

KEYWORD: Financial

DIGEST: Applicant is a 38-year-old employee of a defense contractor. Applicant has paid all her delinquent debts but one which she is currently paying. She is now financially stable. Applicant has mitigated the security concerns based on her financial issues. Clearance is granted.

CASENO: 07-02000.h1

DATE: 09/26/2007

DATE: September 26, 2007

_____)	
In re:)	
)	
-----)	ISCR Case No. 07-02000
SSN: -----)	
)	
Applicant for Security Clearance)	
_____)	

**DECISION OF ADMINISTRATIVE JUDGE
EDWARD W. LOUGHRAN**

APPEARANCES

FOR GOVERNMENT

Alison O'Connell, Esq., Department Counsel
Robert E. Coacher, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 38-year-old employee of a defense contractor. Applicant has paid all her delinquent debts but one which she is currently paying. She is now financially stable. Applicant has mitigated the security concerns based on her financial issues. Clearance is granted.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On May 29, 2007, DOHA issued a Statement of Reasons¹ (SOR) detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense for SORs issued after September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued. Applicant answered the SOR in writing on June 27, 2007, and elected to have her case decided on the written record. On July 12, 2007, Applicant changed her request to a hearing before an administrative judge.

The case was assigned to me on August 3, 2007. A Notice of Hearing was issued on August 14, 2007, scheduling the hearing for September 6, 2007. The hearing was conducted as scheduled to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government offered four exhibits that were marked as Government Exhibits (GE) 1 through 4, and admitted without objections. Applicant testified and offered 11 exhibits that were marked Applicant Exhibits (AE) A through K, and admitted without objections. The record was left open to allow Applicant an opportunity to submit additional material. She did so in a timely manner. The documents consisting of a fax cover sheet dated September 7, 2007 (AE L), three pages of checks (AE M), a fax cover sheet dated September 13, 2007 (AE N), letter from Merchants' Credit Guide Co. (AE O), check to Merchants' Credit Guide Co. (AE P), letter from Equifax (AE Q), and letter from Applicant (AE R), were admitted without objections. Department Counsel's memo forwarding the exhibits is marked Hearing Exhibit (HE) I. DOHA received the hearing transcript (Tr.) on September 17, 2007.

FINDINGS OF FACT

Applicant's admissions to the allegations in the SOR are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 38-year-old employee of a defense contractor. She is a college graduate. Applicant is single, with no children. She has worked for her current employer for five years.²

Applicant's financial problems started in the 1990s from a combination of insufficient income and reliance on credit cards. She also assisted her mother financially when she was hospitalized with meningitis. The SOR lists four delinquent debts, three debts totaling \$1,317, and

¹Pursuant to Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended (Directive).

²Tr. at 20-21; GE 1.

a large debt for \$16,104. Applicant had other delinquent debts, but she paid or settled those debts prior to the issuance of the SOR.³

The debt in SOR ¶ 1.a in the amount of \$298 is to a retail store. Applicant paid this debt on March 28, 2007.⁴

SOR ¶ 1.b lists a debt in the amount of \$347 for a gasoline company credit card issued by a bank. Applicant submitted proof that the balance on an account she had with a credit card from another gasoline company issued by the same bank was zero. Applicant testified this referred to the same account as listed in the SOR. The government's evidence is based upon credit reports which are sometimes inaccurate.⁵ I found Applicant to be a credible witness. I find that this debt either has been paid, or Applicant honestly believes it has been paid.

The debt in SOR ¶ 1.c in the amount of \$672 is to a department store. Applicant submitted documentation that this debt was paid in September 2003. A credit report of August 19, 2007 does not list this debt.⁶

SOR ¶ 1.d lists a debt of \$16,104 for a credit card. Applicant testified this debt was sold to a collection agency. Applicant submitted documentation of a debt to a collection agency, with a balance of \$8,318 as of June 29, 2007. She stated the \$16,104 figure reflects the original debt and accrued interest, but that the collection agency only received the original debt without the accrued interest. Applicant has a payment plan with the collection agency to pay \$250 per month. She provided proof of \$250 payments in June, July, August, and September 2007. The balance before her September 2007 payment was \$7,818. I note that a debt to this collection agency is not listed on any of the credit reports in evidence. Additionally, the balances on the various statements from the collection agency go down by exactly \$250 per month, which is consistent with Applicant's testimony that the agency is not charging her interest.⁷ I accept Applicant's credible testimony that her payments to this collection agency represent the same debt as listed in SOR ¶ 1.d.

