



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



In the matter of:	)	
	)	
	)	ISCR Case No. 09-07551
SSN:	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Francisco Mendez, Esquire, Department Counsel  
For Applicant: *Pro se*

November 26, 2010

**Decision**

HOGAN, Erin C., Administrative Judge:

Applicant submitted a security clearance questionnaire (SF 86) on June 12, 2009. On May 17, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct. 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 adjudicative guidelines (AG) effective within the Department of Defense on September 1, 2006.

On June 12, 2010, Applicant answered the SOR and requested a hearing before an administrative judge. Department Counsel was ready to proceed on July 21, 2010. The case was assigned to me on July 28, 2010. On August 9, 2010, a Notice of Hearing was issued, scheduling the hearing for September 9, 2010. Appellant failed to appear at the hearing. She claimed that she had not received proper notice. There being no evidence that she received adequate notice, the hearing was rescheduled. On September 15, 2010, a Notice of Hearing was issued, scheduling the hearing for September 30, 2010. On that date, the hearing was convened. However, Applicant did

not receive the Government's exhibits due to a mistake by the courier service. Applicant was granted a two-week extension in order to allow her the opportunity to prepare for the hearing. On September 30, 2010, a Notice of Hearing was issued, scheduling the hearing for October 14, 2010. The hearing was held on that date.

During the hearing, the Government offered nine exhibits which were admitted as Government Exhibits (Gov) 1 – 9. The allegation in SOR ¶ 1.e was withdrawn by the Government. Applicant testified and offered six exhibits which were admitted as Applicant Exhibits (AE) A – F. After the hearing, the record was held open until October 28, 2010, to allow Applicant to submit additional documents. Applicant timely submitted a 15-page document that was admitted as AE G. Department Counsel's response to AE G is marked as HE II. The transcript (Tr) was received on October 20, 2010. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

### **Reciprocity Issue**

Applicant testified at hearing that another government agency had granted her a security clearance in a previous job. The issue of reciprocity was raised. (Tr. 32-34; AE C; AE D) DoD 5220.22-M, section 2-204 states:

Federal agencies that grant access to classified information to their employees or their contractor employees are responsible for determining whether such employees have been previously cleared or investigated by the Federal Government. Any previously granted PCL that is based upon a current investigation of a scope that meets or exceeds that necessary for the clearance required shall provide the basis for issuance of a new clearance without further investigation or adjudication unless significant derogatory information that was not previously adjudicated becomes known to the granting agency.

Department Counsel contended that reciprocity did not apply because the government agency granted Applicant a security clearance based on the Department of Defense's grant of an interim security clearance. Reciprocity did not apply because the other agency did not do a complete investigation and adjudication. In other words, they granted Applicant a security clearance based on the Department of Defense's incomplete investigation. Department Counsel presented documents to support their position. Upon review of all the documents, I concluded reciprocity did not apply to Applicant's case because the other government agency's grant of a security clearance was based on an incomplete DoD investigation. (Tr. 32-45; AE 10)

### **Findings of Fact**

In her answer to the SOR, Applicant admits the allegations in SOR ¶¶ 1.c, 1.g, 1.h, and 1.n. She denies the allegations in SOR ¶¶ 1.a, 1.b, 1.d-1.f, 1.i -1.m, and 1.o.

Applicant is a 30-year-old computer system administrator employed by a Department of Defense contractor applying for a security clearance. She has worked for her current employer since April 19, 2010. She is a high school graduate and is close to completing her four-year college degree. She is single and has no children. (Tr at 6-8; Gov 1.)

