



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



In the matter of:	)	
	)	
	)	ISCR Case No. 14-00423
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Caroline E. Heintzelman, Esq., Department Counsel  
For Applicant: *Pro se*

03/02/2015

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**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Defense Department’s intent to deny her eligibility for a security clearance to work in the defense industry. Although half of the delinquent debt alleged in the SOR remains unresolved, it is not a source of vulnerability for Applicant. Clearance is granted.

**Statement of the Case**

On March 20, 2014, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance.

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<sup>1</sup> This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

Applicant timely answered the SOR and requested a hearing. At the hearing convened on November 19, 2004, I admitted Government's Exhibits (GE) 1 through 4, without objection. Applicant did not submit any documents. I left the record open for Applicant to submit additional information, but she did not. I received the transcript (Tr.) on November 28, 2014.

### **Findings of Fact**

Applicant, 66, has worked as an assembly-line inspector for a federal contractor since 1986. She has held a security clearance for approximately 29 years without incident. Applicant had her first child when she was 15 years old. She did not graduate from high school, but obtained her GED in the 1970s. Applicant raised five children, now ages 41, 43, 44, 49, and 50, as a single parent, without the benefit of child support. Until 2009, Applicant maintained a favorable credit history and lived within her means.<sup>2</sup>

In 1973, Applicant purchased a home. In 2002, Applicant opened a \$94,000 home equity line of credit (HELOC) on her home. She used approximately \$30,000 to consolidate debt and to make improvements to the home. Applicant paid off the mortgage on the home in 2003 and continued to make payments on the HELOC. In 2009, Applicant agreed to obtain a \$20,000 personal loan with her oldest son, then 44, who was retiring from military service. He wanted the loan to pay off debt and to launch a real estate business. Although they held the loan jointly, Applicant's son agreed to make the payments through an allotment from his retirement pay. Applicant used her recently-paid-off home as collateral for the loan. Her son made payments for approximately six months. He did not tell his mother that he stopped making payments.<sup>3</sup>

In response to collection calls, Applicant began making the \$400 monthly payments on the loan. She made the payments for approximately four months. In 2012, when Applicant began to fully support her youngest son and his two children, who lived with her, she could not afford to continue the payments on the oldest son's personal loan. Applicant and her son received a summons regarding the outstanding debt and instructed her oldest son to appear in court to make arrangements to resolve the loan. She does not know if he actually appeared. In approximately July 2013, the creditor began garnishing 25% of Applicant's biweekly pay, approximately \$800 per month, to satisfy the debt. Applicant depleted her \$100,000 in retirement savings and the available credit in the HELOC to make ends meet. Unable to pay her bills on her reduced salary, Applicant began accumulating other delinquent debts. Applicant stopped paying the HELOC in September 2011 and lost her home of 40 years to foreclosure in September 2014.<sup>4</sup>

Applicant currently earns \$25.22 per hour, just over \$48,400 annually. She does not have the ability to work overtime. After deductions and the garnishment, her monthly

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<sup>2</sup> Tr. 16-18; GE 1-2.

<sup>3</sup> Tr. 20, 24, 47-48, 57-60, 63-64; GE 1, 4.

<sup>4</sup> Tr. 20, 25, 34-35, 52-44, 61-62, 65-68; GE 3.

net income is \$1,200. Applicant continues to support her youngest son and teenage grandchildren. At hearing, Applicant explained her choice as being for the benefit of her grandchildren who should not have to suffer for the mistakes of their parents. After paying the \$800 rent on the apartment she now shares with them and the recurring household expenses, Applicant does not have any disposable income.<sup>5</sup>

The SOR alleges that Applicant owes approximately \$39,600 in delinquent debt. Applicant does not owe any money on HELOC as the foreclosure sale of her home satisfied the outstanding debt (SOR ¶ 1.e, \$16,000). The October 2014 credit report, reports the debt alleged at SOR ¶ 1.b (\$3,200) as a charged off account that has been paid. Because the \$400 biweekly garnishment for the personal loan (which is not alleged in the SOR), Applicant is unable to pay the remaining \$20,400 in delinquent debt alleged in the SOR. However, she plans to resolve them once the garnishment is satisfied in the summer of 2015.<sup>6</sup>

### **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 to be used 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, administrative judges apply the guidelines 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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

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<sup>5</sup> Tr. 22, 26, 42-45.

