



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



In the matter of:	)	
	)	
-----	)	ISCR Case No. 14-02362
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Pamela C Benson, Esquire, Department Counsel  
For Applicant: *Pro se*

March 30, 2016

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**Decision**

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MOGUL, Martin H., Administrative Judge:

On March 14, 2015, the Department of Defense (DoD) issued a Statement of Reasons (SOR) detailing the security concerns under Guideline F for Applicant. (Item 1.) 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 Department of Defense after September 1, 2006.

On April 3, 2015, Applicant replied to the SOR (RSOR) in writing, including Attachments A through F, and she requested that her case be decided on the written record in lieu of a hearing. (Item 1.) On June 19, 2015, Department Counsel issued the Department's written case. A complete copy of the file of relevant material (FORM) was provided to Applicant. In the FORM, Department Counsel offered six documentary exhibits. (Items 1-6.) Applicant was given the opportunity to file objections and submit material in refutation, extenuation, or mitigation. A response was due on August 6, 2015. Applicant submitted additional evidence, which has been identified and entered into evidence without objection as Items A through J. The case was assigned to this

Administrative Judge on August 11, 2015. Based upon a review of the pleadings and exhibits, eligibility for access to classified information is denied.

### **Findings of Fact**

After a complete and thorough review of the evidence in the record, including Applicant's RSOR and the FORM, and upon due consideration of that evidence, I make the following findings of fact:

Applicant works for a defense contractor, and she seeks a DoD security clearance in connection with her employment in the defense sector.

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

The SOR lists 19 allegations (1.a. through 1.s.) regarding financial difficulties, specifically overdue debts totaling approximately \$29,000, under Adjudicative Guideline F. The debts will be discussed below in the same order as they were listed on the SOR:

1.a. This overdue debt is cited in the SOR for a collection account in the amount of \$1,312. In her RSOR, Applicant admitted this SOR allegation, and she wrote that she arranged a payment plan with the creditor of this debt to begin making payments of \$125 a month starting on April 30, 2015. (Item 1.) Item C confirms that Applicant has set up a payment plan with this creditor, for the current amount owed of \$2,513, to be paid starting on May 19, 2015. I find that Applicant has now set up a payment plan, but at the time the record closed no payments had been made toward this debt

1.b. This overdue debt is cited in the SOR for a collection account in the amount of \$367. In her RSOR, Applicant denied this SOR allegation, and she wrote that she has contacted the debtor, and she has set up a payment plan to make one payment of \$393.65 on April 14, 2015, to settle this debt. She also wrote that SOR allegation 1.j., below, is a duplicate of this debt, as she only had one account with this creditor. (Item 1.) Attachment B confirms that Applicant has set up a payment plan with this creditor, for one payment of \$393.65 to be paid on April 14, 2015. I find that Applicant has set up a payment plan to pay this debt, but at the time the record closed no payment had been made toward this debt

1.c. This overdue debt is cited in the SOR for a collection account in the amount of \$367. In her RSOR, Applicant denied this SOR allegation, and she wrote that she paid this bill on March 19, 2013. (Item 1.) Attachment C confirms that Applicant has settled this debt. I find that this debt is resolved.

1.d. This overdue debt is cited in the SOR for a collection account in the amount of \$1,307. In her RSOR, Applicant denied this SOR allegation, and she wrote that this debt has been forgiven and removed from her credit report. (Item 1.) No independent evidence was introduced to prove that this debt has been resolved or reduced. I find that this debt is still outstanding.

1.e. This overdue debt is cited in the SOR for a collection account in the amount of \$1,540. In her RSOR, Applicant denied this SOR allegation, and she wrote that this debt has been forgiven and removed from her credit report. (Item 1.) Item G confirms that Applicant has settled this debt. I find that this debt is resolved.

1.f. This overdue debt is cited in the SOR for a collection account in the amount of \$329. In her RSOR, Applicant denied this SOR allegation, and she wrote that she paid this bill on May 31, 2014. (Item 1.) Attachment D confirms that Applicant has settled this debt. I find that this debt is resolved.

