fully apply. Applicant did not mitigate the financial considerations security concerns.

### **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 relevant 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.

Under AG ¶ 2(c), 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. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances

surrounding this case. I have incorporated my comments under Guideline F and the factors in AG ¶ 2(d) in this whole-person analysis.

I am unable to reach a positive conclusion pertaining to Applicant's eligibility for a security clearance. She has shown little voluntary efforts to address her delinquent debts after she promised to start resolving these debts following her November 2022 background interview. Considering the lack of evidence regarding her good-faith efforts to responsibly resolve these accounts until after the hearing was concluded, her financial history raises unmitigated questions about her reliability, trustworthiness, and ability to protect classified information.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards establishing a track record of financial responsibility, and a better record of behavior consistent with her obligations, she may well be able to demonstrate persuasive evidence of her security clearance worthiness.

I have carefully applied the law, as set forth in Egan, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate financial considerations security concerns.

### **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:	AGAINST APPLICANT
Subparagraphs 1.a. and 1.b.:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Pamela C. Benson  
Administrative Judge