



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



In the matter of:	)	
	)	
	)	ISCR Case No. 08-02694
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric H. Borgstrom, Esquire, Department Counsel  
For Applicant: *Pro Se*

April 30, 2009

**Decision**

CREAN, Thomas M., Administrative Judge:

Applicant submitted her Electronic Questionnaire for Investigations Processing (e-QIP), on August 1, 2007 (Item 3). On November 20, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) for Applicant detailing security concerns for financial considerations under Guideline F (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 revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR in writing on December 17, 2008, admitting 14 and denying five of the 19 allegations in the SOR (Items 2). She elected to have the matter decided on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on February 10, 2009. Applicant received a complete file of relevant material (FORM) on February 23, 2009, and was provided the opportunity to file objections, and submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant did not respond to the FORM or provide additional material. The

case was assigned to me on April 27, 2009. Based on a review of the case file and pleadings, eligibility for access to classified information is denied.

### **Findings of Fact**

I thoroughly reviewed the case file, and the pleadings. I make the following findings of fact.

Applicant is 39 years old and has been employed as a data processing specialist for a defense contractor since July 2007. She is married with two children. This appears to be her first request for a security clearance (Item 3). There is no information in the file concerning salary, expenses, or disposable funds. She reports steady employment since February 2000, except for a five month period when she was unemployed to take care of her mother (Item 3)

Credit reports and the SOR list the following delinquent debts: a charged off account with First Premier for \$463 (SOR 1.a); an account in collection for Arrow Services for \$339 (SOR 1.b); a charged off account for Capital One for \$2,017 (SOR 1.c); a collection account for AT&T by Palisades for \$258 (SOR 1.d); a charged off account for Swiss Colony for \$85 (SOR 1.e); a collection account for Verizon for \$701 (SOR 1.f); a Verizon account in collection for \$638 (SOR 1.g); a medical account in collection for \$90 (SOR 1.h); an account for Bank of American in collection by NCO Financial for \$253 (SOR 1.i); a charged off account for First Premier for \$267 (SOR 1.j); a charged off account for Triadfincl for \$8,123 (SOR 1.k); a medical collection account for \$28 (SOR 1.l); a charged off account for HSBC for \$759 (SOR 1.m); a mortgage foreclosure debt of \$2,300 for AMC Mrtg Services (SOR 1.n); medical accounts in collection for \$39 (SOR 1.o), \$35 (SOR 1.p), \$29 (SOR 1.q), and \$741 (SOR 1.r); and a collection account for Bank America by NCO Financial for \$279 (SOR 1.s; See Item 1, SOR; Item 4, Credit Report, dated September 1, 2008; and Item 5, Credit Report, dated August 15, 2007). It appears the two First Premier accounts (SOR 1.a and 1.j) are the same debt. It appears the two collection accounts for Bank of America (SOR 1.i and 1.s) are the same accounts. It appears the collection accounts for Verizon (SOR 1.f and 1.g) are the same debt. The total debt, without the duplications, is for 16 debts totaling \$16,207.

In her response to the SOR, Applicant admitted the debts at SOR 1.a, 1.d, 1.f, 1.g, 1.h, 1.j, 1.k, 1.l, 1.m, 1.o, 1.p, 1.q, 1.r, and 1.s. She provided no explanation for the debts or any action she has taken to pay the debts. She denied the debts at SOR 1.b, 1.c, 1.e, 1.i, and 1.n. The only explanation provided was that she was unaware of the debt (Item 2).

In response to interrogatories, Applicant stated she never ordered any item or made a purchase from the mail order house listed at SOR 1.e. She presented no information on any correspondence she had with the company concerning the debt. She also stated she intends to file a petition in bankruptcy but the filing has been delayed. She realizes her credit reports show a negative financial history, but she is not

a worthless person but trusting, hardworking and reliable. Her credit report does not reflect her true worth. She would never do anything to harm her country (Items 6 and 7, Answers to Interrogatories).

## **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 common sense 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.

## Analysis

### Financial Consideration:

Under 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. (AG ¶ 18) Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in their obligations to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

A person's relationship with her creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts under agreed terms. Absent evidence of strong extenuating or mitigating circumstances, an Applicant with a history of serious or recurring financial difficulties is in a situation of risk inconsistent with the holding of a security clearance. An Applicant is not required to be debt free, but is required to manage her finances in such a way as to meet her financial obligations. Applicant's delinquent debts as established by credit reports and Applicant's admissions to most of the debts raise Financial Considerations Disqualifying Conditions (FC DC) AG ¶ 19(a) (inability or unwillingness to satisfy debts); and FC DC AG ¶ 19(c) (a history of not meeting financial obligations). The record from credit reports and responses to interrogatories shows her inability or unwillingness to satisfy debts and shows a history of not meeting financial obligations.

I considered Financial Considerations Mitigating Conditions (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). Applicant has taken no action to pay the delinquent debts, so the debts are current. The debts are from various sources, credit cards, loans, phone bills, and a mortgage, so they are not infrequent. Since the debts are current and not paid, they cast doubt on Applicant's current reliability, trustworthiness, and good judgment. The mitigating condition does not apply.

I considered FC MC ¶ 20(b) (the conditions that resulted in the financial problems 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). Applicant admits to 14 of the 19 debts without an explanation. Of the five she denied, she only states that she was unaware of the debts. Applicant has been steadily employed for the last nine years except for five months. She presented no information concerning any attempt to pay past due obligations when she has been steadily employed. She has not established she acted responsibly in managing her finances and making payments on her obligations.

I considered FC MC ¶ 20(d) "the individual has initiated a good-faith effort to repay the overdue creditors or otherwise resolve debts". For FC MC ¶ 20(d) to apply, there must be an "ability" to repay the debts, the "desire" to repay, and "evidence" of a good-faith effort to repay. A systematic, concrete method of handling debts is needed. Applicant presented no information to show she has a plan to pay the debts or any action that she has taken to pay her debts. Applicant appears to have sufficient income to make some payments on her delinquent debts since she has been steadily employed for over nine years. She has not presented a concrete plan to pay her delinquent debts or established any attempt to pay them. While bankruptcy is a legal and permissible means of resolving financial issues, a future intention to file a bankruptcy is not an indication of a good-faith effort to pay debts. Applicant has not presented sufficient information to indicate a good-faith effort to pay creditors or resolve debts. Her finances are not under control and she has not acted responsibly. She has not presented sufficient information to mitigate security concerns for financial considerations.

### **"Whole Person" Analysis**

Under the whole person concept, the administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the circumstances. An 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 a security clearance must be an overall common sense judgment based upon careful consideration of the guidelines and the whole person concept.

Applicant has not taken action to resolve her past due debts. Her indifferent attitude, her failure to contact creditors, and her lack of actions show she is not trustworthy, responsible, or that she exercises good judgment. Applicant has been irresponsible towards her delinquent debts and financial obligations. This is an indication that she might be irresponsible towards the protection and handling of classified information. I conclude Applicant has not mitigated the security concerns arising from her finances. Clearance is denied.

## Formal Findings

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant (Duplicate)
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	For Applicant (Duplicate)
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	For Applicant (Duplicate)
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	Against Applicant
Subparagraph 1.l:	Against Applicant
Subparagraph 1.m:	Against Applicant
Subparagraph 1.n:	Against Applicant
Subparagraph 1.o:	Against Applicant
Subparagraph 1.p:	Against Applicant
Subparagraph 1.q:	Against Applicant
Subparagraph 1.r:	Against Applicant
Subparagraph 1.s:	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.

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THOMAS M. CREAN  
Administrative Judge