

KEYWORD: Financial

DIGEST: Applicant is 41 years old and has worked as a librarian for a federal contractor since January 2005. She has a delinquent debt dating back to 1995 and others that were charged off in 2001 and 2004. Applicant has not contacted the creditor on her largest debt of over \$22,000. She has contacted other creditors and negotiated payment plans but did not provide proof that she has actually made any payments. Applicant received \$18,000 in severance pay when she was honorably discharged from the Army in 2004. She did not use the money to repay her debts, and none of the severance pay remains. Applicant failed to mitigate the security concerns raised under Guideline F, financial considerations. Clearance is denied.

CASENO: 06-18578.h1

DATE: 05/03/2007

DATE: May 3, 2007

In re:	)	
	)	
	)	
-----	)	ISCR Case No. 06-18578
SSN: -----	)	
	)	
Applicant for Security Clearance	)	
	)	

**DECISION OF ADMINISTRATIVE JUDGE  
CAROL G. RICCIARDELLO**

**APPEARANCES**

**FOR GOVERNMENT**

John B. Glendon, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant is 41 years old and has worked as a librarian for a federal contractor since January 2005. She has a delinquent debt dating back to 1995 and others that were charged off in 2001 and 2004. Applicant has not contacted the creditor on her largest debt of over \$22,000. She has contacted other creditors and negotiated payment plans but did not provide proof that she has actually made any payments. Applicant received \$18,000 in severance pay when she was honorably discharged from the Army in 2004. She did not use the money to repay her debts, and none of the severance pay remains. Applicant failed to mitigate the security concerns raised under Guideline F, financial considerations. Clearance is denied.

### **STATEMENT OF THE CASE**

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan. 2, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on December 21, 2006, detailing the basis for its decision—security concerns raised under Guideline F (financial considerations) of the revised Adjudicative Guidelines issued on December 29, 2005, and implemented by the Department of Defense effective September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued. Applicant answered the SOR in writing on January 4, 2007, and elected to have a hearing before an administrative judge. The case was assigned to me on March 5, 2007. With the consent of the parties, I convened a hearing on April 16, 2007, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government offered three exhibits that were marked as GE 1-3 and admitted without objections. Applicant testified on her behalf and offered eight exhibits that were marked as AE A-H and were admitted without objections. DOHA received the hearing transcript (Tr.) on April 26, 2007.

### **FINDINGS OF FACT**

Applicant's admissions to the allegations in the SOR are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 41 years old. She has worked as a librarian for a federal contractor since January 2005. She served in the Army for more than 16 years.<sup>1</sup> She was released from the Army due to her failure to provide a family care plan.<sup>2</sup> This plan is a requirement for all dual active duty couples to ensure their children are properly cared for in the event both parents are deployed. Applicant did not provide an explanation for why she and her husband did not execute a plan.<sup>3</sup> She was honorably discharged in the rank of sergeant, and received \$18,000 in severance pay. Her husband remains on

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<sup>1</sup>Tr. 30.

<sup>2</sup>Tr. 31-32.

<sup>3</sup>Tr. 33.

active duty. Upon Applicant's release from active duty in March 2004, she was unemployed until January 2005.<sup>4</sup> She lives on post in government housing. She operates a home business and earns approximately \$500 a month in income.<sup>5</sup>

Applicant has a 14 year old son from a previous marriage and a six year old child with her present husband. She and her husband were married in 2002. He deployed to South Korea in December 2003, has voluntarily extended his deployment, and remains overseas.<sup>6</sup> Applicant and her husband have been separated since 2004, and she is planning on obtaining a divorce. She does not receive, nor has she not sought child support from him or assistance from his command to receive it. She has not sought military legal assistance to assist her in obtaining support from her husband.<sup>7</sup> She has not sought any legal advice. Once she is divorced she will no longer be authorized government housing.

The delinquent debts listed in SOR 1.a and 1.b are for credit cards that Applicant obtained in her own name prior to her marriage and are not held jointly.<sup>8</sup> Both debts were charged off in 2001, while Applicant was still in the Army and receiving pay.<sup>9</sup> She did not have a reason for not paying the debts.<sup>10</sup> On March 28, 2007 and April 13, 2007,<sup>11</sup> she reached a settlement agreement on the debts. She claimed she has made one payment so far on 1.a, but did not provide supporting verification.<sup>12</sup> She has not made any payments on 1.b, but stated she would begin with a \$50 payment on April 18, 2007. The settlement calls for \$146.66, but she stated that based on an oral agreement she will make a \$50 payment for a period of time.<sup>13</sup>

The delinquent debt in SOR 1.c is for the deficiency on a car that she and her husband purchased jointly in May 2002.<sup>14</sup> The original loan was for \$33,000. She and her husband defaulted on the loan and owe approximately \$22,000. She stated when she was released from active duty in March 2004, she could not afford to make the car payments. She stated she contacted the creditor and requested they take the car back. She has not yet returned the car and still has it in her

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<sup>4</sup>Tr. 35.

