



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)	
)	
XXXXXX, Xxxxx Xx)	ISCR Case No. 08-08713
SSN: XXX-XX-XXXX)	
)	
Applicant for Security Clearance)	

Appearances

For Government: John B. Glendon, Esquire, Department Counsel
For Applicant: *Pro se*

April 30, 2009

Decision

METZ, John Grattan, Jr., Administrative Judge:

On 26 January 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F.¹ Applicant answered the SOR 5 February 2000, and requested a decision without hearing. DOHA assigned the case to me 22 April 2009. The record in this case closed 16 April 2009, the day Department Counsel entered no objection to Applicant's response to the government's File of Relevant Material (FORM).

¹DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), 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 (RAG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Findings of Fact

Applicant admitted the SOR financial allegations of 1.a., 1.g. 1.h., 1.k., 1.m., 1.n., 1.p., 1.q., and 1.r.. She denied the remaining SOR allegations.² She is a 29-year-old, electronics technician employed by a U.S. defense contractor since July 2007. She has not previously held an industrial clearance, but had a clearance while she was in the military from 1998 to 2006.

The SOR alleges, and government exhibits substantiate, 19 delinquent debts totaling over \$25,000. The debts alleged are all listed as individual obligations of Applicant on the credit reports contained in the record. Applicant unequivocally admits four debts totaling over \$10,000, that she has taken no steps to address despite a personal financial statement that indicates that she and her current husband have the means to do so. She asserts, without corroboration, that four debts (1.k., 1.m., 1.p., and 1.q.) were opened by her ex-husband either after their divorce or while they were in the process of getting a divorce. She claims he opened these accounts in her name using a power-of-attorney she had given him to enable him to act on her behalf when she was on military deployment. Aside from her failure to corroborate these claims, at least one of the accounts—a mail-order lingerie account at 1.q.—was opened in October 1999 while she was still single and fell delinquent in May 2001, shortly after her marriage. She has not explained why she has not pursued criminal charges against her ex-husband.

Applicant married her first husband in March 2001, and they divorced in August 2002. She remarried in May 2006. Beyond the fact of her August 2002 divorce, and her claims that her ex-husband opened four accounts without her knowledge, she has provided no explanation for why her accounts fell delinquent, or why she has failed to address any of them (except for the account she settled after the SOR was issued). The delinquent accounts range from accounts she opened in 1999 to a January 2007 judgment for over \$6,000 (now grown with interest to nearly \$7,500. The February 2009 credit report she submitted with her answer reflects a new delinquent debt arising in August 2008.

Applicant disputed two accounts (1.c./j. and 1.d.) on the ground that she had other accounts with the same creditors that were current. However, the account numbers she provided do not match the account numbers for the delinquent accounts. Several of the alleged debts have aged off her credit reports. She disputes several accounts because she does not know who the original creditor is. Nevertheless, her August 2008 clearance application disclosed that she had “quite a few” adverse credit

²Applicant’s answer documented that the September 2006 judgment alleged in 1.s. was satisfied in August 2007, before the SOR was issued. Her answer also confirms that the two accounts at 1.e. and 1.f. were current as of February 2009. The government’s evidence confirms that the debts at 1.c. and 1.j. are the same account. Record evidence does not support Applicant’s claim that the debts at 1.a. and 1.g. are the same account. Applicant’s response to the FORM documented that she settled and paid the debt at 1.n. in April 2009, at a 90% discount.

items on her credit report. Although she provided no specifics, she appears to have been aware of more delinquent accounts than she currently acknowledges responsibility for.

Policies

The Revised Adjudicative Guidelines (RAG) list factors to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in RAG ¶ 2(a). The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.³

Analysis

The government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties, which are ongoing.⁴ Even if I limited my analysis to the four accounts she acknowledges without reservation, I could not mitigate the security concerns, for she had taken no steps to address these debts and given no cogent reason for failing to do so. Further, she has failed to corroborate any of her claims that might mitigate the remaining debts.

³See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁴¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and multiple.⁵ She has not established how the debts were due to circumstances beyond her control, and she has not acted responsibly in addressing her debts.⁶ She does not claim to have undertaken any credit counseling, and she has not otherwise brought the problem under control.⁷ Only one of her debts has been paid in a timely, good-faith effort.⁸ Further, given that she has not sought or used effective financial counseling, there is nothing in the record to suggest that Applicant will resolve her financial problems in the foreseeable future. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph a-i:	Against Applicant
Subparagraph j:	For Applicant (duplicate allegation)
Subparagraph k-r:	Against Applicant
Subparagraph s:	For Applicant

Conclusion

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge

⁵¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁶¶20 (b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

⁷¶20 (c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

⁸¶20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.