## **Guideline F - Financial Considerations**

Applicant's security clearance background investigation revealed that she has had financial problems in the past. The SOR alleged 14 debts, an approximate total balance of \$35,710. The largest debt was a \$17,061 automobile repossession. (SOR ¶ 1.c) Seven of the debts were medical bills totaling \$2,979. (SOR ¶¶ 1.b, 1.d, 1.f – 1.j) Two debts were consumer debts. (SOR ¶¶ 1.a, 1.o) Three of the alleged debts involved judgments for nonpayment of rent. (SOR ¶¶ 1.k -1.m) Another debt alleged a \$475 judgment entered against Applicant in April 2006 which was satisfied by wage garnishment. (SOR ¶ 1.n)

Applicant incurred a lot of these debts when she was a college student. She also endured several periods of unemployment. During the hearing, she testified that she was laid off in 2004 and was unemployed for one year. In 2006, she was laid off again and was unemployed for around five months. (Tr. 59-60; 116) Her security clearance application lists periods of unemployment from November 2007 to June 2008; October 2004 to December 2004; and December 2001 to February 2002. (Gov 1, section 13A) The medical bills were incurred when she had health issues but did not have health insurance. (Tr. 109; Gov 2 at 3)

The current status of the delinquent debts are:

SOR ¶ 1.a, \$71 pet store account placed for collection: Paid on October 22, 2010. Applicant initially denied the debt because she was unaware of it. (AE G at 2; Gov 3 at 1; Gov 4 at 4)

SOR ¶ 1.b, \$25 medical account, creditor unknown: Applicant testified that she does not know what this account is. No specific creditor was alleged. I find for Applicant based on the lack of specificity in the pleading. (Tr. 47; Gov 3 at 3)

SOR ¶1.c, \$17,061 automobile repossession, repossessed in 2006: Applicant testified that she was unable to make her car payments because she lost her job. She initially believed it was removed from her credit report. She provided page one of a two-page statement from Experian dated September 1, 2009, indicating that the account was paid and closed. A credit report dated January 1, 2010, indicates the collection agency who is listed as the creditor in the SOR allegation purchased the debt in September 2009. Applicant believed that the debt was resolved because she was able to purchase a new automobile in 2008 from the same automobile manufacturer. Applicant called the collection agency. The collection agency offered to settle the account for a \$3,500 lump-sum payment. Applicant does not have the \$3,500 but is

saving money to be able to settle this debt. She has saved about \$1,500. She did not get anything in writing from the collection agency pertaining to the settlement offer. (Tr. 48-50, 64-67; Gov 2 at 34. AE G)

SOR ¶¶ 1.d, 1.f, 1.g, and 1.h medical collection accounts in the respective amounts of \$110, \$940, \$279, and \$178: Applicant states that the medical accounts are being collected by the same collection agency. She is making payments towards all of the accounts. She claims to have been paying \$100 a month towards these accounts. She provided a statement from the collection agency dated October 9, 2009, indicating a balance of \$457.47. The receipt is over a year old. It appears that Applicant did not make another payment until October 22, 2010, when she paid \$100. (see AE G at 3) (Tr. 29, 50-51, 100; AE A; Gov 2 at 38-39; Gov 4 at 5-6) These accounts are not listed on a January 14, 2010, credit report which is the most recent credit report in the file. (Gov 3) During her subject interview on August 19, 2009, Applicant stated that the debts were covered under her mother's health insurance. (Gov 2 at 7)

SOR ¶ 1.i, \$98 medical collection account: The account was paid on October 22, 2010. (Tr. 52; AE G at 3; Gov 4 at 4)

SOR ¶ 1.j, \$1,349 medical collection account: In September 2009, Applicant formally disputed this account with one of the credit reporting agencies. The account was deleted from her credit report on September 30, 2009. The debt is resolved. (Tr. 53, 95; Gov 2 at 36-38; Gov 4 at 7)

SOR ¶ 1.k, \$10,467 judgment entered against Applicant on behalf of an apartment complex on March 24, 2004. Applicant admits that she occasionally got behind in her rent when she lived at the apartment complex but claims she always paid the rent. She claims she no longer owes the apartment complex money. She paid the past-due rent to her property manager. The property manager passed away and the company claimed that she owed over \$10,000. She claims she disputed the debts with the credit reporting agencies and it was removed from her credit reports. The database of the court where the judgment was entered listed this judgment as being a judgment by admission. It is not listed as satisfied. (Tr. 53-56; Gov 5 at 5-7)