<sup>5</sup>Tr. 41.

<sup>6</sup>Tr. 38.

<sup>7</sup>Tr. 39-40.

<sup>8</sup>Tr. 41-42.

<sup>9</sup>*Id.*

<sup>10</sup>Tr. 43.

<sup>11</sup>AE A and B.

<sup>12</sup>Tr. 47.

<sup>13</sup>Tr. 47-48.

<sup>14</sup>Tr. 50.

possession. She has not made a payment on it since December 2004.<sup>15</sup> She could not provide an explanation for why when she started work on January 2005, she did not resume car payments.<sup>16</sup> She stated her intention was to contact the creditor and relinquish the car, but she has not. She received a letter in January 2007 from the collection agency for the creditor, but she has not responded to them either.<sup>17</sup> On her security clearance application (SCA) in response to question 38 requesting information on any debts over 180 days, she indicated she incurred a car loan with the creditor on November 15, 2004, and it was satisfied on January 1, 2005 for \$1,500.<sup>18</sup> She made no mention that she was actually delinquent in her payments and had actually defaulted on the loan. She did not have an explanation for why she put that information on her SCA and was evasive in her responses.<sup>19</sup> Applicant and her husband bought a second vehicle and she has made timely payments on it.<sup>20</sup> She presently has two vehicles that she pays insurance on. She used part of her severance pay for a down payment on the second vehicle.<sup>21</sup>

The delinquent debt in SOR 1.d is for a computer Applicant purchased in 1995. She could not recall when she defaulted on this debt.<sup>22</sup> On April 10, 2007, she reached a settlement agreement with the creditor to pay a lump sum of \$2,000 to satisfy this debt.<sup>23</sup> She stated she is to pay \$1,000 on April 18, 2007 and \$1,000 on May 18, 2007.<sup>24</sup> The settlement agreement does not reflect this payment plan.<sup>25</sup>

Of the \$18,000 Applicant received in severance pay upon being discharged from the service, she also put approximately \$10,000 of it in savings at the time and also spent some of it on toys for her children and “stupid stuff”.<sup>26</sup> She did not use it to make her car payments.<sup>27</sup> While unemployed, Applicant and her husband bought a truck in April 2004. She pays \$226 a month. Her husband does not contribute to the payments. She used some of her severance pay for the down payment on the

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<sup>15</sup>Tr. 53.

<sup>16</sup>Tr. 55.

<sup>17</sup>Tr. 56, 6364

<sup>18</sup>GE 1 at page 5.

<sup>19</sup>Tr. 65-66.

<sup>20</sup>Tr. 58-59.

<sup>21</sup>Tr. 60-61

<sup>22</sup>Tr. 68.

<sup>23</sup>AE C.

<sup>24</sup>Tr. 69.

<sup>25</sup>*Id.*

<sup>26</sup>Tr. 61.

<sup>27</sup>Tr. 61-62.

truck. To date all of her severance pay is depleted. She admits she could have paid off her delinquent debts with her severance pay but did not. She received a \$4,000 refund from her 2006 tax return. She loaned her sister \$2,000. Her sister is supposed to begin repaying her \$100 a month, but she has not received the first payment. Applicant has three credit cards and makes monthly payments on them.<sup>28</sup> One card she owes approximately \$6,000. She purchased appliances and two televisions, one for her room and one for her child's room.<sup>29</sup>

Applicant's coworkers believe her to be "top notch."<sup>30</sup> She is considered trustworthy, dependable and a worthy valued employee.<sup>31</sup> She is considered a "self-starter" who assumes responsibility for her projects and completes tasks because they "need to be done."<sup>32</sup> She is believed to have a strong work ethic and has excellent rapport with those whom she works.<sup>33</sup> In addition, she is considered a mature individual with good judgment.<sup>34</sup>

## POLICIES

"[N]o one has a 'right' to a security clearance."<sup>35</sup> As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information."<sup>36</sup> The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so."<sup>37</sup> An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance."<sup>38</sup> "The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."<sup>39</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive

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<sup>28</sup>Tr. 81-83.

