



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
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 1 ) ISCR Case No. 14-02251  
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 Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: *Pro se*

04/13/2015

**Decision**

WHITE, David M., Administrative Judge:

Applicant incurred about \$43,000 in delinquent debts over the past seven years, and failed to document resolution of any of them. She was fired from her previous job for making personal long-distance calls on the company’s telephone. 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 January 17, 2013.<sup>2</sup> On July 28, 2014, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns

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<sup>1</sup>Applicant’s middle names were incorrectly merged into one name on the Statement of Reasons. She has two middle names as shown here, per her two security clearance applications. (Item 5 at 5; Item 9 at 6.)

<sup>2</sup>Item 5.

under Guideline F (Financial Considerations) and Guideline E (Personal Conduct).<sup>3</sup> 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 that came into effect in the Department of Defense on September 1, 2006.

Applicant submitted a written response to the SOR on August 22, 2014, and requested that her case be decided by an administrative judge on the written record without a hearing.<sup>4</sup> Department Counsel submitted the Government's written case on December 2, 2014. A complete copy of the File of Relevant Material (FORM)<sup>5</sup> 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 January 27, 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 March 16, 2015.

### Findings of Fact

Applicant is 35 years old, and has worked for a defense contractor since August 2011. She has never married, and has two children ages 17 and 5. She earned her high school diploma in 1997, and an information systems networking associate's degree in 2006. She has no military service, and was granted a security clearance in late 2007 in connection with previous employment.<sup>6</sup>

In her response to the SOR, Applicant admitted 12 allegations<sup>7</sup> concerning her delinquent debts, with uncorroborated explanations claiming she had either paid them or made arrangements to do so. She denied the remaining eight allegations,<sup>8</sup> claiming

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<sup>3</sup>Item 1.

<sup>4</sup>Item 4.

<sup>5</sup>Department Counsel submitted 10 Items in support of the SOR allegations. Item 8 is inadmissible and will not be considered or cited as evidence in this case. It is the summary of an unsworn interview of Applicant conducted by an interviewer from the Office of Personnel Management on February 20, 2013. It was never adopted by Applicant as her own statement, or otherwise certified by her to be accurate. Under Directive ¶ E3.1.20, this Report of Investigation summary is inadmissible in the absence of an authenticating witness.

<sup>6</sup>Item 5.

<sup>7</sup>Applicant admitted SOR ¶¶ 1.d, 1.e, 1.g through 1.n, 1.s, and 1.t.

<sup>8</sup>Applicant denied SOR ¶¶ 1.a, 1.b, 1.c, 1.f, 1.o, 1.p, 1.q, and 1.r.

that the alleged debts were not hers and were “removed.”<sup>9</sup> Applicant’s admissions are incorporated into the following findings of fact.

The eight delinquent debts that Applicant claimed were not hers appear on one or both record credit reports. Seven of the eight (totaling \$4,100) are medical accounts that went unpaid between 2007 and 2012, and were placed for collection. The eighth debt<sup>10</sup> was an \$8,321 automobile loan account that was opened in February 2004, last paid in May 2008, and charged off by the lender in October 2010. Applicant offered no evidence to support her claims that these debts were not hers, or had otherwise been resolved.<sup>11</sup>

Applicant admitted owing the five student loan debts alleged in SOR ¶¶ 1.g, 1.h, 1.i, 1.k, and 1.l, totaling \$22,763. She claimed that they are in a loan rehabilitation program, but provided neither details nor documentary corroboration of that assertion. Comparing the balances due on these debts reported on her March 17, 2014 credit report,<sup>12</sup> with those on her February 8, 2013 credit report,<sup>13</sup> shows a net reduction of \$1,208 due on the four ECMC loans and an increase of \$566 on the CITIBANK loan.