1.g. This overdue debt is cited in the SOR for a charged-off account in the amount of \$13,354. In her RSOR, Applicant admitted this SOR allegation, and she wrote that she has contacted the creditor to set up a payment plan, beginning in May 2015. (Item 1.) No evidence was introduced to prove that this debt has been resolved or reduced. I find that this debt is still outstanding.

1.h. This overdue debt is cited in the SOR for a collection account in the amount of \$328. In her RSOR, Applicant denied this SOR allegation, and she wrote that this debt has been forgiven and removed from her credit report. (Item 1.) Applicant submitted Item F to show this debt has been settled, but I do not find that the exhibit refers to this debt. I find that this debt is still outstanding.

1.i. This overdue debt is cited in the SOR for a medical collection account in the amount of \$420. In her RSOR, Applicant denied this SOR allegation, and she wrote that this debt has been forgiven and removed from her credit report. (Item 1.) No independent evidence was introduced to prove that this debt has been resolved or reduced. I find that this debt is still outstanding.

1.j. This overdue debt is cited in the SOR for a collection account in the amount of \$1,311. As reviewed above, Applicant wrote that this is a duplicate of 1.b., above. (Item 1.) I find that this is a duplicate of 1.b., above.

1.k. This overdue debt is cited in the SOR for a collection account in the amount of \$146. In her RSOR, Applicant denied this SOR allegation, and she wrote that this debt has been forgiven and removed from her credit report. (Item 1.) No independent evidence was introduced to prove that this debt has been resolved or reduced. I find that this debt is still outstanding.

1.l. This overdue debt is cited in the SOR for a collection account in the amount of \$173. In her RSOR, Applicant denied this SOR allegation, and she wrote that she paid this bill on May 16, 2013. (Item 1.) Attachment E confirms that Applicant has settled this debt. I find that this debt is resolved.

1.m. This overdue debt is cited in the SOR for a collection account in the amount of \$484. In her RSOR, Applicant admitted this SOR allegation, and she wrote that she has been making payments pursuant to a payment plan. She added that the last payment of \$170.58 will be made on April 15, 2015. (Item 1.) Attachment F confirms that

Applicant has made a payment of \$192.52 toward this debt. I find that this debt is being resolved.

1.n. This overdue debt is cited in the SOR for a collection account in the amount of \$1,760. In her RSOR, Applicant denied this SOR allegation, and she wrote that this debt has been forgiven and removed from her credit report. (Item 1.) No independent evidence was introduced to prove that this debt has been resolved or reduced. I find that this debt is still outstanding.

1.o. This overdue debt is cited in the SOR for a collection account in the amount of \$284. In her RSOR, Applicant denied this SOR allegation, and she wrote that she paid \$213.69 to settle this bill on May 2, 2014. (Item 1.) Attachment D confirms that Applicant made a payment of \$198 toward this debt. I find that this debt has been resolved.

1.p. This overdue debt is cited in the SOR for a collection account in the amount of \$236. In her RSOR, Applicant denied this SOR allegation, and she wrote that she paid \$165.84 to settle this bill on March 4, 2014. While Applicant indicated that she had submitted evidence to establish that this debt had been paid, I could not locate said evidence. (Item 1.) Therefore, I cannot conclude that this debt has been resolved.

1.q. This overdue debt is cited in the SOR for a collection account in the amount of \$95. In her RSOR, Applicant denied this SOR allegation, and she wrote that this debt has been paid in full and removed from her credit report. While Applicant indicated that she had submitted evidence to establish that this debt had been paid, I could not locate said evidence. (Item 1.) Therefore, I cannot conclude that this debt has been resolved.

1.r. This overdue debt is cited in the SOR for a collection account in the amount of \$105. In her RSOR, Applicant denied this SOR allegation, and she wrote that this debt has been paid in full and removed from her credit report. While Applicant indicated that she had submitted evidence to establish that this debt had been paid, I could not locate said evidence. (Item 1.) Therefore, I cannot conclude that this debt has been resolved.

