



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



In the matter of:)	
)	
)	ISCR Case No. 23-02047
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Aubrey De Angelis, Department Counsel
For Applicant: *Pro se*

06/12/2024

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On June 27, 2022, Applicant submitted a security clearance application (e-QIP). On September 15, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCAS CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant answered the SOR on November 18, 2023, and requested a hearing before an administrative judge. The case was assigned to me on January 4, 2024. The Defense Office of Hearings and Appeals issued a notice of hearing on February 14, 2024, and the hearing was convened as scheduled on March 6, 2024. The Government

offered seven exhibits, referred to as Government Exhibits 1 through 7, which were admitted without objection. Applicant offered twenty exhibits, referred to as Applicant's Exhibits A through T, which were admitted without objection. Applicant testified on her own behalf. The record remained open following the hearing, until close of business on March 13, 2024, to allow Applicant the opportunity to submit additional supporting documentation. Applicant submitted one Post-Hearing Exhibit, referred to as Applicant's Post-Hearing Exhibit M, which was admitted into evidence without objection, and will be substituted for Applicant's Exhibit M admitted at the hearing. DOHA received the final transcript of the hearing (Tr.) on March 14, 2024.

Findings of Fact

Applicant is 45 years old. She is divorced and has two children. She has a Bachelor's degree and military training. She holds the position of Senior Cyber Analyst for a defense contractor. She is seeking to obtain a security clearance in connection with her employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because she made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness and ability to protect classified information.

The SOR alleged that Applicant is indebted to ten separate creditors for accounts that were charged off or placed for collection totaling approximately \$66,398. In her answer, Applicant denies each of the allegations, except allegations 1.g., and 1.i. which she admits. She testified that she should have admitted all of the debts but was unsure how to do it since she was working to pay them off, and the amounts she owed were not the same as what was listed in the SOR. (Tr. pp. 78-79.) Credit reports of the Applicant dated March 5, 2021; October 13, 2022; September 14, 2023; and January 2, 2024, confirm that she was at one time indebted to each of the creditors listed in the SOR. (Government Exhibits 4, 5, 6, and 7.)

Applicant served on active duty in the U.S. Air Force from 2002 to 2006 and received an Honorable Discharge. She currently receives disability benefits from the VA in the amount of \$1,300 monthly. She began working for her current employer in June 2019. Since then, she has received a raise and a promotion and earns \$110,000 annually and receives profit sharing benefits of between \$2,000 and \$2,500 annually. (Tr. p. 43.)

Applicant was married to her husband from 2004 to December 2020. They separated in July 2018, and divorced in 2020. The divorce decree gives them equal custody of their two children, but in terms of physical custody, Applicant has about 90 percent. Her ex-husband lives out of state. Her children visit him one month in the

summer, and alternating holidays either Thanksgiving or Christmas. She receives \$1,900 in child support and \$220 in alimony monthly. (Tr. p. 41.)

Applicant stated that she absorbed most of the debt from the marriage when she divorced. The debts became delinquent when she and her husband separated. These delinquent debts were mainly delinquent credit cards accounts that she used to purchase home goods, household items, and clothing. (Tr. p. 42.)

In September 2019, while still married, Applicant learned that her home was in pre-foreclosure. She had been giving her husband \$1,000 monthly to pay the bills, and he was using it to pay his own credit cards and not the mortgage payments. The mortgage fell so far behind that in January 2020, they sold their home for \$5,000 less than what was owed. She borrowed \$5,000 from family and friends to cover what was owed to the bank. (Tr. pp. 43-44.)

Applicant became aware of her delinquent debts in 2019. She started working with a financial counseling agency to assist her in resolving them. For about ten months she paid the agency \$750 a month until she realized that their program was not helping her. Although Applicant made a few payments towards a debt, her payments were interrupted when she could no longer afford to make them. Applicant did not start showing any significant progress toward resolving her delinquent debts until after receiving the SOR. In October 2023, she “cashed out” \$30,000 from her 401(K), to pay some of her delinquent accounts. (Tr. p. 52.)

The following delinquent debts listed in the SOR are of security concern:

1.a. Applicant is indebted to a bank for an account that has been charged off in the approximate amount of \$2,733.00. The account was delinquent and had a past balance due of \$2,683. In November 2023, Applicant settled the debt for \$1,072, which was less than the full balance due. (Tr. p. 55, and Applicant’s Exhibits D and E.) The debt is no longer owing.

1.b. Applicant is indebted to a creditor for account #542418110010 placed for collection in the approximate amount of \$16,065. This was a credit card that Applicant used when she got involved in a multi-level marketing program and purchased frivolous things she really did not need. She has recently set up a payment plan requiring her to pay \$289 every month until the debt is paid in full. (Tr. p. 57, and Applicant’s Exhibits F and G.) The bulk of the debt remains owing.

1.c. Applicant is indebted to a creditor for account #54218127303 placed for collection in the approximate amount of \$6,928. This was a credit card that Applicant used for household items. She made sporadic payments in 2023 and in February 2024. She has set up a payment plan requiring her to pay \$115 every month until the debt is paid in full. Applicant’s Exhibit H shows that the balance on the account is currently \$6,466.55. (Tr. p. 58.) The debt remains owing.

1.d. Applicant is indebted to a bank for account that was charged-off in the approximate amount of \$14,109. The account was delinquent and had a remaining balance of \$11,043. Applicant stated that her ex-husband has taken responsibility for the debt and has paid it off. It is no longer reflected as owing on Applicant's Experian credit report. (Tr. p. 60, and Applicant's Exhibits I and J.)

