



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

In the matter of: )  
)  
) ISCR Case No. 10-09695  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Raashid S. Williams, Esquire, Department Counsel  
For Applicant: *Pro se*

November 30, 2011

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> Applicant's clearance is denied.

On 13 June 2011, the Defense Office of Hearings and Appeals (DOHA) sent Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct.<sup>2</sup> Applicant timely answered the SOR, requesting a hearing. DOHA assigned the case to me 4 August

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<sup>1</sup>Consisting of the transcript (Tr.), Government's exhibits (GE) 1-4, and Applicant's exhibits (AE) A-C. AE C was timely received post-hearing.

<sup>2</sup>DOHA acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), 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.

2011, and I convened a hearing 31 August 2011. DOHA received the transcript 8 September 2011.

### **Findings of Fact**

Applicant admitted SOR allegations 1.a, 1.h, 1.k-1.n, 1.p-1.t, 1.aa, and 1.pp-1.ss. She denied the remaining allegations, including the falsification allegations of SOR 2.a and 2.b.<sup>3</sup> She is a 31-year-old records management specialist employed by a defense contractor since May 2010. She appears to have held a clearance in May 2001, but does not currently have one.

Applicant is the never-married mother of two children, ages four and three months. The record does not show if she receives child support from the other parent.

During summer 2002, Applicant's purse was stolen. Among the items taken were her social security card, her birth certificate, and her driver's license. Applicant reported the theft to the police, but never requested a copy of the report. She replaced her birth certificate and driver's license, but otherwise took no action to protect her identity.

In December 2006, Applicant was subject to a background investigation, which revealed a couple of accounts that she claimed were not hers. She put a fraud alert on her accounts, but otherwise took no action to protect her identity. She did not report the theft of her identity until May 2011. She did not request a new social security number until June 2011.

The SOR alleges, and Government exhibits (GE 2-4) substantiate, 51 delinquent debts totaling nearly \$55,000. Applicant admits 16 delinquent debts, totaling over \$12,000. She denies the remaining 35 debts claiming she has been the victim of identity theft.<sup>4</sup> She successfully disputed, or otherwise paid, SOR debts 1.m-o (\$635 paid after April 2011, w-mm (disputed) and tt-yy (disputed)).<sup>5</sup>

Applicant's May 2010 clearance application (GE 1) disclosed no delinquent debts. She claims that she was unaware of any delinquent debts until her interview with a Government investigator in June 2010.

Applicant paid SOR debt 1.a (\$111) in June 2011 (Answer). She disputed SOR debt 1.b (GE 3) with unknown result. In October and December 2010, she disputed SOR debts 1.c (\$2,562) and 1.d (\$8,009)(AE C), but the credit bureau validated the

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<sup>3</sup>However, precise correlation of the SOR debts and the Answer debts is not possible because Applicant appears to have lost track at some point which allegation she was answering. For example, she admits SOR 1.p-t as parking tickets that she is paying. However, those five tickets are actually alleged at SOR 1.q-u.

<sup>4</sup>However, debts 1.f and 1.v are the same debt.

<sup>5</sup>Applicant provided independent proof that she successfully disputed SOR debt 1.hh (\$252) in June 2011 (Answer) and successfully disputed SOR debt 1.vv (\$149) in June 2011 (Answer).

debts (AE A). She denied SOR debts 1.e-g, but the debts are not disputed in her May 2011 credit report (GE 3). During her subject interview in June 2010, she did not dispute SOR debts 1.e and 1.g, but was going to look into them. SOR debt 1.f did not arise until the June 2011 credit report.<sup>6</sup> She admitted SOR 1.h (\$469), first claimed it was paid, then disputed the bill (AE B) in June 2011 with unknown result. She settled SOR debt 1.i (\$242) for 50% off in June 2011 (Answer). She disputed SOR debt 1.j (16,001) with unknown result.<sup>7</sup> It appears Applicant intended to deny SOR 1.k, but there is no evidence that she disputed this account (GE 3). SOR 1.l (\$8,595) is a judgment against Applicant for an automobile accident she was in. She claimed without corroboration to be making payments on the debt, but none of the three credit reports (GE 2, 4; AE A) reflect any payments. SOR debts 1.m-o were paid after April 2011 (GE 4). SOR debt 1.p appears to have been successfully disputed. The debt is listed in the March 2011 credit report (GE 4) , but has been removed from the August 2011 credit report (AE A).

