



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



In the matter of: )  
)  
) ISCR Case No. 14-00795  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Richard A. Stevens, Esq., Department Counsel  
For Applicant: *Pro se*

11/04/2014

**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.

Applicant answered the SOR on May 6, 2014, and requested a hearing before an administrative judge. The case was assigned to me on August 18, 2014. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on September 26, 2014. I convened the hearing as scheduled on October 15, 2014. The Government

offered exhibits (GE) 1 and 2, and they were admitted into evidence without objection. Applicant testified on her own behalf. She offered Applicant's Exhibit (AE) A through P, which were admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on October 27, 2014.

### **Procedural Issues**

Department Counsel moved to withdraw SOR ¶¶ 1.b, 1.m, and 1.n. The motion was granted.

### **Findings of Fact**

Applicant admitted all of the SOR allegations with explanations. Her admissions were incorporated in 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 33 years old. She was married in 2003 to 2004 and has a son from the marriage who is ten years old. She has a seven-year-old son from a another relationship. She receives \$660 total each month from both fathers for child support. She began working for her current employer in September 2013.<sup>1</sup>

Applicant left high school in 1999. She was unemployed from 2004 to sometime in 2005. She then worked until May 2006 and did not go back to work until 2012. Applicant attended school to earn her general equivalency diploma in 2007 and then enrolled in vocation school. Her school cost about \$3,000, and she took out a student loan to pay it. Her aunt helped her pay for some of the tuition. She worked in her vocation for about a year before her employer went out of business. She attended college from January 2009 to December 2012. She earned an associate's degree. She enrolled in a different college in November 2013 and is currently a student pursuing her bachelor's degree. She used student loans to pay for college. She owes approximately \$45,000 for the student loan to earn her associate's degree and \$3,000 for vocational school. Applicant estimated that the loan she received for the first year of tuition to earn a bachelor's degree is \$10,000.<sup>2</sup> During the years Applicant was not working she received government assistance and lived with her mother.<sup>3</sup>

In 2005 Applicant filed Chapter 7 bankruptcy. Her debts were discharged in October 2005. She estimated the amount discharged was \$9,000. She stated the debts were joint credit cards with her ex-husband. Applicant stated that in 2007 she obtained new credit cards. Since about 2010 she has been unable to pay her debts.<sup>4</sup>

---

<sup>1</sup> Tr. 28, 37, 77-80.

<sup>2</sup> Tr. 27-36.

<sup>3</sup> Tr. 36-37, 93.

<sup>4</sup> Tr. 38-41.

The debt in SOR ¶ 1.c (\$993) is a collection account. She paid \$20 each month for June, July, and August 2014. She paid \$10 in September 2014.<sup>5</sup>

The debt in SOR ¶ 1.d (\$588) is from a retail store credit card. She stated she contacted the store and was advised the debt is with a collection company. Applicant was unable to determine what collection company owned the debt. If she finds out what collection company owns the debt, she stated she will pay it.<sup>6</sup>

The debt in SOR ¶ 1.e (\$525) is now owned by a collection company. She made \$20 payments in April, June, and July 2014. She made \$10 payments in August and September 2014.<sup>7</sup>

The debt in SOR ¶ 1.f (\$2,000) is a medical account. Applicant made \$20 payments in April through August 2014 and \$10 payments in September and October 2014.<sup>8</sup>

The debt in SOR ¶ 1.g (\$1,189) is for a retail store credit card. Applicant made a \$20 payment in May, two \$20 payments in July, and \$10 payments in August and September 2014.<sup>9</sup>

The debt in SOR ¶ 1.h (\$937) is a credit card debt. Applicant paid \$20 in May, June, and July 2014 and \$10 in August and September 2014.<sup>10</sup>

The debt in SOR ¶ 1.i (\$476) is a medical debt. Applicant paid \$15 in April 2014, \$20 in May through July 2014, and \$10 in August and September 2014.<sup>11</sup>

The debts in SOR ¶ 1.j (\$449) and ¶ 1.k (\$442) are to the same creditor. Applicant made \$20 payments from April to July 2014 and then \$10 payments in August and September 2014 on both accounts.<sup>12</sup> She believes these accounts belong to store credit cards.

---

<sup>5</sup> Tr. 43-45; AE D.

<sup>6</sup> Tr. 45-47.