1.e. Applicant is indebted to a creditor for account #SYNCH-1919302700 that was placed for collection in the approximate amount of \$809. Applicant stated that she settled the debt in full in the amount of \$550 in November 2023. (Tr. 60-61.) Applicant's Exhibits K and L show a balance owing of \$234, but Applicant contends that the information is not correct. (Tr. p. 63.) The debt remains owing.

1.f. Applicant is indebted to a creditor for account #SYNCH-1918324719 that was placed for collection in the approximate amount of \$5,607. Applicant believes that this debt might have been her purchase of Ashley Furniture, but she is not certain. Applicant set up a payment plan with the creditor and paid a lump sum of \$3,000 toward the debt in November 2023, and then she has eight payments of \$101.03, which she has been making, to resolve the debt. (Applicant's Exhibits N and O.) Applicant's Exhibit P shows the current balance on the account of \$2,204. Her last payment on the account will be on August 1, 2024, in the amount of \$101.03, and the debt will be paid in full. (Tr. pp. 66-67.)

1.g. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$4,794. This was a delinquent credit card opened in April 2011 and last paid in October 2019. Applicant tried to set up a payment plan with the creditor and they wanted three equal payments to resolve the debt, which Applicant could not afford. The balance remains owing. (Tr. p. 68.)

1.h. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$8,628. This is a delinquent credit card opened in 2014. Applicant set up a payment plan requiring her to pay \$150 every month until the debt is paid in full. She has reduced the debt to \$7,800. The bulk of the debt remains owing.

1.i. Applicant is indebted to a creditor for an account that was charged off in the approximate amount of \$8,172. This was a delinquent credit card opened in 2008 and was used to purchase clothing and furniture at Macys. The account remains delinquent and has a past due balance of \$5,175. Applicant tried to set up a payment plan with the creditor but could not afford their proposal. (Tr. p. 70.) The debt remains owing.

1.j. Applicant is indebted to a creditor for a medical account placed for collection in the approximate amount of \$5,066. This debt was for private medical services that Applicant receives for her migraine headaches. She receives Botox injections in her scalp quarterly and a self-injection monthly. (Tr. p. 71.) Applicant settled the debt for \$3,925. (Tr. p. 72, and Applicant's Exhibits R and S.) The debt is no longer owing.

Applicant admits that she currently owes about \$40,000 in delinquent debt. (Tr. p. 85). She earns \$110,000 annually in salary. She receives \$1,300 in disability,

\$1,900 in child support, and \$200 in alimony monthly. (Tr. pp. 85-86) She stated that she has no savings account. She has \$7,000 in her checking account, and \$25,000 in her 401k. After paying her regular monthly expenses including her rent, her car payment, utilities, and food, she has nothing left at the end of the month in discretionary funds available to pay her delinquent debts. (Tr. p. 91.)

Each month, Applicant spends excessively on luxuries such as Door Dash and Instacart. She stated that together, she spends about \$1,500 monthly on these grocery services or meals.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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." 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, 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 clearance 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 as to 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. 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

- (a) inability or unwillingness to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicted by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators.

Applicant has a history of financial hardship brought on by her recent divorce, and excessive spending. Her actions or inactions both demonstrated a history of not addressing her debt and an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under AG ¶ 20.

- (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, or a death, divorce, or separation), and the individual acted responsibly under the circumstances;
- (d) the individual initiated and is adhering to a good faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's recent divorce and her excessive spending have contributed to her financial problems. She has recently directed her focus at resolving her delinquent debts. She realizes that in order to be eligible for a security clearance she must be responsible and trustworthy in every aspect of her life, including her finances. At this point, she has paid of or settled two of her delinquent debts, her husband has paid off another, and she is making monthly payments to resolve another. She stated that she has contacted each of her creditors and has tried to set up payment plans, however several creditors are not interested in her offers. Other creditors have allowed her to set up payment plans that she states she is trying to follow. However, at this point, she has not demonstrated a track record of payments, or systematic monthly payments, that have continued over an extended period of time without interruption to show that she is financially responsible.

Applicant offered that she has recently modified her spending habits to be more financially responsible by selling her more expensive car and purchasing a less expensive car. However, she continues to spend a significant amount of money on other luxuries that she does not need, particularly Door Dash and Instacart services, when she could be using that money to resolve her delinquent debts. This does not show good judgment or financial responsibility. In fact, Applicant continues to show poor judgment and unreliability when it comes to her finances. Mitigating condition 20(b), although applicable, does not show full mitigation.

There is some evidence in the record to show that Applicant has been trying to resolve some of her delinquent debt. However, she remains excessively indebted, and still owes about in excess of \$40,000 to her creditors. Under the circumstances she has not shown the requisite good judgment and responsibility to access classified

information. She is a work in progress. At this time, there is insufficient evidence in the record to show that the Applicant has carried her burden of proof to establish mitigation of the government security concerns under Guideline F.

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. Applicant must continue to follow through with her commitment to show financial responsibility. She is not there yet. She must demonstrate that she can resolve her debts, that she can live within her means, and show that she is financially responsible. At this time, she fails to meet these requirements.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has not mitigated the Financial Considerations security concern.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a., 1.d., 1.f., and 1.j	For Applicant
Subparagraphs 1.b., 1.c., 1.e., 1.g., 1.h., 1i.	Against Applicant

Conclusion

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

Darlene Lokey Anderson
Administrative Judge