Applicant acknowledges nine traffic tickets (SOR 1.q-u and 1.pp-ss) incurred by her boyfriend, but claims she never got the tickets because her address changed and the tickets were not forwarded. Her own conduct belies this claim. In March 2010, she paid \$100 on SOR 1.r (\$100), 1.s (\$100), and a third ticket not alleged in the SOR, so she knew before she ever completed her clearance application that she had delinquent traffic tickets. In March 2011, she paid \$100 on 1.q (\$150), 1.r, 1.s, 1.t (\$300), and 1.u (\$250)(AE C), and paid another \$20 on 1.q and \$10 on the other four in June 2011 (Answer). In January 2011, Applicant made a \$69 payment on SOR 1.rr (\$100) and 1.ss (\$100) (AE C), and paid another \$10 on each ticket in June 2011 (Answer). All told, she has paid \$260 on \$900 worth of tickets (1.q-u) and another \$89 on \$200 worth of tickets (1.rr-ss). Two tickets (1.pp-qq) remain unaddressed. Applicant claimed that SOR debts 1.nn and 1.oo were incurred through fraud, but none of the documents confirms that or shows that those accounts were ever disputed.

Applicant provided no budget. She briefly retained a credit repair company in March 2011 and appears to have made one payment in April 2011 on a repayment plan the company designed for her (GE 4). However, she did not continue with the plan. Applicant provided no work or character references. Her August 2011 credit report (AE A) shows two new delinquent debts: another \$300 traffic ticket incurred in March 2011 and a nearly \$1,500 cable bill in February 2011.

## **Policies**

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and

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<sup>6</sup>It also appears in Applicant's March 2011 credit report (GE 4), but has been removed from the August 2011 credit report by the same credit bureau (AE A).

<sup>7</sup>Although the debt is listed by two of the three credit bureaus in GE 2, it does not appear in the March 2011 or August 2011 credit reports by the second of those two credit bureaus. Consequently, I conclude that the credit bureau removed it as a fraud account,

mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant 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, the burden shifts to applicant to 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.<sup>8</sup>

### **Analysis**

The Government established a case for disqualification under Guideline F, and Applicant did not fully mitigate the security concerns. Applicant has a history of financial difficulties and financial irresponsibility going back several years.<sup>9</sup> Although she has made some progress on her debts, that progress is insufficient to overcome the security concerns raised by her financial situation.

The mitigating factors for financial considerations provide considerable help to Applicant, although not enough to fully mitigate the security concerns. Her financial difficulties are both recent and multiple, but the theft of her purse in 2002 is not likely to recur.<sup>10</sup> However, while the theft of her purse was a circumstance beyond her control, her failure act decisively to protect her compromised identity by obtaining a new social security number was well within her control. Waiting until at least 35 fraudulent accounts were opened in her name is grossly irresponsible, and contributed greatly to the financial disarray reflected in her June 2010 credit report.

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<sup>8</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>9</sup>¶ 19(a) inability or unwillingness to satisfy debts; ( c ) a history of not meeting financial obligations;

<sup>10</sup> ¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

Applicant's efforts to address her debts have been mixed, although she has largely acted responsibly in addressing her debts.<sup>11</sup> However, she has paid only \$349 of the \$1,220 she owes on nine outstanding traffic tickets, and nothing since June 2011. She has corroborated no claimed payments on her \$8,600 accident judgment. The few small bills she paid were paid in 2011, well after she became aware of them in June 2010, and cannot be considered to have been made timely and in good faith,<sup>12</sup> She has not indicated what she intends to do with the two large debts at SOR 1.c and 1.d, debts that she disputed but that the credit bureau validated. Applicant did not present a budget or stay with her credit repair company.<sup>13</sup> Finally, her August 2011 credit report (AE A) shows two new delinquent accounts, which suggests that Applicant continues to have financial problems. Thus while she may have made substantial progress resolving her debts from her identity theft, she has not established a clear track record that suggests that the financial problems that are hers will not recur. I resolve Guideline F against Applicant. Assessment of the whole-person factors yields no different result.

The Government did not establish a case for disqualification under Guideline E. Applicant credibly states she was unaware of her credit record when she completed the clearance application. Indeed, her blissful unawareness of her credit record, and her failure to act decisively when her purse was stolen were major contributors to her financial disarray. Accordingly, I resolve Guideline E for Applicant.

### Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a–e:	Against Applicant
Subparagraphs f and v:	For Applicant (duplicates and disputed)
Subparagraphs g–i:	Against Applicant
Subparagraph j:	For Applicant
Subparagraphs k–o:	Against Applicant
Subparagraph p:	For Applicant
Subparagraphs q–u:	Against Applicant
Subparagraphs v–mm:	For Applicant
Subparagraphs nn–oo:	Against Applicant
Subparagraphs pp–ss:	Against Applicant
Subparagraph tt–yy:	For Applicant

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<sup>11</sup> ¶ 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;

<sup>12</sup> ¶ 20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

<sup>13</sup> ¶ 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;

Paragraph 2. Guideline E: FOR APPLICANT

Subparagraphs a-b: For Applicant

**Conclusion**

Under 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.

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JOHN GRATTAN METZ, JR  
Administrative Judge