<sup>7</sup> Tr. 47-48, 52-53; AE O.

<sup>8</sup> Tr. 48-53; GE 2 page 18; AE E.

<sup>9</sup> Tr. 54-55; AE F.

<sup>10</sup> Tr. 56-57; AE G.

<sup>11</sup> Tr. 58-59; AE H.

<sup>12</sup> Tr. 60-62; AE I, J.

The debt in SOR ¶ 1.i (\$424) is an account with an electronics store. Applicant made \$20 payments in May through July 2014 and \$10 payments in August and September 2014.<sup>13</sup> The debts in SOR ¶ 1.o (\$158) and ¶ 1.p (\$37) are medical debts. Applicant paid these debts.<sup>14</sup>

Applicant owes approximately \$58,000 for student loans that are deferred until six months after she completes her courses.<sup>15</sup> She currently earns approximately \$44,800 annually. She owed her dentist \$3,000 for braces for herself. She paid him \$1,500 initially and will pay him the balance when she receives her 2014 federal income tax refund in 2015. She pays \$60 a month for the remainder of the loan she incurred for vocational school. She has some out-of-pocket medical expenses. In the summertime, she reduced her debt payments because she had additional child care costs. She hopes to increase her monthly payments. She does not have a budget and believes she has about \$30 to \$40 remaining each month after paying her expenses. She does not have open credit cards and only uses a debit card. She contributes to a 401k pension plan with her employer. Applicant intends to pay all of her delinquent debts. She has not received any financial counseling.<sup>16</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 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, 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

---

<sup>13</sup> Tr. 62-64; AE K.

<sup>14</sup> Tr. 64-66; AE L, M.

<sup>15</sup> Tr. 66-67; AE N.

<sup>16</sup> Tr. 36, 69-83-106.

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 had her delinquent debts discharged in bankruptcy in 2005. Since then, she accumulated 12 delinquent debts that totaled more than \$8,218 that she was unable to pay. I find there is sufficient evidence to raise the above disqualifying conditions. Applicant also has substantial student loans, but they are not delinquent. They will not be considered for disqualifying purposes, but will be considered when analyzing Applicant's total financial situation and in the context of the whole person.

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; and
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant contacted the creditor in SOR ¶ 1.d and was advised the debt is with a collection company. She was unable to determine the collection company. She intends to pay the debt if she can find the collection company holding the debt. The two medical debts alleged in SOR ¶¶ 1.o and 1.p are paid. The nine remaining delinquent debts total approximately \$7,435. She has paid \$805 in installment payments towards these debts and currently owes \$6,630. The debts are recent. AG ¶ 20(a) does not apply. Applicant was a single mother who was attending school. She was unemployed and underemployed. These conditions were beyond Applicant's control. In order to fully apply AG ¶ 20(b), Applicant must have acted responsibly under the circumstances. Applicant began working full-time in September 2013. She did not begin making payments towards her delinquent debts until after she received the SOR. I find AG ¶ 20(b) only partially applies. Applicant has been making small consistent payments towards the repayment of all of her delinquent debts. She is paying what she can currently afford. She understands the importance of paying her student loans when they become due. Applicant is aware she must resolve these debts and confirmed she intends to continue making monthly payments to resolve all of her delinquent debts. She has made a good-faith effort to resolve her debts and there are clear indications her financial problems are being resolved. AG ¶¶ 20(c) and 20(d) apply.

## 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 33 years old. She is a single mother who left high school before graduating. She has since completed her general equivalency diploma and an associate's degree. She is currently enrolled in college pursuing a bachelor's degree. Applicant struggled with her finances until she completed school and now has a good job. She understands the importance of repaying all of her delinquent debts and has made small consistent payments towards all of the remaining delinquent debts. She has established a good-faith track record to show she is earnestly attempting to pay all of her creditors. She is paying what she is able and is not living beyond her means. She does not have credit cards. She is attempting to manage her finances and improve her opportunities by pursuing her bachelor's degree. Although all of her debts are not completely paid, I do not believe they rise to the level of 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
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Withdrawn
Subparagraphs 1.c-1.l:	For Applicant
Subparagraphs: 1.m-1.n:	Withdrawn
Subparagraphs 1.o-1.q:	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.

---

Carol G. Ricciardello  
Administrative Judge