



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
-----) ISCR Case No. 08-11578
SSN: -----)
)
Applicant for Security Clearance)

Appearances

For Government: Fahryn E. Hoffman, Esquire, Department Counsel
For Applicant: *Pro se*

August 17, 2009

Decision

CURRY, Marc E., Administrative Judge:

Applicant failed to mitigate the government’s financial considerations security concern. Clearance is denied.

On February 17, 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. 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 on March 18, 2009, admitting the allegations and requesting a hearing. The case was assigned to me on May 15, 2009. On June 3, 2009, a Notice of Hearing was issued scheduling the case for June 22, 2009. The hearing was

conducted as scheduled. I received three government exhibits, seven Applicant exhibits, and Applicant's testimony. At Applicant's request, I left the record open at the end of the hearing for her to submit additional exhibits. Within the time allotted, she submitted another exhibit which I marked and received as Exhibit H. The transcript was received on June 29, 2009.

Findings of Fact

Applicant is a 55-year-old single woman with one adult daughter. She served in the U.S. Army Reserves from 1974 to 1975, and on active duty from 1975 to 1977. She was honorably discharged.

Since the late 1970s, Applicant has worked for various employers for various intervals as a designer of electrical components on submarines. She has also worked briefly as a pipefitter during this period. In approximately 2000, Applicant enrolled in college, earning a bachelor's degree in business management in 2004.

Applicant is well respected on the job. According to her current supervisor, "her conduct has been very professional and she exhibits credibility and integrity in her dealings with others" (Exhibit F). According to a previous supervisor, she "has the ability to learn fast and on the fly" (Exhibit E).

Applicant has six delinquent debts totalling approximately \$30,000, including two personal loans (SOR subparagraphs 1.a and 1.e)¹, two credit cards (SOR subparagraphs 1.c and f), a medical bill (SOR subparagraph 1.d), and a student loan (SOR subparagraph 1.g). Applicant's financial problems began in 2002 when she was fired from a job through no fault of her own (Tr. 41). She then began working two part-time jobs. In 2004, her mother suffered a severe, debilitating heart attack (Tr. 41). Applicant quit her job to care for her. For the next three years, she was her mother's primary caregiver before returning to work in September 2007.

Applicant received the loan listed in SOR subparagraph 1.a in 1999. It was originally in the amount of \$8,000 (Tr. 44). She made steady payments through 2002 when she was laid off (Tr. 45). She then made smaller payment between 2003 and 2004. When she stopped working entirely after she quit her part-time jobs to care for her mother, she contacted the creditor to attempt to reduce her payments further (Tr. 20). The creditor rejected her request, and she stopped making payments (Tr. 20). Currently, Applicant is disputing the amount due. She provided no evidence in support of her dispute, nor any evidence supporting her contention that she had been making payments through 2004.

SOR subparagraph 1.c remains outstanding. Applicant cannot remember whether or not she has contacted the creditor (Tr. 43). SOR subparagraph 1.d is a bill

¹SOR subparagraphs 1.a and 1.b are duplicates (Tr. 21).

for a mammogram Applicant received in 2004. At the time, she had no health insurance. She owes \$811. As of the hearing, she had not contacted the creditor (Tr. 43).

Applicant applied for, and received the loan listed in SOR subparagraph 1.e in 1999 to pay for income taxes (Tr. 44-46). She made payments steadily through 2002 when she lost her job. She made reduced payments through 2003, until she had to quit the part-time jobs to care for her mother (Tr. 46). Since then, she has neither made payments, nor contacted the creditor (*Id.*). Approximately, \$15,400 remains outstanding.

SOR subparagraph 1.f is a credit card Applicant opened in 1999 to pay for clothing (Tr. 47). It grew delinquent after she was laid off (Exhibit 3 at 15). It remains outstanding, and the approximate balance due is \$1,930.

Applicant has been making steady, monthly payments toward the satisfaction of SOR subparagraph 1.g, the student loan (Exhibit G). The current balance is \$2,975. It is no longer in delinquent status (*cf.* Exhibit 3 at 18 with Exhibit G).

Currently, Applicant earns approximately \$53,300 per year. Her salary increased by approximately \$9,600 since January 2009 (Tr. 67). She maintains a budget (Tr. 70). She has approximately \$2,200 in savings accounts, and \$482 in monthly after-expense income (Tr. 70-76). Although she is no longer her mother's primary caretaker, she uses nearly all of her after-expense income to help care for her mother.

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 overarching 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."

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.

Analysis

Guideline F, Financial Considerations

Under this guideline, “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” (AG ¶ 18). Applicant’s history of financial problems triggers the application of AG ¶¶ 19(a), “inability or unwillingness to satisfy debts,” and 19(c), “a history of not meeting financial obligations.”

Applicant’s financial problems began when she lost her job in 2002. She attempted to mitigate the income loss by working two part-time jobs. Also, she continued to pay her creditors, albeit in reduced amounts. She did not completely lose control of her finances until her mother became disabled, compelling her to quit her jobs to care for her. AG ¶ 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,” applies.

Other than keeping current on student loan payments, Applicant has done little to satisfy her outstanding debts since regaining full-time employment in 2007. As for the debts she contends she is either satisfying or attempting to settle, she provided minimal supporting evidence. All, except SOR subparagraph 1.g, the student loan, remain delinquent. Neither AG ¶ 20(c), “. . . there are clear indications that the problem is being resolved, or is under control,” nor AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” apply.

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.

Applicant's financial problems were not caused by financial extravagance or irresponsible spending. Instead, they occurred after a layoff, and a subsequent disability of her mother that compelled Applicant to quit her part-time jobs to care for her. Applicant, however, has failed to take any significant steps to address her delinquencies. Consequently, it is too soon to conclude that her financial delinquencies no longer pose a security concern. Upon evaluating this case in the context of the whole person concept, I conclude Applicant has not mitigated the financial considerations security concern.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a - 1.f:	Against Applicant
Subparagraph 1.g:	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.

MARC E. CURRY
Administrative Judge