<sup>29</sup>Tr. 83-84.

<sup>30</sup>AE D and G.

<sup>31</sup>AE D

<sup>32</sup>AE E.

<sup>33</sup>AE E and F.

<sup>34</sup>AE H.

<sup>35</sup>*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>36</sup>*Id.* at 527.

<sup>37</sup>Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

<sup>38</sup>ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

<sup>39</sup>*Id.*

information.<sup>40</sup> The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.<sup>41</sup> It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.<sup>42</sup>

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive to be considered in evaluating a person's eligibility to hold a security clearance. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the factors listed in the Directive. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the revised adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guideline is set forth and discussed in the conclusions below.

## CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

Based upon consideration of the evidence, I find the following adjudicative guidelines most pertinent to the evaluation of the facts in this case:

Guideline F-Financial Considerations are a concern because failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts.

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<sup>40</sup>*Id.*; Directive, Enclosure 2, ¶ E2.2.2.

<sup>41</sup>Executive Order 10865 § 7.

<sup>42</sup>*See* Exec. Or. 10865 § 7.

Based on all the evidence, Financial Considerations Disqualifying Conditions (FC DC) 19(a) (*inability or unwillingness to satisfy debts*), FC DC 19(b) (*indebtedness caused by frivolous or irresponsible spending and the absence of any evidence of willingness or intent to pay the debt or establish a realistic plan to pay the debt*), and FC DC 19(c) (*a history of not meeting financial obligations*), apply in this case. Applicant has debts that have been delinquent for many years and she has not taken any action on them until after she received her SOR. She had the means to resolve her delinquencies when she received \$18,000 in severance pay after being discharged from service. She admitted she spent the money irresponsibly on “stupid stuff.” One debt she has owed since 1995 and was working when she incurred it. She has no plan for how she is going to repay the deficiency on one of her cars.

I have considered all the Financial Considerations Mitigating Conditions (FC MC), and especially considered FC MC 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*), FC MC 20(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*), FC MC 20(c) (*the person received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control*), and FC MC 20(d) (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

Applicant still owes the delinquent debts alleged in the SOR. She has contacted some creditors and negotiated payment plans, but has not provided proof that she has actually made payments. All of her actions were taken subsequent to receiving the SOR. One of her debts dates back to 1995 and others were charged off in 2001. I find FC MC 20(a) does not apply.

Applicant is separated from her husband and does not receive support. However, she incurred some of the debts prior to her marriage and while employed with the Army. She also received a large severance payment that she could have used responsibly, but admittedly did not. Her financial problems were not created by conditions beyond her control. Therefore, I find FC MC 20(b) does not apply. Applicant did not provide any information that she is receiving financial counseling. She did provide some evidence that she has contacted some creditors to work out resolving her debts. This action was taken only recently and she failed to show she has made payments on the plan. Her largest debt remains unpaid and she has not contacted the creditor to resolve it. Based on all the evidence, including Applicant’s spending habits, I do not find there are clear indications the problem is under control and Applicant has in good faith attempted to resolve all of her debts. I find FC MC 20(c) and (d) do not apply.

### **Whole Person Analysis**

In all adjudications, the protection of our national security is the paramount concern. The objective of the security-clearance process is the fair-minded, commonsense assessment of a person’s life to make an affirmative determination that the person is eligible for a security clearance. Indeed, the adjudicative process is a careful weighing of a number of variables in considering the “whole person” concept. It recognizes that we should view a person by the totality of their acts, omissions,

motivations and other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I considered the whole person in evaluating the case. I considered Applicant's credibility, demeanor and responsiveness when testifying. Applicant received high praises from her coworkers as a mature, dependable and trusty employee. She has a delinquent debt dating back to 1995 that remains unpaid. She incurred some of her debts while she was employed and received a large severance payment that she spent irresponsibly. Applicant did not make any effort to resolve her delinquent debts until her security clearance became an issue. She had the money in the past to repay most of her debts, but chose to spend it on other things. After weighing the disqualifying and mitigating conditions and evaluating all the evidence in the context of the whole person, I conclude Applicant has failed to mitigate the security concerns based on her financial considerations.

### **FORMAL FINDINGS**

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant

### **DECISION**

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Carol G. Ricciardello  
Administrative Judge