SOR ¶ 1.l, SOR alleges five lawsuits against Applicant on behalf of the same apartment complex alleged in SOR ¶ 1.k, above, for unpaid rent which were filed on October 19, 2001; October 23, 2000; January 31, 2002; March 30, 2001; and June 25, 2002. The court paperwork indicated that four of the cases were satisfied before judgment. The October 19, 2001 filing was satisfied before judgment on November 27, 2001. (see Gov 6 at 3) The October 23, 2000 filing was satisfied before judgment on December 5, 2000. (see Gov 6 at 6) The January 31, 2002 filing was satisfied before judgment on February 26, 2002. (see Gov 6 at 9) The March 30, 2001 filing was satisfied before judgment on April 30, 2001. (see Gov 6 at 12) The June 25, 2002 filing indicates a non-suit on July 25, 2002. (Tr. 88-89; Gov 5 at 5-7; Gov 6 at 15)

SOR ¶ 1.m, the SOR alleges five lawsuits against Applicant on behalf of an apartment complex for unpaid rent which were filed on January 26, 2005; October 17, 2005; August 31, 2006; and April 12, 2007. The filing on January 26, 2005 was withdrawn on March 2005. (see Gov 7 at 2) The October 17, 2005 filing resulted in a judgment awarded on November 16, 2005. The debt was satisfied on November 2, 2006 before the judgment was entered. (see Gov 7 at 4) The August 31, 2006 filing resulted in a default judgment on September 25, 2006. The judgment was satisfied on November 2, 2006. (see Gov 7 at 6) The April 12, 2007 filing resulted in a default judgment on May 9, 2007. The judgment was satisfied on June 11, 2007. (see Gov 7 at 8-9) Applicant had difficulty paying rent because her roommate moved out. She had to eventually move in with her parents. (Tr. 57-58, 89)

SOR ¶ 1.n, the case was filed for a \$475 debt on February 13, 2006. On April 13, 2006, a default judgment was entered against Applicant. Applicant's wages were garnished on June 2, 2006. The judgment was satisfied through wage garnishment on August 17, 2006. The debt is resolved. (Tr. 58, 91-92; Gov 8)

SOR ¶ 1.o, two creditors attempted to obtain judgments against Applicant for an unknown amount. Both suits were withdrawn because they were unable to serve Applicant. Applicant denies these debts. The debts are not listed on her credit report. I find for Applicant with respect to this allegation. (Gov 9; Answer to SOR)

Applicant has not attended financial counseling. In January 2010, she looked into entering a debt consolidation plan with a credit union but did not mention a plan during the hearing. She currently supports her sister, a recent college graduate, who is searching for employment. She puts money aside for savings and to save for resolving debts. (Tr. 98-99; AE 2 at 16-18) She is up-to-date on her recent bills. (Tr. 105)

In her post-hearing submission dated October 25, 2010, Applicant provided an updated personal financial statement. Her net monthly income is approximately \$3,922.77. Her rent is \$1,500. Groceries are \$240. Clothing is about \$100 a month. Her utilities are \$400. Her car payment is \$588. Her car insurance is \$144. She pays \$50 a month in medical expenses, and \$200 a month for entertainment. Her total monthly expenses are \$3,222. She pays \$100 a month towards the medical debts alleged in SOR ¶¶ 1.d, 1.f, 1.g, and 1.h. She pays \$50 to \$100 a month towards student loans. Most of her student loans are on deferment. Her total monthly payments are \$3,422. After expenses, she has approximately \$500.77 left over for discretionary spending. She has about \$1,800 in savings which she hopes to apply to the automobile repossession debt alleged in SOR ¶ 1.c. (Tr. 106-107; AE G at 4)

### **Guideline E – Personal Conduct**

When Applicant completed her security clearance questionnaire on June 12, 2009, she omitted several items in response to questions about her financial record which are listed in section 26 of the security clearance questionnaire. The Government alleges that her omissions were intentional. The preface of section 26 states: "For the

following, answer for the last 7 years, unless otherwise specified in the question. Disclose all financial obligations, including those for which you are a cosigner or a guarantor.”

In response to section 26b: “Have you had any possessions or property voluntarily or involuntarily repossessed or foreclosed?” Applicant answered, “no.” She did not disclose the automobile repossession in 2006 that was alleged in SOR ¶ 1.c.

