



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 14-02969  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Adrienne M. Strzelczyk, Esq., Department Counsel  
For Applicant: *Pro se*

08/31/2015

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**Decision**

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CREAN, Thomas M., Administrative Judge:

Based on a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is granted. Applicant presented sufficient information to mitigate financial security concerns.

**Statement of the Case**

On January 14, 2014, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for a position with a defense contractor. The Department of Defense (DOD) could not make the affirmative findings required to issue a security clearance. DOD issued Applicant a Statement of Reasons (SOR), dated September 5, 2014, detailing security concerns for financial considerations under Guideline F. 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 adjudicative guidelines (AG) effective in the DOD on September 1, 2006.

Applicant answered the SOR on September 23, 2014. She admitted ten and denied five of the 15 allegations. Department Counsel was prepared to proceed on May 27, 2015, and the case was assigned to me on June 8, 2015. DOD issued a notice of hearing on July 2, 2015, scheduling a hearing for July 30, 2015. I convened the hearing as scheduled. The Government offered three exhibits that I marked and admitted into the record without objection as Government Exhibits (GX) 1 through 3. Applicant testified and submitted four exhibits that I marked and admitted into the record without objection as Applicant Exhibits (AX) A through D. I held the record open for Applicant to submit additional documents. Applicant timely submitted five documents that I marked and admitted into the record without objection as AX E through J. (GX 4, e-mail, dated August 6, 2015) I received the transcript of the hearing (Tr.) on August 7, 2015.

### **Findings of Fact**

After a thorough review of the pleadings, transcript, and exhibits, I make the following essential findings of fact.

Applicant is 49 years old and has been employed as a web designer and program analyst for a defense contractor since September 2012. Applicant first married in September 1994 and divorced in June 1999. She married her present husband in September 2001. She has two grown children and one child in college. Applicant's monthly net income prior to the SOR was approximately \$5,000. Her net monthly expenses were approximately \$4,000, leaving \$1,000 monthly in discretionary income. After the SOR was issued, she could no longer use her company's computer. Her company kept her employed, but her net salary was cut in half to approximately \$2,200 monthly. She lowered her expenses so that she is now living paycheck to paycheck. (Tr. 19-21, 24-27, 30-32; GX 1, e-QIP, dated November 22, 2013)

The SOR alleges, and credit reports (GX 2, dated February 6, 2014; and GX 3, dated July 28, 2014) confirm the following debts for Applicant: a judgment on a medical debt for \$1,158 (SOR 1.a); medical debts in collection for \$625 (SOR 1.b), \$152 (SOR 1.c), \$597 (SOR 1.g), \$227 (SOR 1.h), \$240 (SOR 1.i), \$4,249 (SOR 1.j), \$78 (SOR 1.k), \$608 (SOR 1.l), and \$144 (SOR 1.m); a judgment for a credit card debt for \$4,778 (SOR 1.d); a credit card debt in collection for \$4,553 (SOR 1.e); a television service debt in collection for \$122 (SOR 1.f); an account in collection for \$4,111 (SOR 1.n); and another credit card debt in collection for \$549 (SOR 1.o). The total amount of the alleged delinquent debt is approximately \$22,000.

Applicant attributes her financial problems to her being the sole source of income for her family for the last ten years; to the theft of her identity when she was in college which she has been trying to resolve for over 15 years; periods of unemployment because of illness; and bills from medical treatment. Applicant's husband is a sales representative for a mortar supply company. Because of the nature of the industry and the construction economy, he has not been able to find meaningful steady work in over ten years. When he is working, the most he contributes to the family income is \$1,200 monthly. When her identity was stolen as a college student, she filed police reports and

assisted in an investigation. At the time, she disputed debts with the credit reporting agencies and is still trying to have debts removed from her credit reports. The SOR debts she denied are the result of the identity theft. Applicant had three cancer surgeries and was placed on disability. She had difficulty getting the health insurance company to pay some of her medical bills. Applicant's biggest challenge now in paying her debts is to identify the party holding the debt to be paid. If she can determine the person holding the debt, she will attempt to establish payment plans with them. She established some payment plans in the past. Since her salary has been reduced, she has not been able to remain current with the payment plan. Her cancer treatments have forced her to miss work and not be paid. Applicant estimates that she lost over 12 months of salary in the last five years. (Tr. 19-24, 27-29, 32-33)

Applicant provided documentary information that the judgment at SOR 1.a has been satisfied. (Tr. 33, AX A, Judgment Satisfaction, dated November 13, 2014; AX B, Attorney Letter, dated February 4, 2015). Applicant was unable to determine the creditors for the medical debts at SOR 1.b and 1.c, so these debts have not been paid. (Tr. 33-34) Applicant contested some debts with the credit reporting agencies because of identity theft. The debts at SOR 1.e, and SOR 1.o, have been deleted from her credit report. Other debts not listed on the SOR have also been deleted. She is still waiting for resolution of her dispute for the debt at SOR 1.n. (AX I, Dispute letter and Notice of action and credit report entries, dated October 14, 2014)

Applicant initially denied the debt for television service debt at SOR 1.f. Because of the small amount of the debt she contacted the original creditor, but they no longer have the debt. She tried to find the creditor holding the debt, but has been unsuccessful. (Tr. 37-38, 41-42) She presented information that the medical debts at SOR 1.h, 1.k, and 1.m have been paid in full. (AX G, AX H, and AX J, Cancelled checks and Paid-in-Full Letter). She presented information that she has payment plans for the medical debts at SOR 1.j, 1.g, 1.i, and 1.l. (AX F, Letter, undated) She did not provide any information to establish that payments are being made under these plans. She provided documentary proof in her response to the SOR that the judgment at SOR 1.d has been vacated. (Tr. 38-42)