Applicant has not received any financial counseling, but it appears she now has a firm grasp of her finances. She has a secure job, paying a good salary. Applicant had a clear understanding of how her money was being spent and where it was going. She displayed resolve to continue on track and pay her last delinquent debt, even if she was denied a security clearance and lost her job.⁸

³Tr. at 40-44, GE 2-4; AE C, H, R.

⁴Tr. at 22-23; Applicant's response to SOR; AE D, E, H at 6.

⁵Tr. at 23-25; Applicant's response to SOR; GE 3 at 2; AE A, H at 6.

⁶Tr. at 25-28; Applicant's response to SOR; AE B, H.

⁷Tr. at 28-37; Applicant's response to SOR; AE F-I, N-R.

⁸Tr. at 44-53.

Applicant submitted a positive performance appraisal and several letters attesting to her intelligence, dependability, responsibility, trustworthiness, honesty, commitment, loyalty, competence, and professionalism.⁹

POLICIES

“[N]o one has a ‘right’ to a security clearance.”¹⁰ As Commander in Chief, the President has “the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information.”¹¹ The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.”¹² An applicant has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance. The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.¹³ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.¹⁴ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.¹⁵

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the adjudicative process factors listed in the Directive and AG ¶ 2(a).

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, are set forth and discussed in the conclusions section below.

CONCLUSIONS

⁹AE J, K.

¹⁰*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

¹¹*Id.* at 527.

¹²Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

¹³ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

¹⁴*Id.*; Directive, ¶ E2.2.2.

¹⁵Exec. Or. 10865 § 7.

I have carefully considered all the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

Guideline F: Financial Considerations

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.

Applicant's delinquent debts establish Financial Considerations Disqualifying Condition (FC DC) 19(a) (*inability or unwillingness to satisfy debts*) and FC DC 19(c) (*a history of not meeting financial obligations*).

I have considered all the Financial Considerations Mitigating Conditions (FC MC), and especially considered FC MC 20(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*), FC MC 20(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*), FC MC 20(c) (*the person 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 FC MC 20(d) (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

Applicant still owes more than \$7,500 to a creditor, so I am unable to apply FC MC 20(a). Applicant stated that she helped her mother financially when she was ill. She did not provide sufficient details for a finding that this was a major factor in her financial problems, or that she acted responsibly under the circumstances. FC MC 20(b) does not apply.

Applicant has not received counseling for her financial problems. However she has been working on paying her debts for some time. She paid the three small debts in the SOR, and is making payments on the large debt. The debt in SOR ¶ 1.c was paid in September 2003. She also paid or settled other debts prior to the issuance of the SOR. Applicant credibly testified that she would continue to pay her last delinquent debt, no matter the outcome of her hearing. With diligence, the payment of her last delinquent debt is attainable. I find Applicant has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts, and there are clear indications that the problem is being resolved and is under control. FC MC 20(c) and FC MC 20(d) apply.

Whole Person Analysis

The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating Applicant's case, I have considered the adjudicative process

factors listed in the Directive and AG ¶ 2(a). I have also considered all the evidence, and every finding of fact and conclusion discussed above.

Applicant developed financial problems when she was younger. She has worked at the same company since 2002, and is well regarded there. She has been addressing her financial problems for several years. Applicant now has her financial house in order, with a clear and realistic plan to address her remaining delinquent debt.

After weighing the disqualifying and mitigating conditions and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on her financial issues.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline F:	AGAINST APPLICANT
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Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant

DECISION

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Edward W. Loughran
Administrative Judge