



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 14-01948  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Eric Borgstrom, Esq., Department Counsel  
For Applicant: *Pro se*

August 19, 2015

**Decision**

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant remains indebted to 37 creditors in the total approximate amount of \$50,204. Resulting security concerns were not mitigated. Based on a review of the pleadings and exhibits, eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application on November 5, 2010.<sup>1</sup> On September 24, 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

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<sup>1</sup>Item 2.

(Directive); and the adjudicative guidelines that came into effect in the Department of Defense on September 1, 2006.

Applicant submitted a written response to the SOR, dated November 4, 2014, and requested that her case be decided by an administrative judge on the written record without a hearing.<sup>2</sup> Department Counsel submitted the Government's written case on May 8, 2015, containing nine Items. A complete copy of the File of Relevant Material (FORM) was provided to Applicant, and she was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of her receipt of the FORM.

Applicant signed the document acknowledging receipt of her copy of the FORM on May 13, 2015. She submitted no additional material in response to the FORM, made no objection to consideration of any contents of the FORM, and did not request additional time to respond. I received the case assignment on July 6, 2015.

### **Findings of Fact**

Applicant is 46 years old, and has worked for a defense contractor since September 2008. She is married, and identified five children: three adult daughters and two minor sons.<sup>3</sup>

The Government alleged that Applicant is ineligible for a clearance because she has made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness and ability to protect classified information. The SOR alleged that Applicant is delinquent on 39 debts in the total amount of \$60,912. In Item 1, Applicant admitted the delinquent debts set forth in SOR ¶¶ 1.a through 1.e, 1.j, 1.k, 1.m, 1.n, 1.p, 1.q, 1.x, 1.jj, and 1.mm. She denied SOR ¶¶ 1.f through 1.i, 1.l, 1.o, 1.r through 1.w, 1.y through 1.ii, 1.kk, and 1.ll. Applicant's delinquent accounts appeared on her credit reports dated November 17, 2010; December 30, 2013; June 25, 2014; and January 30, 2015. (Items 3 through 6.) She also discussed them in her interrogatories and personal subject interview (Items 7 and 8.) Applicant's admissions are incorporated in the following findings.

Applicant is alleged to be indebted to the IRS for two Federal tax liens as alleged in SOR ¶¶ 1.a and 1.b. The first lien in the amount of \$6,000, was filed in September 2010. The second tax lien, in the amount of \$10,425, was filed in October 2008 for Federal income tax delinquencies from the 2005 and 2006 tax years. Applicant's October 2014 credit report reflects that her 2008 tax lien was paid and released. (Item 1.) Applicant admitted the September 2010 tax lien in Item 1, but failed to provide

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<sup>2</sup> Item 1.

<sup>3</sup>Item 2.

documentation to show she is making payments or has resolved that debt. It is still delinquent. (Item 1; Item 8.)

Applicant is alleged to be indebted on nine delinquent medical accounts to an unspecified creditor in the total amount of \$3,203, as stated in SOR ¶¶ 1.c, 1.e, 1.f, 1.g, 1.h, 1.i, 1.ii, 1.kk, and 1.ll. Applicant identified the creditor as the same creditor to whom she is alleged to be indebted an additional total of \$1,956 for SOR ¶¶ 1.m, 1.o, 1.hh, and 1.ii. Applicant wrote to this creditor on January 29, 2014, identified the debts by six account numbers, and offered to settle all of these debts for a payment of \$1,000. In Item 1, she provided five letters from this creditor showing that five accounts have been settled in full. However, with the exception of SOR ¶ 1.e, I am unable to match up the account numbers on the settlement letters to determine which of the alleged debts are resolved. SOR ¶ 1.e, is identified as “paid” on Applicant’s most recent credit report. (Item 3.) Additionally, Applicant appears to have contested her debts held by this creditor with the credit reporting agencies. (Item 1.) She presented documentation that seven collection accounts held by this creditor were “removed” from her credit report, although the reason for their removal or basis for dispute were not identified. Because Applicant bears the burden of proof to show which debts are resolved and I am unable to ascertain that information from the material she presented, I must find the remaining 12 of these medical debts are unresolved.

Applicant is alleged to be indebted on a delinquent apartment rental account, in the amount of \$1,927, as stated in SOR ¶ 1.d. Applicant indicated that she is making payments on this debt. (Item 2.) However, despite her claim none of the documentation she produced shows a payment to this creditor. This debt is unresolved.

Applicant is indebted to a power company on a collections account in the amount of \$401, as alleged in SOR ¶ 1.j. Applicant’s January 2015 credit report shows that this account remains delinquent. (Item 3.) It is unresolved.

