

KEYWORD: Financial

DIGEST: Applicant is a 35-year-old employee of a defense contractor. A series of events led to a number of delinquent debts. Applicant is now financially stable, with a well-paying job. She has begun the process of paying her delinquent debts. Applicant has mitigated the security concerns based on her financial issues. Clearance is granted.

CASENO: 06-23176.h1

DATE: 06/22/2007

DATE: June 22, 2007

In re:	)	
	)	
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SSN: -----	)	ISCR Case No. 06-23176
	)	
Applicant for Security Clearance	)	
	)	

**DECISION OF ADMINISTRATIVE JUDGE  
EDWARD W. LOUGHRAN**

**APPEARANCES**

**FOR GOVERNMENT**

J. Theodore Hammer, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant is a 35-year-old employee of a defense contractor. A series of events led to a number of delinquent debts. Applicant is now financially stable, with a well-paying job. She has

begun the process of paying her delinquent debts. Applicant has mitigated the security concerns based on her financial issues. Clearance is granted.

## STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On February 28, 2007, DOHA issued a Statement of Reasons<sup>1</sup> (SOR) detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense for SORs issued after September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued. Applicant answered the SOR in writing on March 26, 2007, and elected to have a hearing before an administrative judge. The case was assigned to me on April 18, 2007. A Notice of Hearing was issued on April 20, 2007, scheduling the hearing for May 15, 2007. The hearing was conducted as scheduled to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. DOHA received the hearing transcript (Tr.) on May 25, 2007.

## RULINGS ON PROCEDURE AND EVIDENCE

The Government offered six exhibits that were marked as Government Exhibits (GE) 1 through 6, and admitted without objections. The list of Government exhibits was marked as Hearing Exhibit (HE) I.

Applicant testified and offered seven exhibits that were marked Applicant Exhibits (AE) A through G, and admitted without objections. The record was left open to allow Applicant an opportunity to submit additional material. She did so in a timely manner, and submitted nine documents marked AE H through P, and admitted without objections. The documents include Applicant's letter of May 31, 2007 (AE H), personal budget for June 2007 (AE I), personal budget for July 2007 (AE J), personal budget for August 2007 (AE K), creditor letter of May 30, 2007 (AE L), creditor letter of March 10, 2007 (AE M), creditor statement of March 25, 2007 (AE N), creditor statement of August 20, 2006 (AE O), character letter of May 31, 2007 (AE P). AE I through O have "post-it" notes attached identifying the documents. Copies of the first pages of AE I through O were made and attached to the end of the exhibits for record purposes in case one or more of the notes become dislodged. Department Counsel's memorandum forwarding the documents is marked HE II.

The Government made a verbal motion to amend the Statement of Reasons by changing part of the name of the creditor in SOR ¶ 1.b. There was no objection and the motion was granted.<sup>2</sup>

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<sup>1</sup>Pursuant to Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended (Directive).

<sup>2</sup>Tr. at 77-78.

## 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 a 35-year-old employee of a defense contractor. She is a college graduate. Applicant is married with a three-year-old daughter.<sup>3</sup>

Applicant's financial problems started when she was in college. She paid for her college and incurred credit card debt. She acknowledges she was young and irresponsible. Applicant received credit counseling and enrolled in a program to pay her debts. She had her finances in order by 2000 to 2001.<sup>4</sup>

Applicant's finances became a problem again in about 2001. Applicant was going through a contentious divorce from her former husband. While they were separated, Applicant lived with her father, and her husband lived in their apartment. Their divorce was final in October 2001. When her former husband moved out of their apartment, Applicant moved back in. He did not pay their rent and utilities while he was there, and Applicant was responsible for two months of back rent and utilities.<sup>5</sup>

Around the same time as her divorce, Applicant was laid off from a good job. She was unemployed for a period of time. She could not find a job which paid as much as her former employer. She eventually obtained three jobs in order to make ends meet.<sup>6</sup>

Applicant remarried in 2003. Two weeks after her daughter was born in late 2003, Applicant's husband had shoulder surgery. He was on disability for several months before the surgery and several months after the surgery. While on disability, he only collected about 60% of his pay. After he came off disability, he had to switch jobs, earning substantially less than at his previous job. At the same time, Applicant went on maternity leave, and was only earning 60% of her salary, which further strained their finances.<sup>7</sup>

In 2004, Applicant and her husband moved to another state which offered greater economic opportunities. Applicant has worked for the same federal contractor since September 2004. Her current salary is more than \$75,000.<sup>8</sup>

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<sup>3</sup>Tr. at 37; GE 1.

<sup>4</sup>Tr. at 52-58, 65.

<sup>5</sup>Tr. at 32, 42-45; GE 2 at 6-7.

