



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



In the matter of:	)	
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	)	ISCR Case No. 12-06978
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric H. Borgstrom, Esq., Department Counsel  
For Applicant: *Pro se*

02/02/2016

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**Remand Decision**

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LEONARD, Michael H., Administrative Judge:

This is a security clearance case<sup>1</sup> in which the Appeal Board remanded for further processing.<sup>2</sup> In my initial November 21, 2015 decision I concluded that Applicant had a history of financial problems or difficulties consisting of about \$27,000 in unpaid judgments or collection accounts, which were largely unresolved and ongoing. I then concluded she did not present sufficient evidence to rebut, extenuate, mitigate, or explain her problematic financial history and decided the case against her.

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<sup>1</sup> This case is adjudicated under Executive Order 10865, *Safeguarding Classified Information within Industry*, dated February 20, 1960, as amended, and DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, because the SOR was issued after September 1, 2006, the revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (Revised Guidelines) approved by the President on December 29, 2005, then made effective within the Defense Department on September 1, 2006, apply to this case. They supersede or replace the guidelines published in Enclosure 2 to the Directive.

<sup>2</sup> ISCR Case No. 12-06978 (App. Bd. Jan. 21, 2016).

The Appeal Board remanded the case because Applicant made a timely post-hearing submission of seven documents that were not included in the record for my consideration. I did not consider those matters because they were not forwarded to me by Department Counsel, which is disappointing, to put it mildly. In its remand order, the Appeal Board directed me to consider the post-hearing documents and then issue a new decision. Before addressing the merits of the case, a couple of procedural matters are in order.

First, the ruling on procedure, findings of fact, law and policies, and discussion as set forth in my initial November 21, 2015 decision are incorporated by reference and will not be repeated here. As a result, it is necessary to read this remand decision together with the initial decision to have a complete understanding of the case.

Second, Applicant's post-hearing submission consists of the following documents that are made part of the record as follows: Exhibit D—performance evaluations from 2012, 2013, and 2014; Exhibit E—case papers and correspondence concerning the judgment in SOR ¶ 1.a; Exhibit F—one-page letter concerning the collection account in SOR ¶ 1.f; Exhibit G—one-page letter concerning the collection account in SOR ¶ 1.d; and Exhibit H—one-page letter concerning the collection account in SOR ¶ 1.i. In addition to those seven documents, Department Counsel forwarded a letter from Applicant, received at DOHA on January 28, 2016, which is made part of the record as Exhibit I. I have reviewed these documents and conclude it is not necessary to reopen the hearing for further testimony from Applicant.

### **Findings of Fact**

Turning to the merits, the central finding of fact from my initial decision was that Applicant has a history of financial problems or difficulties consisting of three unpaid judgments for a total of \$13,544 and six collection accounts ranging in amounts from \$404 to \$9,843 for a total of about \$14,035. I found that the collection account in SOR ¶ 1.h was the same as the unpaid judgment in SOR ¶ 1.b, and resolved SOR ¶ 1.h in Applicant's favor based on the duplication. In addition, I found that Applicant presented documentary proof of the following: (1) she settled the \$669 collection account in SOR ¶ 1.f for \$221 in June 2014; (2) she settled the \$629 collection account in SOR ¶ 1.d for \$100 in February 2012; and (3) she paid a \$90 medical collection account, not alleged in the SOR, in July 2015.<sup>3</sup> Otherwise, I found that she had no documentary evidence that the remaining delinquent accounts in the SOR were paid, settled, in repayment, in dispute, cancelled, forgiven, or otherwise resolved.

Based on Applicant's post-hearing exhibits, several additional findings of fact are appropriate. Those findings are described below.

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<sup>3</sup> Exhibits A, B, and C.

First, based on Exhibit D, Applicant has a good record of employment. She received favorable performance evaluations with overall ratings of far exceeds expectations for both 2012 and 2013, and consistently exceeds expectations for 2014.

Second, based on Exhibit E, Applicant continues to remain indebted for the unpaid judgment of \$7,375 in SOR ¶ 1.a. The court papers show it was a default judgment based on Applicant's failure to answer the complaint. She was notified of the judgment by letter, dated February 24, 2010. The amount owed is likely higher due to post-judgment interest. But Exhibit E also establishes that the \$9,843 collection account in SOR ¶ 1.e is a duplication of the unpaid judgment in SOR ¶ 1.a, based on the matching account number of 33776060.<sup>4</sup> Accordingly, SOR ¶ 1.e is resolved in Applicant's favor based on the duplication.

