



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



In the matter of: )  
)  
) ISCR Case No. 23-01953  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andrew H. Henderson, Esq., Department Counsel  
For Applicant: *Pro Se*

07/24/2024

---

**Decision**

---

COACHER, Robert E., Administrative Judge

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On September 21, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (CAS) issued Applicant a statement of reasons (SOR) detailing security concerns under Guideline F, financial considerations. The 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 (AG) effective on June 8, 2017.

On October 27, 2023, Applicant answered the SOR and requested a hearing before an administrative judge. The case was assigned to me on February 20, 2024. I initially notified Applicant by email on February 23, 2024, of the proposed hearing date of March 18, 2024. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on March 5, 2024, setting the hearing on March 18, 2024. The hearing was held as scheduled. The Government offered exhibits (GE) 1 through 6, which were admitted into evidence without objection. The Government's discovery letter to Applicant was marked as hearing exhibit (HE) I and its exhibit list was marked as hearing HE II. Post-hearing,

the Government offered GE 7 (a credit report dated March 18, 2024). I sent Applicant an email on March 18, 2024, asking if she had objections to GE 7. She responded, but she did not object to the admission of GE 7. I admitted GE 7. My email admitting GE 7 is marked as HE III.

Applicant testified and offered two exhibits at the hearing, which were marked as AE A-E, and admitted without objection. Post-hearing Applicant submitted AE F, which was admitted without objection. DOHA received the hearing transcript (Tr.) on March 29, 2024.

### **Findings of Fact**

In her SOR answer, Applicant admitted some of the allegations and denied others. Her admissions are adopted as findings of fact. I make the following additional findings of fact.

Applicant is a 44-year-old employee of a federal contractor. She has worked for her current employer since September 2022 as a security officer. She is a high school graduate who has taken some college courses, off and on since 1999. She married in 2008 and divorced in 2012. She has no children. She provides financial support for her elderly father and her older brother. (Tr. 6, 25-26, 28, 32, 35; GE 1)

The SOR alleged, under Guideline F, four delinquent accounts (the larger two are a car loan, and student loans) totaling approximately \$79,000. (SOR ¶¶ 1.a - 1.d) The debts are established by credit reports from October 2022, June 2023, November 2023, and March 2024; her October 2022 background interview; her admissions to interrogatories in March 2023; and her admissions in her SOR answer. (GE 2-7; SOR answer)

Applicant attributed her financial problems to several contributing factors. She testified that in 2000 she was involved in a serious car accident that resulted in her suffering from traumatic brain injury (TBI). Because of the injury, she realigned her employment prospects to jobs that would not exacerbate her TBI. Working as a security guard met that criterion. (Tr. 24-25)

The status of the SOR debts is as follows:

**SOR ¶ 1.a-\$8,347**. This is the deficiency amount resulting from a voluntary car repossession. Appellant admitted this debt. She stated that she voluntarily returned the car to the dealership where she bought it because it kept breaking down and she believed it was a "lemon." She admitted she did not know what the state's lemon law required her to do. This debt is reflected on her March 2024 credit report as a charged-off account, with the last action on the account occurring in July 2018. She decided to let this account fall off her credit report. This debt is unresolved. (Tr. 27, 40; GE 2 (p. 3), 4, 7)

**SOR ¶ 1.b-\$274**. This is an insurance debt. Applicant presented documentation showing she reached a settlement on this account by paying the creditor \$274 in October 2023. This debt is resolved. (Tr. 28; AE B)

**SOR ¶ 1.c-\$70,334.** Applicant admitted incurring these student loans. The student loans were from college courses she took in approximately 2010 to 2011. They also include her 1999-2003 college attendance. She believes her current student loan indebtedness is approximately \$61,000, but she presented no documentation supporting that amount. These loans were in a collection status with a date of last activity in May 2018. Applicant's plan to address these student loans is to save \$800 to pay the student loan servicing agent to rehabilitate the loans. Once rehabilitated, she can qualify for an income-based payment plan. So far she has not been able to save up the \$800. She has not made any voluntary payments toward her student loans in years. Several times her income tax refund was captured and applied toward these loans. This debt is unresolved. (Tr. 32-35, 37, 39, 52; GE 4)

**SOR ¶ 1.d-\$591.** Fee Applicant incurred for driving a taxi. Appellant does not believe she owes this amount. She disputed the debt through a credit reporting service, and it was removed from her report. This debt is resolved. (Tr. 26; GE 3 (p. 2); AE C)

Applicant's monthly net income is approximately \$4,400. She is current on her rent payments and her truck payments: She prepared a personal financial statement in March 2023 as part of answering interrogatories, where she listed her monthly expenses of approximately \$3,101. (Tr. 49; AE 2 (p. 8))

### **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 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, these guidelines are applied 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 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.

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 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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**

AG ¶ 18 expresses the security concern for financial considerations:

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. I have considered all of them under AG ¶ 19 and the following potentially apply:

- (a) inability to satisfy debts; and
  
- (c) a history of not meeting financial obligations.

Applicant has a history of financial difficulties. She incurred four delinquent debts totaling approximately \$79,000. The two larger debts remain unpaid. She first incurred her student loans in 1999 and they remain unpaid. I find all disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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;
- (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 debts are recent because they are ongoing and, although she paid one of the debts and successfully disputed a second debt, she failed to address the two remaining debts, which comprise the greatest portion of the overall debt amount. AG ¶ 20(a) is not applicable.

Although Applicant's car accident was a circumstance beyond her control, she did not act responsibly concerning the debts when she failed to follow through with a payment plan for her student loans or follow the procedures to invoke the state's lemon law to dispute owing on her car debt. Instead, she just voluntarily turned the car back into the dealer and washed her hands of the transaction. AG ¶ 20(b) is not applicable.

Applicant presented no evidence of receiving financial counseling. There are no clear indications that the problem is being resolved or is under control. She indicated an intent to save enough money (\$800) to rehabilitate her student loans, but she failed to produce any documentation showing that she has taken such action. Her track record to date does not support a good financial picture. She has had financial difficulties for a number of years. Based upon her past history, there is no reason to believe that she will right her financial ship in the near future. While she did resolve two debts, this action is too little, too late. Applicant's financial problems are not under control. AG ¶ 20(c) does not apply. AG ¶ 20(d) applies only to SOR ¶ 1.b. Applicant successfully disputed one debt. AG ¶ 20(e) applies to SOR ¶ 1.d.

## 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 the 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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline. I considered her accident that resulted in her TBI. However, Applicant has not established a meaningful track record of debt management, which causes me to question her ability to resolve her debts in the future.

Overall, the record evidence leaves me with question and doubts about Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant has not mitigated the 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, 1.c:  | Against Applicant |
| Subparagraphs: 1.b, 1.d:  | For 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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Robert E. Coacher  
Administrative Judge