



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



In the matter of: )  
)  
) ISCR Case No. 14-00262  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Richard Stevens, Esquire, Department Counsel  
For Applicant: *Pro se*

12/01/2014

**Decision**

RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the Government’s security concerns under Guideline F, financial considerations. Applicant’s eligibility for a security clearance is granted.

**Statement of the Case**

On April 11, 2014, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

On August 12, 2014, Applicant answered the SOR. On October 3, 2014, Applicant requested an expedited hearing before an administrative judge. The case was assigned to me on October 27, 2014. The Defense Office of Hearings and Appeals

(DOHA) issued a notice of hearing on November 3, 2014. I convened the hearing as scheduled, by video teleconference, on November 12, 2014.<sup>1</sup>

The Government offered exhibits (GE) 1 through 5, which were admitted into evidence without objection. Applicant testified and offered Applicant Exhibits (AE) A through G, which were admitted into evidence without objection. The record was held open until November 26, 2014, to allow Applicant an opportunity to submit additional documents. She submitted AE H and I, which were admitted without objection.<sup>2</sup> DOHA received the hearing transcript (Tr.) on November 20, 2014.

### **Findings of Fact**

Applicant admitted all of the allegations in the SOR except ¶¶ 1.f, 1.g, and 1.h. Her admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 28 years old. She graduated from high school in 2003. She has taken some college courses, but has not earned a degree. She married in 2005 when she was 18 years old. She divorced in 2010 and remarried in 2011. She has a three-year-old child from her current marriage. Applicant enlisted in the Army in October 2005 and was medically discharged in January 2006.<sup>3</sup>

Applicant worked at various jobs from 2003 to 2008. She had periods of unemployment when transitioning from one job to another. Her husband was employed, and he paid all of the bills and was responsible for all of their financial decisions. In 2007, they purchased a house for \$110,000. The entire amount was financed. Their monthly payments were \$1,050. Applicant stated that she was unaware of the specifics of their finances. She stated that her husband wanted them to have more income, and he found a job for her with a federal contractor working overseas.<sup>4</sup>

In June 2008, Applicant began working for a federal contractor in Iraq, Afghanistan, and Kuwait. When she began her employment, she was earning approximately \$70,000 to \$75,000 annually. She later earned approximately \$110,000, until she returned to the United States in October 2010. She was sending her money home for her husband to help pay their bills. He failed to pay their bills.<sup>5</sup>

While working overseas, she believed her husband was paying their bills. He had a full-time job earning approximately \$70,000 annually. In May 2009, while overseas,

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<sup>1</sup> Applicant affirmatively waived the 15-day notice requirement.

<sup>2</sup> Hearing Exhibit I is Department Counsel's memorandum.

<sup>3</sup> Tr. 77, 91.

<sup>4</sup> Tr. 82-83, 86-89.

<sup>5</sup> Tr. 28, 37-39, 75-76.

she received a notice from the Red Cross that she needed to return home. She went back to the United States for a week. When she arrived, she and her husband's house had been searched, and she learned her husband was in jail, charged with two counts of online solicitation of a minor. She learned her husband had provided his mother with their joint account information and his mother withdrew Applicant's and her husband's entire savings from the bank. Applicant and her husband also kept cash in their home. Applicant believes her mother-in-law also took the cash. Applicant stated her husband feigned ignorance about where their money went. She believed his mother took the money with his permission and used it pay for a lawyer. She estimated the total amount of money taken was approximately \$36,000.<sup>6</sup>

Applicant secured a protective order against her husband and hired her own lawyer. She was unaware of his illegal activities and later learned he also had multiple girlfriends. He was eventually convicted of the charges, received probation for ten years, and is required to register as a sex offender. Applicant filed for divorce. Her husband did not want a divorce and initially refused to sign the papers. Her husband received his vehicle and personal items as part of the property disposition. Her husband could not live in their house because it was close to a school and a park, and he was a registered sex offender. She agreed to be responsible for the mortgage and other marital debts because she wanted him to sign the divorce papers. She was unaware of all their debts. He did not pay any of their joint debts. She continued to pay their mortgage payment while she was employed. The divorce was final in March 2010. She became aware later that her husband had his debts discharged in bankruptcy.<sup>7</sup>