Applicant is indebted to: a collection agent for a University in the amount of \$2,860, as alleged in SOR ¶ 1.k; a collection agent for a medical debt in the amount of \$554, as alleged in SOR ¶ 1.l; a resort in the amount of \$8,991, as alleged in SOR ¶ 1.n; a charged off account in the amount of \$7,844, as alleged in SOR ¶ 1.q; a medical debt of \$362, as alleged in SOR ¶ 1.s; a medical debt in the amount of \$515, as alleged in SOR ¶ 1.t; delinquent rent in the amount of \$1,732, as alleged in SOR ¶ 1.x; and a collection account in the amount of \$1,967 as alleged in SOR ¶ 1.cc. She presented documentation that she disputed these debts with the help of a law firm through the credit reporting agencies, although the basis for her disputes were not identified. There could be many reasons for the removal of a debt from a credit report and she failed to support her disputes with corroborating documentation. Applicant bears the burden of proof to show how these debts were resolved and she did not do so. (Item 1.)

Applicant failed to produce any documentation to show the status of her remaining debts including SOR ¶¶ 1.p; 1.r; 1.u; 1.v; 1.w; 1.y; 1.z; 1.aa; 1.bb; 1.dd; 1.ee; 1.ff; 1.gg; and 1.mm. They are unresolved.

The record lacks evidence concerning the quality of Applicant's professional performance, the level of responsibility her duties entail, or her track record with respect to handling sensitive information and observation of security procedures. No character witnesses provided statements describing her judgment, trustworthiness, integrity, or reliability. I was unable to evaluate her credibility, demeanor, or character in person since she elected to have her case decided without a hearing.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions (DCs) and mitigating conditions (MCs), 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, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶¶ 2(a) and 2(c), the entire process is a conscientious scrutiny of applicable guidelines in the context 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 the 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 avoided drawing 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, "[t]he 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision." Section 7 of Executive Order 10865 provides: "[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."

A person applying for access to classified information seeks to enter 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 protect or 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**

### **Guideline F, Financial Considerations**

The security concerns under the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

Department Counsel asserted, and the record evidence established, security concerns under two Guideline F DCs, as set forth in AG ¶ 19:

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

Applicant has a long history of delinquent debt. She has an unresolved \$6,000 Federal tax lien that dates back to 2010. Additionally, she accumulated 39 other delinquent accounts totaling \$50,204. Her ongoing pattern of delinquent debt and history of inability or unwillingness to pay her lawful debts raises security concerns under DCs 19(a) and (c), and shifts the burden to Applicant to rebut, extenuate, or mitigate those concerns.

The guideline includes five conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial difficulties:

- (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 failed to produce sufficient evidence that she has addressed 37 of her 39 alleged delinquencies totaling \$50,204. She offered little evidence from which to establish a track record of debt resolution. While she has resolved two debts, SOR ¶¶1.b and 1.e, she failed to show she has addressed the remaining debts in a meaningful manner. The material she submitted in Item 1 was unorganized and unclear. Despite my best efforts, I could not ascertain which debts were resolved, and which were successfully disputed for a legitimate reason. She failed to demonstrate that conditions beyond her control contributed to her financial problems or that she acted responsibly under such circumstances. She did not produce evidence that she received financial counseling, although she did hire a law firm to assist her in disputing some of her debt. MC 20(e) requires documented proof to substantiate the basis of a dispute concerning an alleged debt, and Applicant failed to provide such evidence, despite providing documentation that shows she formally disputed some of them. Accordingly, the record is insufficient to establish mitigation under any of the foregoing provisions.

### **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 pertinent facts and circumstances surrounding this case. Applicant is an accountable adult, who is responsible for her voluntary choices and conduct that underlie the security concerns expressed in the SOR. Her SOR-listed delinquent debts arose over the past seven years and appears to remain unresolved despite her employment during the period involved. She offered insufficient evidence of financial counseling, rehabilitation, better judgment, or responsible conduct in other areas of her life to offset resulting security concerns. The potential for pressure, coercion, and duress from her financial situation remains undiminished. Overall, the record evidence leaves me with substantial doubt as to Applicant's present eligibility and suitability for a security clearance. She did not meet her burden to mitigate the security concerns arising from her financial considerations.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

|                                 |                   |
|---------------------------------|-------------------|
| Paragraph 1, Guideline F:       | AGAINST APPLICANT |
| Subparagraph 1.a                | Against Applicant |
| Subparagraph 1.b                | For Applicant     |
| Subparagraphs 1.c through 1.d:  | Against Applicant |
| Subparagraph 1.e                | For Applicant     |
| Subparagraphs 1.f through 1.mm: | Against Applicant |

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Jennifer I. Goldstein  
Administrative Judge