<sup>6</sup> Tr. 30-41, 45; GE 3-4.

## Analysis

Unresolved delinquent debt is a serious security concern because failure to “satisfy debts [or] 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.”<sup>7</sup> Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. There is also concern that an individual who is overextended is at risk of having to engage in illegal acts to raise funds.

The SOR alleges that Applicant owes \$39,600 in delinquent debt. Each debt is confirmed by the credit reports in the record and establish the Government’s *prima facie* case.<sup>8</sup> The evidence shows that since 2009 Applicant has demonstrated a history of not paying her debts. Although \$20,000 of the debt has been resolved (SOR ¶¶ 1.b and 1.e), she has a current inability to pay the remaining \$20,000 in delinquent debt alleged in the SOR.<sup>9</sup> However, the presence or absence of a particular disqualifying or mitigating condition is not necessarily dispositive on the issue of an applicant’s ongoing security worthiness. In this case, neither the existence nor the status of the SOR debts cast doubts on the Applicant’s current security worthiness.<sup>10</sup>

Applicant has held a security clearance for 29 years without incident. She does not have a history of financial problems or financially irresponsible behavior. The record indicates the opposite. Applicant has a history of living within her means. Applicant maintained a favorable credit history until 2009. As a single mother, Applicant supported her five children and paid off a mortgage loan on one income, without incurring excessive debt. The record does not contain any evidence to suggest that Applicant has ever engaged in any illicit conduct to generate funds.

Furthermore, Applicant’s choice to help her son transition from military to civilian life is not indicative of behavior or characteristics that raise doubts about her continued ability to safeguard, protect, or handle classified information. Applicant could not have foreseen that the decision would have such devastating consequences. If she believed the arrangement to be a risky one, it is unlikely that she would have used her home as collateral. A reasonable person may have understood that they would ultimately be responsible for the jointly-held debt, but would not have anticipated that within five years that they would experience financial devastation to include the loss of their home and retirement savings, or that the decision would ultimately threaten their livelihood. The financial consequences that have befallen Applicant are more of an aberration than a pattern. She is in a difficult position and will not be able to fully rehabilitate her finances

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<sup>7</sup> AG ¶ 18.

<sup>8</sup> GE 3-4.

<sup>9</sup> SOR ¶¶ 19 (a) and (c).

<sup>10</sup> See AG ¶ 20(a).

for some time. However, her finances are not a source of potential exploitation or vulnerability for her.

### **Whole-Person Concept**

The Directive acknowledges that the ability to develop specific thresholds for actions under the adjudicative guidelines is limited by the nature and complexity of human behavior. The ultimate determination of an Applicant's security worthiness must be based on an overall commonsense judgment based upon consideration of the adjudicative guidelines, each of which is to be evaluated in context of the whole person factors at AG ¶ 2(a). Based on the record, I have no doubts or reservations about Applicant's continued reliability, trustworthiness, and ability to protect classified information. A finding in Applicant's favor is not an endorsement of her choices, but recognition that it is not the purpose of the adjudicative process to punish an applicant for her past decisions. Applicant's financial problems are traceable to her decision to offer financial support to her son. The unfortunate consequences of her choice to help her son do not outweigh Applicant's previous years of financial health and responsibility or her track record of properly handling classified information.

### **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, Financial Considerations:	For Applicant
Subparagraphs 1.a – 1.n:	For Applicant

### **Conclusion**

In light of all of the circumstances presented, 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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Nichole L. Noel  
Administrative Judge