1.s. This overdue debt is cited in the SOR for a past-due and delinquent account in the amount of \$3,000. In her RSOR, Applicant denied this SOR allegation, and she wrote that this education debt has been paid and she has re-enrolled in the school. The debt was for her last term of classes, and she started making payments on December 12, 2013. (Item 1.) Item S confirms that Applicant made 4 payments of \$736.29 and one payment of \$136.18 toward this debt, but she still owes \$2,072.66. I find that this debt is being resolved.

In Item A, Applicant explained the reasons for her financial difficulties. These included: a broken relationship with her boyfriend, which resulted in a single income after she incurred bills that relied on two incomes; having to care for her sister and her sister's children (Applicant's four nieces) without additional support from her sister; co-signing for telephones for Applicant's mother and another of Applicant's sisters, who failed to meet their obligations to pay for the phones; and Applicant's mother incurring overdraft fees on

a bank account that Applicant opened with her. Finally, Applicant has had auto repair bills, and education debts in an attempt to get a degree to advance her career.

Applicant further wrote in Item A, “Over the years in trying to assist my family with various issues and circumstances, I over-extended myself and obligations to a point that it has affected my credit.” As to her current financial situation, she wrote that she has not added any new debts to her delinquent accounts, with the exception of her student loans so that she could pursue her degree.

## **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 over-arching 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. 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, 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 as to obtaining 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 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.

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 relating to the guideline 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 and could potentially apply in this case. Under AG ¶ 19(a), “an inability or unwillingness to satisfy debts,” is potentially disqualifying. Similarly under AG ¶ 19(c), “a history of not meeting financial obligations” may raise security concerns. I find that both of these disqualifying conditions apply to Applicant in this case. The evidence has established that Applicant accumulated significant delinquent debts, many of which have not been satisfied.

AG ¶ 20 provides conditions that could mitigate security concerns from financial difficulties. Under AG ¶ 20(b), it may be mitigating where, “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.” As reviewed above, some of Applicant’s financial problems were beyond her control, such as the loss of income from her boyfriend after their breakup, when she had incurred debts while relying on two incomes. However, a great deal of Applicant’s delinquent debt arose because of the help that she provided for her family. While this financial aid to family members is laudable, it cannot be considered beyond Applicant’s control. Therefore, I do not find that this mitigating condition is a factor for consideration in this case.

AG ¶ 20(d) is also not applicable, since Applicant has not “initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” While Applicant has resolved some of her debts, there remains more than \$20,000 of delinquent debt that has not been shown to be reduced or resolved. Therefore, I find that this mitigation

condition applies to this case but is not controlling for the reasons discussed in the paragraph below.

Since Applicant has not submitted a Personal Financial Statement, nor was any independent evidence offered about her current financial stability, I cannot conclude that Applicant will be able to continue paying off her past debts or keep up to date on her current debts and expenses, especially if any new or unexpected debts are incurred. Therefore, I find that Applicant has not mitigated the Financial Consideration concerns, which are found against Applicant.

### **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 the 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. Based on all of the reasons cited above as to why the disqualifying conditions apply and why the concerns about Applicant's current finances have not been mitigated, I find that the record evidence leaves me with significant questions and doubts as to Applicant's eligibility and suitability for a security clearance under the whole-person concept. For all these reasons, I conclude Applicant has not mitigated the security concerns under the whole-person concept.

## 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.:	For Applicant
Subparagraphs 1.b.:	For Applicant
Subparagraphs 1.c.:	For Applicant
Subparagraphs 1.d.:	Against Applicant
Subparagraphs 1.e.:	For Applicant
Subparagraphs 1.f.:	For Applicant
Subparagraphs 1.g.:	Against Applicant
Subparagraphs 1.h.:	Against Applicant
Subparagraphs 1.i.:	Against Applicant
Subparagraphs 1.j.:	For Applicant
Subparagraphs 1.k.:	Against Applicant
Subparagraphs 1.l.:	For Applicant
Subparagraphs 1.m.:	For Applicant
Subparagraphs 1.n.:	Against Applicant
Subparagraphs 1.o.:	For Applicant
Subparagraphs 1.p.:	Against Applicant
Subparagraphs 1.q.:	Against Applicant
Subparagraphs 1.r.:	Against Applicant
Subparagraphs 1.s.:	For 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.

Martin H. Mogul  
Administrative Judge