Applicant did not list any of the judgments which were alleged in SOR ¶¶ 1.k, 1.m, and 1.n in response to section 26e which asks, “Have you had a judgment entered against you?” It is noted that of the five lawsuits alleged in SOR ¶ 1.l, four were actually resolved before a judgment was entered against Applicant and one was a non-suit.

The SOR alleges Applicant did not list the debts alleged in SOR paragraphs 1.a, and 1.c though 1.k in response to section 26g “Have you had any bills or debts turned over to a collection agency?”

Applicant answered, “No” in response to section 26m “Have you been over 180 days delinquent on any debt(s) and in response to 26n “Are you currently over 90 days delinquent on any debt(s)?” The SOR alleges Applicant did not disclose the debts alleged in SOR ¶¶ 1.a – 1.k.

Applicant answered, “No” in response to section 28a, “Involvement in Non-Criminal Court Actions. In the last 7 years (if an SSBI go back 10 years) have you been a party to any public record civil court action(s) not listed elsewhere on this form?” The SOR alleges that she did not list the court actions alleged in SOR ¶¶ 1.k – 1.n.

Applicant was interviewed by an investigator conducting her background investigation on August 19, 2009. When asked specifically about her delinquent accounts, Applicant did not recognize most of the delinquent accounts. In response to interrogatories, dated January 6, 2010, Applicant commented on several of her delinquent accounts. With regard to the automobile repossession debt alleged in SOR ¶ 1.c, Applicant did not know why the debt was listed on her credit report with a collection agency. Her credit report indicated that the account was paid. She did not believe she owed this debt. (Gov 2 at 19) Regarding the medical accounts alleged in SOR ¶¶ 1.d, 1.f, 1.g, and 1.h, Applicant indicated the total balance for all these accounts totaled \$1,645. The current balance is now \$457.57. (Gov 2 at 19, 39-40) Two accounts were disputed and deleted from her credit report in September 2009. (Gov 2 at 19, 36-38)

In her response to the SOR, dated June 12, 2010, Applicant stated that she did not intend to falsify any material facts. She did not have a credit report with her when she completed her security clearance questionnaire. She answered the questions to the best of her knowledge at the time. (Answer to SOR, dated June 12, 2010)

During the hearing, Applicant testified that this was the first time that she completed a security clearance questionnaire. She forgot about some of the debts. She

did not have a copy of her credit report with her when she completed the security clearance questionnaire. She did not intend to falsify her security clearance application. She did not recall most of her debts. (Tr. 49, 63-64)

Under cross examination, Applicant testified that she did not list the automobile repossession in 2006 because she did not have a credit report and she overlooked the repossession. (Tr. 73-78) She does not recall the \$10,467 judgment entered against her in March 2004. (SOR ¶ 1.k) She admits to being late paying rent, but she always paid it. She later recalled the judgment, but stated she disputed the judgment and it was removed from her credit reports. She did not list the judgment in response to section 26(e) because she claims she successfully disputed it. (Tr. 78-89)

She paid her landlord the late rent for the debts in SOR ¶ 1.m. (Tr. 89-91) Applicant admits that a judgment was entered against her in February 2006 for the \$475 debt alleged in SOR ¶ 1.n and that the judgment was paid through garnishment. (Tr. 91-93. She remembered her wages being garnished in 2006. She did not remember the garnishment at the time she completed the security clearance questionnaire until it was brought to her attention during her background investigation. Once she was reminded of the garnishment she admitted it. (Tr. 93-95)

Applicant was arrested on June 30, 2005 and charged with Maintaining a Dwelling for Drugs and Possession of Marijuana with intent to sell. (SOR ¶ 2.f) Applicant disclosed this arrest in response to section 22 of her security clearance questionnaire. Applicant went tire shopping with her friend's boyfriend. When they pulled up to her house, they were stopped by police cars. Applicant gave the police consent to search her home. The police found two ounces of marijuana on top of Applicant's kitchen cabinets. The police also found a book bag with a scale in it. The book bag and scale belonged to her friend's boyfriend. The boyfriend admitted the marijuana belonged to him. Charges against the Applicant were eventually *nolle prossed*. On June 1, 2009, Applicant petitioned to have her records expunged. The expungement was granted on July 10, 2009. Applicant no longer socializes with her friend and her friend's boyfriend. (Gov 2 at 8-9; AE B)