Third, Exhibit F is an additional letter concerning the \$669 collection account in SOR ¶ 1.f, which I previously found Applicant had settled for \$221 in June 2014.<sup>5</sup>

Fourth, Exhibit G is an additional letter concerning the \$629 collection account in SOR ¶ 1.d, which I previously found Applicant had settled for \$100 in February 2012.<sup>6</sup>

Fifth, based on Exhibit H, Applicant settled the \$404 collection account in SOR ¶ 1.i for \$161 in August 2015, which is after the hearing in this case took place.

Based on the above, Applicant's post-hearing documents establish the following additional facts: (1) she has a good record of employment; (2) she favorably resolved the collection account in ¶ 1.e based on duplication; and (3) she favorably resolved the collection account in SOR ¶ 1.i by settlement.

The following delinquent debts are unresolved: (1) the unpaid judgment for \$7,375 in SOR ¶ 1.a; (2) the unpaid judgment for \$1,084 in SOR ¶ 1.b; (3) the unpaid judgment for \$5,085 in SOR ¶ 1.c; and (4) the collection account for \$1,749 in SOR ¶ 1.g. Those four delinquent debts total about \$15,293 (the total is likely higher due to post-judgment interest), and Applicant is not taking active efforts to resolve them. Of the nine delinquent debts alleged in the SOR, two are resolved for Applicant based on duplication and three are resolved for Applicant based on settlements for lesser amounts by paying a total of about \$482. In addition, she paid a \$90 medical collection account not alleged in the SOR.

In Exhibit I, Applicant takes issue with my treatment of more than \$70,000 in consumer debt she incurred, with her fiancé, in 2014–2015 to buy two used but high-end automobiles and an engagement ring. She asserts that she is only responsible for

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<sup>4</sup> Exhibit E at 4, Exhibit I, and Exhibit 4 at 7.

<sup>5</sup> Exhibit A.

<sup>6</sup> Exhibit B.

her automobile loan, which had a high credit of \$29,597. Her assertion is not supported by the evidence. A July 2015 credit report shows that she is individually or jointly responsible for all three accounts.<sup>7</sup> She did not present documentary information from the creditors to rebut the information in the credit report.

### **Discussion**

I have given due consideration to Applicant's post-hearing exhibits, and it is apparent that her situation is not as dire as described in my initial decision. But her post-hearing documents do not justify a different outcome under Guideline F.<sup>8</sup>

With that said, Applicant receives some credit, under the mitigating condition at AG ¶ 20(d), for initiating a good-faith effort to repay overdue creditors based on settling three collection accounts for lesser amounts for a total of about \$482. The credit in mitigation is limited, however, because \$482 is a small fraction of the delinquent debt. The credit is also limited because she has taken no action to address the three unpaid judgments and a collection account for a total of about \$15,293.

Applicant's problematic financial history continues to date. The evidence does not support a conclusion that she has established a plan and taken steps to implement that plan sufficient to mitigate the concern. The payments she has made to date are too minor to establish a track record of progress showing a favorable upward trend. Instead, the available evidence shows that Applicant's problematic financial history is ongoing, as it has been for many years. Her record of good employment is noteworthy. But it is insufficient to mitigate the concern about her longstanding history of financial problems. Accordingly, I conclude that she did not meet her ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant her eligibility for access to classified information.

### **Formal Findings**

The formal findings on the SOR allegations are:

Paragraph 1, Guideline F:	Against Applicant
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant

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<sup>7</sup> Exhibit 5 at 2-3 and 6, listed at trade lines 3, 16, and 18. Because those accounts are current and were not alleged in the SOR, I did not consider them for purposes of disqualification. But I did consider them as an example of Applicant failing to prioritize repayment of delinquent debt, which does not bode well for her security suitability. There is a fuller discussion of these matters in my initial decision.

<sup>8</sup> AG ¶¶ 18, 19, and 20 (setting forth the concern and the disqualifying and mitigating conditions).

Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h	For Applicant
Subparagraph 1.i:	For Applicant

### **Conclusion**

In light of the record as a whole, it is not clearly consistent with the national interest to grant Applicant eligibility for access to classified information.

Michael H. Leonard  
Administrative Judge