Applicant met her second husband and returned to the United States in October 2010 to get married. The contract she had been working on overseas expired. She anticipated returning to Iraq in January 2011, but learned she was pregnant and could not work overseas. She remarried in February 2011. She hired an attorney in February 2011 to assist her in obtaining a loan modification on the mortgage for her house. The house is worth less than the amount of the mortgage. She continued to pay her mortgage until approximately February 2011 and then was unable because she was not employed. She was advised by her lawyer not to make payments on the mortgage while attempting a loan modification. She could not find another job where she was living.<sup>8</sup>

After Applicant's child was born in September 2011, she attended a police academy so she could pursue a job in law enforcement. She started in November 2011, but broke her leg and had to postpone completion of the course. She started again in May 2012 and completed the requirements for a law enforcement certificate in October 2012. She paid for the class through the GI Bill. She began working for a sheriff's department on November 1, 2012. She stated she worked full-time for part-time wages because the department did not have sufficient funding to pay her full wages. She left

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<sup>6</sup> Tr. 31-37, 76, 79.

<sup>7</sup> Tr. 37-40, 49-50, 78-82.

<sup>8</sup> Tr. 39-44, 48-52, 74.

the job in June 2014 when her husband, an active duty military member, was transferred to a different state. Since that transfer she has been unable to find employment. She presently has a job offer to work overseas, pending her security clearance determination. She intends on resolving the remaining debts once she has secured employment.<sup>9</sup>

The debt is SOR ¶ 1.a (\$36,000) is the past-due amount on Applicant's mortgage. She took responsibility for the house after her first husband's conviction and was decreed the property as part of her divorce. Her loan modification application is pending. She provided documents to show her actions.<sup>10</sup>

The debt in SOR ¶ 1.b (\$2,222) was to an online university. Applicant disputed the charge due to some discrepancies with the university and problems she encountered with financing her courses. The online university agreed to waive the balance of the debt, and she no longer owes it. The debt is resolved.<sup>11</sup>

The debt in SOR ¶ 1.c (\$412) is a credit card debt. Applicant believed she had paid the bill and had not received a notice advising her that she had a delinquent account. She contacted the creditor and received a letter in December 2013, confirming the account had a zero balance. The debt is resolved.<sup>12</sup>

The debt in SOR ¶ 1.d (\$220) is for a gas bill that her ex-husband failed to pay when he moved out of their house. Applicant was unaware the bill was in her name. She paid the bill and resolved the debt.<sup>13</sup>

The debt in SOR ¶ 1.e (\$3,397) is for rent on an apartment Applicant and her ex-husband leased in 2005 before they purchased their house. She was unaware she was on the lease because she and her husband were not married at the time, and she did not earn enough to pay for the rent. She believes the delinquency occurred when they moved from a one-bedroom to a two-bedroom apartment. She believed they had a month-to-month lease. She did not become aware of the delinquency until September 2013. She is unable to pay the debt at this time. The divorce decree does not specifically address this debt.<sup>14</sup>

The debt in SOR ¶ 1.f (\$458) is a cable bill. Applicant disputed this debt. She learned her ex-husband's girlfriend fraudulently opened the account in Applicant's

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<sup>9</sup> Tr. 67-73, 83.

<sup>10</sup> AE H and I attachments A, B, C, D, E, G, H.

<sup>11</sup> Tr. 53-54; AE A.

<sup>12</sup> Tr. 54-56; AE C.

<sup>13</sup> Tr. 44, 57-58; AE I attachment J.

<sup>14</sup> Tr. 58-60; AE H.

name. Applicant filed a police report and sent a dispute letter to the creditor. The creditor removed the account from Applicant's credit report. The debt is resolved.<sup>15</sup>

Applicant acknowledged the debt in SOR ¶ 1.g (\$445) is for an electric bill on the house she owned with her ex-husband. It was incurred while she was working overseas. There was a question whether a new meter was installed with a new company. She researched and disputed the charge. She was advised by the creditor to file a police report for the unauthorized installation, which she did. The creditor agreed to waive the \$300 early termination fee of the amount owed. Applicant paid the bill and resolved the debt.<sup>16</sup>