### **Whole-Person Factors**

Applicant has received several favorable comments in relation to her job performance at her current job. One customer commented:

She is an absolute godsend the past few weeks especially. With tight deadlines, constant network, cell and printer issues she has really come thru [sic] for us in our time of need. I just wanted to give her credit where credit is due because I know that being a one woman show for all DC offices must be challenging. (AE G at 5)

Another customer states, "To say she is a top notch performer, would be an understatement of monumental proportions." Several others have said favorable things about Applicant's reliability and duty performance. (AE G at 6-15)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered when determining 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 commonsense 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.

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.

Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the



applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

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.

The guideline notes several disqualifying conditions that could raise security concerns. I find AG ¶ 19(a) (an inability or unwillingness to satisfy debts); and AG ¶ 19(c) (a history of not meeting financial obligations) apply to Applicant’s case. Applicant has had financial difficulties for several years. The SOR alleged 14 delinquent accounts. Her two largest debts involved an automobile repossession in 2006 (SOR ¶ 1.c) and an unpaid judgment owed to a former landlord which Applicant disputes. (SOR ¶ 1.k)

The Government’s substantial evidence and Applicant’s own admissions raise security concerns under Guideline F. The burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the security concerns. (Directive ¶E3.1.15) An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. (See ISCR Case No. 02-31154 at 5 (App. Bd. September 22, 2005))

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. AG ¶ 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) is partially applicable. Applicant has had financial problems for several years. However, at the present, she has a well-paying job and is in a position to be able to resolve her delinquent accounts. She resolved nine of the accounts. She disputes four of the accounts. She is saving money to be able to settle the automobile repossession debt. This mitigating condition is given less weight because Applicant could have started to resolve her delinquent debts sooner. The medical debts alleged in SOR ¶¶ 1.d, 1.f, 1.g, and 1.h could have been paid off if she had continued to make monthly payments after October 2009. She resumed making payments towards this account in October 2010. However, she has not incurred additional delinquent debt and she appears to have extra income each month that she can apply to her debts. Applicant’s

past financial history and her unresolved debts raise questions about her reliability, trustworthiness, and good judgment, but she receives some credit because she is making progress on resolving her delinquent accounts.

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) partially applies. Applicant's financial problems became aggravated when she endured several periods of unemployment in 2001, 2004, and 2007. She incurred several delinquent medical bills during a period that she had no health insurance. Circumstances beyond her control contributed to her financial problems. However, I cannot conclude that she acted responsibly under the circumstances because she could have been more proactive in resolving her accounts once she found full-time employment in 2008. She purchased a brand new car that year even though she had delinquent debts. While circumstances beyond her control contributed to her financial problems, she has not acted responsibly with regards to resolving her delinquent accounts.

AG ¶ 20(c) (the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control) does not apply. Applicant has not sought financial counseling. It is likely that Applicant's financial problems will be resolved, but not in the near future.

AG ¶ 20(d) (the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts) applies with respect to the debts alleged in SOR ¶¶ 1.a, 1.d, 1.f, 1.g, 1.h, 1.i, 1.j, 1.l, 1.m, and 1.n. She is also given partial credit for saving money to negotiate a settlement for the automobile repossession debt in SOR ¶1.c. Overall, she has made a good-faith effort to resolve her delinquent accounts. The few accounts that remain unresolved are accounts that she is saving money towards a settlement or she disputes the debts.

From 2001 to 2008, Applicant struggled financially. Her financial problems happened when she attended college and after several periods of unemployment. She incurred several medical debts because she had no health insurance. She now has a well-paying job and is in a position to resolve her debts. Most of the debts have been resolved. Applicant mitigated the concerns raised under financial considerations.