<sup>6</sup>Tr. at ;31-33; GE 2 at 6-7.

<sup>7</sup>Tr. at 30-32, 73-74, 132-134; GE 1 at 5.

<sup>8</sup>Tr. at 38; GE 1; GE 2 at 6-7.

Applicant's husband did not obtain a decent full-time job after they arrived at their current location. He had additional medical problems and expenses. When he did work a full time job, the income he earned was barely enough to offset the child care expenses. He became a full-time student and a stay-at-home father. He worked part-time jobs on nights and weekends.<sup>9</sup>

Applicant's husband obtained a job in January 2007. He is permitted to take their daughter with him when he works, which reduces their child care expenses.<sup>10</sup> Applicant and her family were scheduled to move to another apartment at the end of May 2007, where the rent is \$200 per month cheaper than their old apartment.<sup>11</sup>

The debt in SOR ¶ 1.a in the amount of \$237 is to a collection company, collecting on behalf of a utility company. Applicant testified she has contacted this creditor and set up a plan to pay \$50 per month until the debt is paid. Applicant paid \$100 toward this debt on May 30, 2007.<sup>12</sup>

The debt in SOR ¶ 1.b in the amount of \$1,723 is to a collection agency, collecting on behalf of a computer company. Applicant testified she has not yet contacted this creditor. Her plan is to take care of the debts below \$1,000, and then address the larger debts.<sup>13</sup>

The debt in SOR ¶ 1.c in the amount of \$125 was paid in full on May 25, 2007.<sup>14</sup>

The medical debts in SOR ¶¶ 1.d and 1.e, in the total amount of \$826 were incurred as a result of Applicant's pregnancy and delivery in 2003. Applicant's documents from a collection agency show four medical debts totaling \$1,040, including the two debts alleged in SOR ¶¶ 1.d and 1.e. Applicant testified the medical debt in SOR ¶ 1.d in the amount of \$97, resulted from her insurance paperwork being improperly processed. She is attempting to correct that situation. Applicant acknowledges the remaining medical debts. She made a payment of \$100 on May 29, 2007. She expects to pay the medical debts by December 2007.<sup>15</sup>

The debt in SOR ¶ 1.f in the amount of \$44 was paid in full on March 26, 2007.<sup>16</sup>

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<sup>9</sup>Tr. at 40-41.

<sup>10</sup>Tr. at 34-35; GE 2 at 6-7.

<sup>11</sup>Tr. at 36, 105.

<sup>12</sup>Tr. at 74-75; Applicant's response to SOR; AE F, H, N.

<sup>13</sup>Tr. at 78-79.

<sup>14</sup>Tr. at 26-28; Applicant's response to SOR; AE G, H, O.

<sup>15</sup>Tr. at 28-30, 79-80, 82-83; Applicant's response to SOR; AE E, H, M.

<sup>16</sup>Tr. at 83-86; Applicant's response to SOR; AE D, H, L.

The debt in SOR ¶ 1.g in the amount of \$230 was paid in full in July 2004.<sup>17</sup>

The debts in SOR ¶¶ 1.h, 1.j, 1.k, and 1.m, are credit card debts totaling \$7,789. Applicant has not yet addressed those debts.<sup>18</sup>

Applicant admitted to the debt in SOR ¶ 1.i, in the amount of \$642, but she is unfamiliar with the creditor. Her plan is to investigate this debt, and pay it if it is a valid debt.<sup>19</sup>

The debts in SOR ¶¶ 1.l and 1.n, totaling \$920, are debts to cell phone companies. Applicant has not yet addressed these debts.<sup>20</sup>

Applicant and her husband incurred day care expenses when her husband was attending training for his current job, and for a period before he was able to bring their daughter to work with him. Their day care provider permitted them to run up a bill to be paid later. At the end of March 2007, the bill was about \$1,250. They have since paid \$600, and still owe \$650, which they intend to pay.<sup>21</sup>

Applicant obtained credit counseling after the credit problems she had during and shortly after she was in college. She has not obtained credit counseling since she and her husband moved to their current location. Applicant received material from a credit consolidation company in 2005, but after researching the company, she and her husband were not convinced it was a legitimate company. She researched several companies online, but did not find a company that met their needs.<sup>22</sup>

Applicant has a budget. She submitted her monthly budgets for June, July, and August 2007. She set up a savings plan so that they have a buffer for unexpected expenses. Applicant and her husband have large student loans that are deferred. Her deferment period will end in about September 2007. Applicant intends to pay her student loans as they become due. Her student loans are within Applicant's plan for addressing all her debts. Applicant's husband intends to go back to school to an on-line institution in September 2007. He will be able to maintain his current job, which has staggered hours. Applicant intends on paying all her delinquent debts. Her plan is to contact the creditors for the larger debts as the smaller debts are paid, make an initial payment, and then set up a payment schedule. The unpaid debts from the SOR total approximately \$11,900.<sup>23</sup>

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<sup>17</sup>Tr. at 87-88; Applicant's response to SOR; AE A.