Applicant successfully disputed the debt in SOR ¶ 1.h (\$259). She indicated there was a mistake and the creditor concurred that she never owed the alleged amount. She received a letter from the creditor advising her that the debt would be removed from his credit report.<sup>17</sup>

Applicant was unfamiliar with the debt in SOR ¶ 1.i (\$91) so she contacted the creditor to get information about the debt. The creditor was unable to tell her what the debt was for. She paid the bill so the debt could be resolved.<sup>18</sup>

Applicant anticipated receiving approximately \$500 on December 1, 2014, from a law enforcement pension plan that she no longer participates in. She intends to use that money to pay some of her delinquent debts.<sup>19</sup>

Applicant provided character letters that describe her as a hard worker and a person of integrity. She is committed to achieving her goals. She works well with others and serves as a morale booster. She has a sense of duty and honor. She is a strong, honest, responsible, professional and trustworthy woman.

## **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.

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<sup>15</sup> Tr. 60-62; AE E.

<sup>16</sup> Tr. 63-64. AE I attachment I.

<sup>17</sup> Tr. 65-67; AE F.

<sup>18</sup> AE I attachment K.

<sup>19</sup> Tr. 94-95.

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. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

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

Section 7 of Executive Order 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**

The security concern for financial considerations is set out in AG ¶ 18:

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.

The guideline notes several conditions that could raise security concerns. I have considered all of the disqualifying conditions under AG ¶ 19, and the following two are potentially applicable:

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

Applicant has delinquent debts that are unpaid or unresolved. Applicant is unable to satisfy her debts at this time. These debts were incurred during her first marriage. She believed her husband was paying their bills while she was working overseas. She retained their house during the divorce settlement because he could not live there as a registered sex offender, due to its proximity to a park and school. I find there is sufficient evidence to raise the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (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, 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 and/or there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated 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 has resolved or paid the debts in SOR ¶¶ 1.b, 1.c, 1.d, 1.f, 1.g, 1.h, and 1.i. AG ¶¶ 20(d) and 20(e) apply to these debts. Applicant acknowledges the remaining debts, but due to her unemployment she is unable to pay the debts at this time. AG ¶ 20(a) does not apply because Applicant still has debts that are not paid or resolved.

Applicant's financial problems began when her husband was arrested for online solicitation of a minor. During their marriage her husband was in charge of all of the finances. She was unaware and naïve about their finances. Applicant was working overseas and sending money home to pay their bills. Once her husband was arrested, his mother took all of her joint savings with her husband, approximately \$36,000, and presumably used it for attorney's fee. Applicant filed for divorce and was left responsible for many of the debts including the mortgage on the house. She paid the mortgage until she no longer had a job. She has been working with an attorney to obtain a loan modification, but the process is slow. She has paid many of the delinquent debts and acknowledges her responsibility to pay the remaining debts. She intends to pay them when she is able. The conditions that resulted in Applicant's financial problems were beyond her control. She has acted responsibly in resolving most of the debts she could. She intends to pay the remaining debts once she secures employment. I find AG ¶ 20(b) applies.

### **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 relevant circumstances. The 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 eligibility for 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 have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.



Applicant is a 28-year-old hardworking woman. She enlisted in the Army, but was medically discharged. She earned a law enforcement certificate and worked in the field until her active duty husband was transferred. She has worked overseas for federal contractors, spending long periods of time away from home. She has not shirked her obligations. She was sending money home to her ex-husband, only to learn he was committing crimes and being unfaithful. She had never handled the finances in their marriage, but was confronted with the reality that she was now responsible for resolving many of the marital debts. She has paid or resolved most of the debts, but others remain to be resolved. She and her present husband live within their means. She has had difficulty finding employment, despite her extensive search. Applicant impressed me that she understands the gravity of following through and resolving all of the remaining financial issues. I believe she is committed to doing so. She intends to use money that will be returned to her from her law enforcement pension to help resolve her remaining debts. She is willing to take a job overseas, where she will not see her husband and small child for a lengthy period, so she can resolve her remaining financial issues. I find her remaining debts do not create a security concern. Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under the financial considerations guideline.

### **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.i:	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 a security clearance. Eligibility for access to classified information is granted.

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Carol G. Ricciardello  
Administrative Judge