### **Guideline E, Personal Conduct**

The security concern relating to the guideline for Personal Conduct is set out in AG ¶15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful

and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

There is sufficient evidence to conclude Applicant omitted information about her financial history in response to section 26 of her security clearance questionnaire. The omissions potentially raise AG 16(a) (deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities).

While Applicant should have listed information about her past financial problems on her security clearance questionnaire, I find her omissions were not deliberate. Applicant's omission about her delinquent finances on her security clearance questionnaire was, in part, caused by not having a credit report. She did have several judgments, however, most of the judgments were paid off. Several of the debts alleged as law suits were paid off before a judgment was entered against Applicant. This was Applicant's first time completing a security clearance questionnaire. Her omissions were due to negligence as opposed to a deliberate intent to deceive the Government. When asked about her financial situation during her background investigation, Applicant fully cooperated with the investigators conducting her background investigation. She provided as much information that she was capable of remembering when asked about her past debts. Applicant listed her 2005 arrest on her security clearance questionnaire which raised a more serious concern. I find she did not deliberately falsify her security clearance questionnaire. During this investigation, Applicant learned a difficult lesson about the importance of being thorough and detailed on her security clearance questionnaire.

Applicant's arrest on June 5, 2005, which resulted in charges of Maintaining a Dwelling for Drugs, and Possession of Marijuana with Intent to Sell raise the following personal conduct disqualifying conditions:

AG ¶ 16(c) (credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information);

AG ¶ 16(e) (personal conduct or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing...); and

AG ¶ 16(g) (association with person involved in criminal activity).

Several personal conduct mitigating conditions potentially apply. They include:

AG ¶ 17(c) (the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment);

AG ¶ 17(e) (the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress); and

AG ¶ 17(g) (association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations).

I find AG ¶ 17(c) applies because more than five years have passed since Applicant's 2005 arrest. Aside from a few traffic citations, she has not been involved in criminal conduct since that time. The charges were *nolle prossed*, and the arrest was expunged from her court record in July 2009. Future criminal conduct is unlikely to recur. AG ¶ 17(e) applies because her cooperation and disclosure of her 2005 arrest during her background investigation reduces her vulnerability to exploitation, manipulation, or duress. AG ¶ 17(g) applies because Applicant no longer associates with the person with whom she was arrested who admitted that the marijuana found in Applicant's house and the drug paraphernalia (i.e. scale) belonged to him. She no longer socializes with persons involved in criminal activity.

Applicant admits that her conduct in the past raised concerns about her judgment, trustworthiness, and reliability. She has matured and now has an understanding of the importance of being accurate on her security clearance questionnaire. She mitigated the personal conduct security concerns.

### **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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered Applicant's favorable reference evaluations in her current job. I considered her three periods of unemployment between 2002 and 2008 while she was also a college student. I considered that most of Applicant's debt was not excessive credit card debt but involved medical expenses incurred when she had no health insurance and unpaid rent. With the exception of the automobile repossession, her debts appear to be the result of struggling to make ends meet rather than someone who is spending money on frivolous or expensive items. Applicant now earns a good income. She has resolved 13 of the accounts through payment or disputes. She disputes the \$10,000 judgment owed to her former landlord alleged in SOR ¶ 1.k. She is putting money aside in order to be in a position to settle her automobile repossession debt. Her financial situation has improved greatly. Aside from a few traffic offenses, she has not been arrested since 2005 and no longer associates with the individual with whom she was arrested. Applicant should have listed her past financial difficulties in response to section 26 of her security clearance questionnaire. However, I find her omissions to be unintentional. She listed her more serious 2005 criminal offense so I find it unlikely she intended to deceive the Government when she omitted her delinquent debts and judgments. This was the first time she completed a security clearance questionnaire. She learned a lesson about the importance of being thorough on her security clearance questionnaire in the future. Applicant has encountered financial problems for a long time. She is now financially stable. While she has not resolved all of her debts, she has a plan in place to resolve them. She mitigated the concerns raised under financial considerations and personal conduct.

### **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.d:	For Applicant
Subparagraph 1.e:	Withdrawn
Subparagraphs 1.f -o:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a - 2.f:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interests to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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ERIN C. HOGAN  
Administrative Judge