



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



In the matter of: )  
)  
) ISCR Case No. 12-03941  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Gina L. Marine, Esq., Department Counsel  
For Applicant: *Pro se*

06/17/2014

**Decision**

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny her eligibility for a security clearance. Applicant owes approximately \$65,000 in unresolved delinquent debt. Clearance is denied.

**Statement of the Case**

On January 2, 2014, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance.

<sup>1</sup> This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

Applicant answered the SOR and requested a decision without a hearing. The Government submitted its written case on April 2, 2014. A complete copy of the file of relevant material (FORM) was provided to Applicant. In addition, Applicant was also provided a copy of the Directive.<sup>2</sup> Applicant received the FORM on April 15, 2014. She was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant did not respond. Accordingly, the items appended to the Government's brief are admitted as Government's Exhibits (GE) 1 through 7. The case was assigned to me on June 9, 2014.

### **Findings of Fact**

Applicant, 49, has worked as an analyst for a federal contractor since November 2010. Married since 2009, Applicant is the mother of one adult child from a previous marriage and four adult step-children.<sup>3</sup>

The SOR alleges that Applicant is indebted to five creditors for approximately \$91,223. Applicant blames her financial problems on her husband's employment history. During the course of their courtship and marriage, Applicant's husband has been either unemployed or underemployed. Before the couple married, Applicant's husband was unemployed for a period of time beginning in 2007. However, Applicant did not provide specific dates for his unemployment. At some point Applicant's husband returned to work, but became unemployed again in May 2012. He returned to work after an unspecified amount of time, earning significantly less money. Applicant began working a second job to help make ends meet, but it was not enough to cover the deficit. In addition to the debts alleged in the SOR, Applicant discussed other delinquent accounts and financial problems dating back to 2007 in her January and June 2011 background interviews. According to a personal financial statement Applicant completed in August 2013, she has a negative net remainder of \$156 after paying her recurring financial obligations each month. She has no liquid assets or retirement savings. Her only asset is an interest in a piece of unspecified real estate. Applicant has not provided any current information regarding her finances.<sup>4</sup>

Applicant denies owing three of the five accounts alleged in the SOR, ¶¶ 1.c through 1.e, because they have been resolved. Applicant provided documentation that the accounts, totaling approximately \$20,000, have been a paid in full or settled. She admits owing the debts alleged in ¶¶ 1.a (\$49,971) and 1.b. (\$17,882) In her Answer, Applicant claims that she has been making \$300 monthly payments towards the debt alleged in ¶ 1.b. She did not provide any details regarding this payment arrangement. According to financial records she provided, Applicant paid a total of \$876 to several creditors between August and September 2013. She did not specify which of these payments, if any, were related to debts alleged in the SOR. The debt alleged in ¶ 1.a

---

<sup>2</sup> FORM cover letter, dated April 9, 2014.

<sup>3</sup> GE 5.

<sup>4</sup> GE 5 – 6.

remains unresolved. Applicant did not offer any information on her plans to resolve this debt.<sup>5</sup>

According to Applicant, there is no reason for anyone to question her finances or her ability to pay her debts.<sup>6</sup>

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines 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.

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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Section 7 of EO 10865 provides that adverse 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**

#### **Financial Considerations**

Unresolved delinquent debt is a security concern because "an individual who is financially over extended is at risk of having to engage in illegal acts to generate funds."<sup>7</sup> Financial difficulties have proven to be a significant motivating factor for

---

<sup>5</sup> GE 6 – 7; Answer.

<sup>6</sup> GE 6.

<sup>7</sup> AG ¶ 18.

espionage or attempted espionage.<sup>8</sup> The Government does not have to prove that an applicant poses a clear and present danger to national security,<sup>9</sup> or that an applicant poses an imminent threat of engaging in criminal acts. Instead, it is sufficient to show that an applicant has a history of unresolved financial difficulties that may make her more vulnerable to financial pressures.<sup>10</sup>

The SOR alleges that Applicant owes approximately \$91,223 in delinquent debt. The record also illustrates that Applicant has financial problems spanning a number of years that extend beyond debts listed in the SOR. The allegations are supported by the record, establishing the Government's *prima facie* case.<sup>11</sup> Applicant has demonstrated an inability to pay her debts as well as a history of not doing so.<sup>12</sup> While Applicant's resolution of almost \$20,000 in delinquent debt shows good-faith efforts to resolve her delinquent debt, this is not sufficient to mitigate the security concern raised by the remaining \$65,000 of unresolved delinquent debts and her history of financial problems.

The record does not contain enough evidence to determine that Applicant's financial problems were caused by events beyond her control and that she acted responsibly to resolve them. Since at least 2007, Applicant accumulated over \$90,000 in delinquent debt, which she attributes to her husband's unemployment and underemployment over the past seven years. However, the record does not contain sufficient information about her husband's employment history and its effect on their finances to support a finding that Applicant's financial problems were largely caused by events beyond her control or by liberal use of credit cards. Because Applicant has not provided updated financial information, to include where she obtained the funds to resolve \$20,000 of delinquent debt, I find that Applicant's financial problems are ongoing. Based on the available information, Applicant is unable to meet her recurring financial obligations, let alone resolve her remaining \$65,000 in delinquent debt. Applicant's finances are not under control. As such, Applicant's unresolved delinquent debts continue to cast doubt on her current reliability, trustworthiness, and good judgment.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant failed to meet her burdens of production and persuasion. In requesting an administrative determination, Applicant chose to rely on the written record. In doing so, however, she failed to submit sufficient information or evidence to supplement the record with relevant and material facts regarding her circumstances, articulate her position, and mitigate the financial concerns. She failed to offer evidence to address her delinquent debt. By failing to provide such

---

<sup>8</sup> ISCR Case No. 96-0454 (App. Bd. Feb. 7, 1997).

<sup>9</sup> See *Smith v. Schlesinger*, 513 F.2d 463, 476 n. 48 (D.C. Cir. 1975).

<sup>10</sup> See ISCR Case No. 87-1800 (App. Bd. Feb. 14, 1989)

<sup>11</sup> GE 8-10; Answer.

<sup>12</sup> AG ¶¶ 19(a) and (c).

information, Applicant failed to establish financial rehabilitation or the mitigation of the financial considerations concerns. Following *Egan*<sup>13</sup> and the clearly-consistent standard, I resolve these doubts in favor of protecting national security.

### **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, Financial Considerations:	AGAINST APPLICANT
Subparagraphs 1.a – 1.b:	Against Applicant
Subparagraphs 1.c – 1.e:	For Applicant

### **Conclusion**

Based on the record, 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.

---

Nichole L. Noel  
Administrative Judge

---

<sup>13</sup> *Navy v. Egan*, 484 U.S. 518 (1988).