<sup>18</sup>Tr. at 88-91, 92-93; Applicant's response to SOR.

<sup>19</sup>Tr. at 89-90; Applicant's response to SOR.

<sup>20</sup>Tr. at 91-92, 94; Applicant's response to SOR.

<sup>21</sup>Tr. at 47-48.

<sup>22</sup>Tr. at 51, 95-97.

<sup>23</sup>Tr. at 97-101, 104, 112-126, 143; AE H-K.

Applicant is well regarded at work. A supervisor, who testified on Applicant's behalf, described her as very bright, intelligent, and conscientious, and recommended her for a security clearance.<sup>24</sup> Another manager wrote that Applicant is reliable and forthcoming, and a valued member of their team.<sup>25</sup> A former supervisor and a former co-worker also sent letters praising her hard work, dedication, ethics, and self-drive.<sup>26</sup>

## POLICIES

“[N]o one has a ‘right’ to a security clearance.”<sup>27</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>28</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>29</sup> An applicant has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance. The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.<sup>30</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.<sup>31</sup> The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. 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>32</sup>

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. 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 adjudicative process factors listed in the Directive and AG ¶ 2(a).

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<sup>24</sup>Tr. at 145.

<sup>25</sup>AE P.

<sup>26</sup>AE B, C.

<sup>27</sup>*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>28</sup>*Id.* at 527.

<sup>29</sup>Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

<sup>30</sup>ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

<sup>31</sup>*Id.*; Directive, ¶ E2.2.2.

<sup>32</sup>Exec. Or. 10865 § 7.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, are set forth and discussed in the conclusions section 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.

### **Guideline F: Financial Considerations**

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.

Based on all the evidence, Financial Considerations Disqualifying Condition (FC DC) 19(a) (*inability or unwillingness to satisfy debts*), FC DC 19(c) (*a history of not meeting financial obligations*), and FC DC 19(e) (*consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant negative cash flow, high debt-to-income ratio, and or other financial analysis*) apply in this case. Applicant incurred a number of delinquent debts, much of which remains unpaid. When she was younger and during her first marriage, Applicant and her husband at the time, spent beyond their means.

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 a number of creditors. FC MC 20(a) does not apply. Applicant admits that her financial issues when she was younger resulted from her irresponsibility. A number of factors contributed to her recent financial problems, including the actions of her former husband; the loss of her job with subsequent unemployment and underemployment; and her husband's disability which coincided with her pregnancy and her time off work. I find FC MC 20(b) to be at least partially applicable.

Applicant received counseling for her financial problems when she was younger. She straightened out her finances with that assistance, but then had additional problems because of the factors addressed above. She and her husband inquired but have not obtained counseling for her recent problems. Applicant paid off one debt in 2004. She paid a debt in March 2007, and another



in May 2007. She also paid part of a debt for child care, which was not alleged in the SOR. She began making payments on two other debts. While Applicant still owes a large percentage of the debts alleged in the SOR, she sincerely and credibly testified she intends on addressing and paying all her delinquent debts. She and her family moved to a less expensive apartment. Applicant makes a good salary at her current employer. The amount still owed is approximately 16% of her annual salary. With diligence, the payment of her debts is attainable. I find Applicant has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts, and there are clear indications that the problem is being resolved and is under control. FC MC 20(c) and FC MC 20(d) apply.

### **Whole Person Analysis**

The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating Applicant's case, I have considered the adjudicative process factors listed in the Directive and AG ¶ 2(a). I have also considered all the evidence, and every finding of fact and conclusion discussed above.

Youth and irresponsibility led to Applicant's initial financial problems. She sought help and was well on her way to a sound financial state. A series of events, including a messy divorce, an irresponsible ex-husband, unemployment, loss of work for pregnancy, and her husband's disability, caused Applicant to become delinquent on a number of debts. She and her husband moved to a state with a better economy. Applicant now has stable employment, with a company which thinks very highly of her, and pays her a good salary. She has begun the process of paying her delinquent debts. Applicant exhibited the sincerity and determination which will enable her to accomplish her goal.

After weighing the disqualifying and mitigating conditions and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on her financial issues.

### **FORMAL FINDINGS**

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

Paragraph 1. Guideline F: FOR APPLICANT

Subparagraphs 1.a-1.n: For Applicant

### **DECISION**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Edward W. Loughran  
Administrative Judge