Applicant presented two letters of recommendation. One of Applicant's friends wrote that she served on a local ladies sports board with Applicant. Applicant was a hard worker with a strong work ethic. Applicant is now the president of the board. In this position, she is the liaison with the national organization and ensures the league is in compliance with all sport's national rules. The writer is aware of Applicant has overcome many medical and fiscal challenges. Applicant has a strong sense of what is right and wrong. She demonstrated that she is trustworthy and reliable. (AX C, Letter, dated June 30, 2015)

One of Applicant's work supervisors, a retired Navy senior chief petty officer, wrote that Applicant worked under her supervision for almost three years. Applicant is a model employee, a hard worker, punctual, trustworthy, reliable, honest, and ethical. Her

service to the company has been exemplary, and she received numerous accolades from the company's customers. (AX D, Letter, dated July 24, 2015)

## **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 must be considered 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(c), 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 access to classified information will be resolved in favor of 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, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion in seeking 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 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.

## Analysis

### 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. (AG ¶ 18) An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. However, the security concern is broader than the possibility that an individual might knowingly compromise classified information to raise money. It encompasses concerns about an individual's responsibility, trustworthiness, and good judgment. Security clearance adjudications are based on an evaluation of an individual's reliability and trustworthiness. It is not a debt-collection procedure. An individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in his or her obligations to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

A person's relationship with his or her creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts under agreed terms. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is at risk of acting inconsistently with holding a security clearance. An applicant is not required to be debt free, but is required to manage his or her finances in such a way as to meet their financial obligations.

Adverse information in credit reports can normally meet the substantial evidence standard to establish financial delinquency. Applicant had financial difficulties because she was the sole income for the family, had medical issues that led to periods of unemployment and medical debts, and her identity was stolen resulting in debts not belonging to her. Applicant's history of delinquent debts is documented in her credit reports and her testimony at the hearing. Applicant's delinquent debts are a security concern. The evidence is sufficient to raise security concerns under Financial Considerations Disqualifying Conditions AG ¶ 19(a) (inability or unwillingness to satisfy debts); and AG ¶ 19(c) (a history of not meeting financial obligations). The evidence indicates an inability and not an unwillingness to satisfy debt.

I considered the following Financial Considerations Mitigating Conditions 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 problems 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;

(c) the person has received or is receiving counseling for the problem;

(d) the individual has initiated a good-faith effort to repay the 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.

These mitigating conditions apply. Applicant incurred delinquent debt when she was the sole source of income in the family; her income was cut in half because of her lack of eligibility for access to classified information; and she incurred periods of unemployment and debts because of medical issues. The conditions that led to her delinquent debt were beyond her control and are unlikely to recur. She acted responsibly towards her debts by attempting to contact her creditors, disputing debts she did not recognize, paying debts she could, and negotiating payment plans for other debts. She was unable to learn of the creditors holding three of her debts, so she is unable to pay them. While Applicant did not present evidence of financial counseling, she is resolving her debts, and they are under control.

Applicant established her good-faith initiative to pay her debts. For a good-faith effort, there must be an ability to repay the debts, the desire to repay, and evidence of a good-faith effort to repay. Good faith means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty and obligation. A systematic method of handling debts is needed. Applicant must establish a meaningful track record of debt payment. A meaningful track record of debt payment can be established by evidence of actual debt payments or reduction of debt through payment of debts. A promise to pay delinquent debts is not a substitute for a track record of paying debts in a timely manner and acting in a financially responsible manner. Applicant must establish that she has a reasonable plan to resolve financial problems and has taken significant action to implement that plan. Applicant established a meaningful track record of debt payment by paying five of the delinquent debts, paying other debts not listed in the SOR, and having a payment plan for four other debts. She has shown that she acted with reasonableness, prudence, honesty, and an adherence to duty and obligation towards her finances.

Applicant disputed three of the debts with the credit reporting agencies. Two debts have been resolved and removed from the credit reports by the credit reporting agencies. One disputed debt is still to be resolved.

Applicant has shown that she is managing her personal financial obligations reasonably and responsibly, and her financial problems are being resolved. There is

ample evidence of responsible behavior, good judgment, and reliability. Based on all of the financial information, I conclude that Applicant has mitigated security concerns based on financial considerations.

### **Whole-Person Analysis**

Under the whole-person concept, the administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (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 a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered the views of Applicant's friend and supervisor and her excellent job performance. Applicant has paid a third of her SOR debts, another third have been disputed or are unknown, and a third are being paid under a payment plan. This information shows Applicant's responsible management of her finances. Applicant presented sufficient information to establish that she is acting reasonably and responsibly towards her finances, and that she will continue to responsibly manage her financial obligations. Overall, the record evidence leaves me without questions or doubts as to Applicant's judgment, reliability, trustworthiness, and eligibility and suitability for a security clearance. For all these reasons, I conclude that Applicant has mitigated security concerns arising under the financial considerations guideline. Eligibility for access to classified information is granted.

### **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:	FOR APPLICANT
Subparagraphs 1.a – 1.o:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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THOMAS M. CREAN  
Administrative Judge