



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



In the matter of:)	
)	
)	ISCR Case No. 09-05997
SSN:)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Gregg A. Cervi, Esquire, Department Counsel
For Applicant: *Pro se*

August 31, 2010

Decision

METZ, John Grattan, Jr., Administrative Judge:

On 18 December 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant raising security concerns under Guideline F, Financial Considerations.¹ Applicant timely answered, and requested a decision without hearing. The record in this case closed 31 May 2010, when Applicant’s response to the Government’s File of Relevant Material (FORM) was due. She submitted no response. DOHA assigned the case to me 20 July 2010.

Findings of Fact

Applicant admitted the SOR financial allegations, except for SOR 1.g, 1.h, 1.k, 1.l, and 1.o. She is a divorced, 37-year-old mother of two teenagers, employed as a

¹DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

security officer by a U.S. defense contractor since August 2004. She has not previously held a clearance.

The SOR alleges and government exhibits document, 15 delinquent debts totaling over \$37,000. However, the evidence shows that the debts at SOR 1.b and 1.o are the same debt. Consequently, at issue are 14 debts totaling over \$36,000. Applicant denies five debts totaling over \$27,000. The debts alleged are an automobile repossession, two charged-off accounts, three judgments, and eight collection accounts.

Applicant divorced in December 1998, and has two children, ages 19 and 15. She was unemployed from August 2002 to August 2003, when the company she worked for went bankrupt. She found another job in August 2003, but left it in February 2004 because of a death in her family. She stated that "later events" prevented her from returning to that job, but she did not explain how those later events (or the death in the family) required her to abandon her job. Nevertheless, she remained unemployed until she got her current job in August 2004.

Applicant received unemployment pay while she was unemployed, but it was not enough to cover her expenses. She used her credit cards to pay bills, and took out payday loans that she was unable to repay. Her automobile needed repairs that she could not afford, so she allowed it to be repossessed.

Applicant's denials are contrary to previous acknowledgments of her financial problems on her clearance application, her personal financial statement, her subject interview, and her answer to DOHA interrogatories. She disclosed some debts on her clearance application, but never provided documents to confirm either her efforts to contact the creditors or her inability to locate them. During her May 2009 interview, she claimed to be contacting her creditors, but produced no evidence of her efforts. Her answer to the SOR contains no amplifying information on the status of her debts.

Applicant has no plan in place to address her debts. She has not received any financial counseling. She provided no information to suggest she is getting control over her finances. There is no evidence of her character or work performance.

Policies

The adjudicative guidelines (AG) list factors to be considered in evaluating an Applicant's eligibility 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 commonsense consideration of the factors in AG ¶ 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 substantial evidence, controverted facts alleged in the SOR. If it does, it establishes a valid 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, 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.²

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.³ Although she has been employed full-time since August 2004, she has provided no evidence to show that she is regaining control over her finances, or is likely to do so in the foreseeable future.

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and multiple.⁴ She voluntarily left her job in February 2004, and did not establish how her failure to return to work—and thus her debts—was due to circumstances beyond her control. She has not acted responsibly in addressing her debts.⁵ She has not had credit counseling, and she has not otherwise brought the problem under control.⁶ She has not shown that any of her debts have been paid in a timely, good-faith manner.⁷ Further, given that she has not sought or used effective

²See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

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

⁵¶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;

⁶¶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;

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

financial counseling, nothing in the record suggests that Applicant will put her financial problems behind her. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph a-n: Against Applicant

Subparagraph o: 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