Applicant also admitted owing the remaining seven alleged delinquent debts, totaling \$7,737. She claimed, again without supporting evidence, that six of them had either been paid or that she had made arrangements to pay them. All remain unpaid on her most recent record credit report. She said that she was disputing the seventh of these debts,<sup>14</sup> for \$1,965 to a fitness club, because she thought her contract could be canceled with a doctor’s order. She did not document a basis for this claim either.<sup>15</sup>

The record does not address whether Applicant obtained financial counseling. She offered no evidence showing a budget from which her ability to resolve these delinquencies or avoid additional debt problems could be predicted with any confidence.

Applicant admitted that she was fired in March 2011 from her employment at another government contractor, where she started working in October 2008, due to her violation of an ethics policy by making numerous personal long-distance calls on her work telephone line. She was unemployed for about five months thereafter. She was

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<sup>9</sup>Item 4. She neither said from where they were “removed,” nor provided an updated credit report or letters from a credit bureau to corroborate her claims.

<sup>10</sup>SOR ¶ 1.f.

<sup>11</sup>Items 4, 6, and 7.

<sup>12</sup>Item 6.

<sup>13</sup>Item 7.

<sup>14</sup>SOR ¶ 1.m.

<sup>15</sup>Items 4 and 6.

also unemployed between jobs from October 2005 to August 2006, October 2004 to March 2005, and November 2002 to September 2003. She voluntarily quit her jobs before the most recent two periods to attend school. The earliest period resulted from being laid off from a receptionist job due to budget cutbacks.<sup>16</sup>

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."

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<sup>16</sup>Items 4 and 5.

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 admitted \$30,500 in unresolved delinquent debts that she incurred over the past seven years. She provided no corroboration for her claims to have recently repaid some of them, or arranged payments for others. The balance of record evidence contradicts her claims that she is not responsible for the other eight alleged delinquencies, totaling \$12,421. Her ongoing pattern and history of inability or unwillingness to pay 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 has incurred substantial delinquent debts, totaling almost \$43,000, which continue to date. She claimed that several smaller alleged debts have been or are being resolved, but offered no evidence from which to determine the validity of these statements or establish a track record of debt resolution. She failed to demonstrate that conditions beyond her control contributed to her financial problems or that she acted responsibly under such circumstances. MC 20(e) requires documented proof to substantiate the basis of a dispute concerning an alleged debt, and Applicant failed to provide such evidence. Accordingly, the record is insufficient to establish mitigation under any of the foregoing provisions for her financial irresponsibility.

### **Guideline E, Personal Conduct**

AG ¶ 15 expresses the security concern pertaining to personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes one condition that raises security concerns and may be disqualifying with relation to the allegations in this case:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply

with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of: . . . (3) a pattern of dishonesty or rule violations; and (4) evidence of significant misuse of Government or other employer's time or resources.

Applicant was fired in 2011 for misusing her employer's telephone service for numerous personal long-distance calls. This occurred during a period of time that many of her debts went unpaid, indicating that she not only violated known company ethics policies, but consciously chose to charge personal expenses to her employer. This demonstrated questionable judgment, untrustworthiness, unreliability, lack of candor, and unwillingness to comply with rules and regulations.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. Three have potential applicability under the facts in this case:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Applicant's misuse of her employer's resources was serious enough to result in her termination. It was relatively recent, and did not occur under unusual circumstances. Applicant did not provide sufficient evidence from which to conclude that this misconduct does not adversely reflect on her current reliability, trustworthiness, and judgment. Nor did she demonstrate counseling, rehabilitation, or other steps to reduce vulnerability to manipulation or duress. Thus, Applicant failed to establish mitigation under any of these conditions.

### **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 delinquent debts arose over the past seven years and remain largely unresolved despite her full employment, or voluntary unemployment to attend school, 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. She also violated ethics policy by misusing her former employer's telephone service to make numerous personal long-distance calls. The potential for pressure, coercion, and duress from her financial situation remains undiminished, and she has not demonstrated a basis to conclude that she would not violate rules or regulations for personal gain in the future. 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 and personal conduct.

### **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
Subparagraphs 1.a through 1.t:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	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.

DAVID M. WHITE  
Administrative Judge