



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



In the matter of:	)	
	)	
	)	ISCR Case No. 11-12765
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Tovah Minster, Esq., Department Counsel  
For Applicant: *Pro se*

02/12/2014

**Decision**

CURRY, Marc E., Administrative Judge:

Applicant incurred delinquent debt after both she and her husband lost their jobs in 2008. Once they obtained new jobs, they contacted their creditors, negotiated settlements, and satisfied the debts, as agreed. Applicant currently has no delinquent debts. She has mitigated the financial considerations security concerns. Clearance is granted.

**Statement of the Case**

On January 4, 2013, the Department of Defense Consolidated Adjudications Facility (DOD CAF) 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 adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

On January 22, 2013, Applicant answered the SOR, admitting both of the SOR allegations, and requesting a hearing. The case was assigned to me on December 6, 2013. DOHA issued a notice of hearing on January 10, 2014, scheduling the hearing for January 27, 2014. The hearing was held as scheduled. At the hearing, I received five Government exhibits (GE 1-5), two Applicant exhibits (AE A and AE B), and I considered the testimony of Applicant. DOHA received the transcript (Tr.) on January 31, 2014.

### **Findings of Fact**

Applicant is a 64-year-old widow with one adult child. She is a high school graduate. For the past three to four years, she has worked for a telecommunications company as a receptionist. (Tr. 16)

Between 2008 and 2010, Applicant incurred two credit card delinquencies totalling approximately \$63,000. Applicant had never had any trouble managing her finances before 2008; however, that year, both she and her husband lost their jobs. Applicant was either unemployed or underemployed between November 2008 and April 2010. (GE 1 at 10) Applicant's husband was unemployed for roughly the same time period. (Tr. 20; GE 2 at 50)

Unable to make ends meet while they were unemployed, Applicant and her husband began using the two credit accounts, as referenced in the SOR, to cover their living expenses. In January 2010, they retained an attorney to help them satisfy the debt listed in subparagraph 1.a, totalling \$32,262. Per a settlement agreement, they satisfied this debt in three increments. Specifically, they began making payments in December 2012, about six months after obtaining new employment. This first payment totaled \$4,000. The second payment, executed in January 2013, totalled \$1,180, and the last payment, executed in August 2013, totaled \$9,900. (Answer at 5-6; AE A) Per the agreement, the creditor released them from any liability after they made the \$9,900 payment. (AE A at 2)

In August 2010, Applicant and her husband retained a credit counseling agency to help her satisfy the debt, totalling \$31,622, listed in subparagraph 1.b. (Answer at 3) By November 2013, Applicant had satisfied this delinquency. (AE B)

Applicant's husband passed away in September 2013. Consequently, Applicant received \$100,000 as the beneficiary of a life insurance policy that he had purchased. (Tr. 29) It is unknown from the record, how much, if any, of the money that Applicant received through her husband's life insurance was used to satisfy her delinquencies. Nevertheless, she has satisfied both and has satisfied the balance on a line of credit account and a consolidation loan, together, totalling approximately \$27,000. (GE 2 at 42; Tr. 30) These debts were not delinquent and were not listed in the SOR. Currently, Applicant has no debts other than her mortgage and recurring bills such as her utilities. (Tr. 30)

## **Policies**

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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 for 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) Between 2008 and 2010, Applicant incurred approximately \$63,000 of delinquent debt. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply.

The following mitigating conditions under AG ¶ 20 are potentially applicable:

(b) the behavior happened . . . under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;

(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;

(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; and

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

Applicant did not incur any delinquencies until after she and her husband lost their jobs in 2008. After they regained full-time jobs in 2010, they began satisfying their delinquent debts, retaining the services of a lawyer to help satisfy subparagraph 1.a, and a credit counseling agency to help satisfy subparagraph 1.b. Both debts are either settled in full, or paid in full. Applicant has no other delinquencies, and recently received \$100,000 as the beneficiary of her husband's life insurance policy. I conclude that all of the mitigating conditions, as listed above, are applicable. Applicant has mitigated the financial considerations security concern.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

(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 did not have any financial problems until both she and her husband lost their jobs in 2008. Currently, her financial condition has been completely rehabilitated, as she has negotiated settlements and satisfied both debts. Also, the receipt of \$100,000 through a life insurance policy greatly minimizes the likelihood that her financial problems will recur. Upon considering this case in the context of the whole-person concept, I conclude that Applicant has mitigated the 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:	FOR APPLICANT
Subparagraphs 1.a-1.b:	For Applicant

## **Conclusion**

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

MARC E. CURRY  
Administrative Judge