



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



In the matter of:)	
)	
)	ISCR Case No. 14-01317
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah Minster, Esq., Department Counsel
For Applicant: *Pro se*

03/17/2015

Decision

CURRY, Marc E., Administrative Judge:

Applicant’s financial problems stemmed from a lengthy unemployment. Since gaining full-time employment, she has been methodically satisfying her debts through a well-organized payment plan. Under these circumstances, I conclude Applicant has mitigated the financial considerations security concern. Clearance is granted.

Statement of the Case

On May 13, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant 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) implemented by the DOD on September 1, 2006.

On June 4, 2014, Applicant answered the SOR, admitting all of the allegations except subparagraph 1.h, and requested a hearing. The case was assigned to me on December 1, 2014. On December 10, 2014, the Defense Office of Hearings and Appeals issued a notice of hearing scheduling the case for January 20, 2015.

At the hearing, I received three Government exhibits marked and identified as Government Exhibits (GE) 1 through 3, and I received six Applicant exhibits that I marked and identified as Applicant Exhibits (AE) 1 through 6. Also, I considered the testimony of Applicant. At the close of the hearing, I left the record until January 26, 2015, for Applicant to submit additional exhibits. Within the time allotted, she submitted 11 additional exhibits that I received as AE 7 through AE 17. DOHA received the transcript (Tr.) on January 28, 2015.

Findings of Fact

Applicant is a 54-year-old single woman with two adult children. Two prior marriages ended in divorce. She graduated from college in 1983, earning a bachelor of arts degree in accounting. (Tr. 13) She has spent her career working in this field. Since November 2014, she has worked for a defense contractor. Her duties include reviewing finances for various programs. (Tr. 14)

Applicant worked at her previous full-time job for 16 years. (Tr. 16) In December 2012, she was laid off. She was subsequently either unemployed or underemployed through November 2013. (Tr. 16; GE 1 at 11) Before Applicant was laid off, she earned \$110,000 per year. Afterwards, her income, a combination of unemployment benefits and part-time income, totalled approximately \$10,000.

Consequently, Applicant began to struggle to make ends meet. By the time she obtained her current job, she had incurred approximately \$61,000 of delinquent debt, including a delinquent loan (subparagraph 1.a), a delinquent mortgage (subparagraph 1.b), five delinquent credit cards (subparagraphs 1.c through 1.g), and a delinquent utility account (subparagraph 1.h).

Applicant borrowed approximately \$9,000 from the creditor listed in subparagraph 1.a in September 2010 to finance the replacement of the windows in her home. (GE 2 at 4; Tr. 26) Under the loan terms, she was supposed to repay the loan through \$168 monthly payments. She began to fall behind on this loan in early 2013, shortly after her former employer released her. (GE 2 at 4) In April 2013, the creditor sued Applicant. By June 2013, the parties settled the case. Under the settlement terms, Applicant agreed to enter into a consent judgment. Under its terms, the creditor agreed to stay the execution of judgment provided Applicant paid \$247 in June 2013, and \$150 monthly for the remainder of the year, followed by \$169 monthly until the debt was paid. (AE 5) Applicant has made the payments, as agreed. (Tr. 25-26; AE 5 at 3-4; AE 7)

Subparagraph 1.b is Applicant's home mortgage. Applicant began falling behind on payments in late 2012. (GE 2 at 3) By May 2013, Applicant's delinquent mortgage

payments totalled approximately \$16,300 and the loan balance totalled approximately \$400,000. (Answer at 1) Applicant obtained a loan modification of the mortgage in May 2014. (AE 6) Under the terms of the modification, the monthly mortgage payment was reduced from \$2,000 per month to \$1,600 per moth. As of January 2015, Applicant's mortgage payments were current. (AE 8)

Subparagraph 1.c totals \$11,110. Applicant has been satisfying this debt through \$25 monthly payments since August 2014. (AE 9) Subparagraph 1.d totals \$1,200. Applicant has been satisfying this debt through \$189 payments since August 2014. (AE 10) Subparagraph 1.e totals \$8,178. Applicant has been satisfying this debt since August 2014 with \$50 monthly payments. (AE 11) Subparagraph 1.f totals \$6,945. Applicant has been satisfying this debt with \$25 monthly payments since August 2014. (AE 12) Subparagraph 1.g totals \$3,600, of which \$311 was overdue as of December 2013. (GE 2) Applicant has been satisfying this debt with \$100 monthly payments since July 2014. (AE 13) Applicant satisfied the debt listed in subparagraph 1.h, totaling \$346 in early 2014. (Tr. 24)

Applicant earns \$82,000 annually. She maintains a budget and has between \$500 and \$900 of monthly disposable income. (Tr. 42; AE 14) Also, she has approximately \$6,200 invested in an individual retirement account and \$5,200 deposited in a savings account. (AE 16, AE 17) Her total debt, including bills not listed on the SOR, totals approximately \$58,000. (AE 14)

Policies

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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."

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 for obtaining a favorable security decision.

Analysis

Guideline F, Financial Considerations

Under this guideline, “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) Since 2013, Applicant has incurred approximately \$61,000 of delinquent debt. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply.

The following mitigating conditions under AG ¶ 20 are potentially applicable:

(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’s financial problems did not occur because of irresponsible spending. Instead, she began experiencing them after she lost her job in December 2012, and spent the following year either underemployed or unemployed. Since gaining her current job in November 2013, Applicant has methodically been satisfying her debts. Currently, her mortgage is no longer delinquent, she is complying with the consent judgment for the debt listed in subparagraph 1.a, and she has been steadily making monthly payments toward the satisfaction of the other debts.

Some of Applicant’s monthly debt payments are small in comparison to the debt balances. However, there is no requirement that applicants satisfy their debts with alacrity. Applicants must merely establish that they are adhering to a debt plan, and that the financial problems will not recur. Applicant established ample evidence of debt payments. She has significant discretionary income and income in reserve. I conclude that she will eventually satisfy her debts entirely and that her financial problems will most likely not recur. All of the mitigating conditions, as set forth above, apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

(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.

When considering this case in the context of the whole-person concept, particularly the circumstances surrounding the accrual of the debt and the steps Applicant has taken to satisfy the debt, I conclude that she has mitigated the security concern.

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.h:	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.

MARC E. CURRY
Administrative Judge