



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



In the matter of:)
)
) ISCR Case No. 11-10474
)
Applicant for Security Clearance)

Appearances

For Government: Alison O'Connell, Esq., Department Counsel
For Applicant: Nicole A. Smith, Esq.

06/04/2014

Decision

MASON, Paul J., Administrative Judge:

Applicant's misuse of a government travel credit card and her deliberate omission of relevant information in her security form and interview summary have not been mitigated. The financial considerations guideline is found in Applicant's favor. Eligibility for access to classified information is denied.

Statement of the Case

Applicant certified and signed her Electronic Questionnaire for Investigations Processing (e-QIP) on February 15, 2011. (GE 1)¹ She was interviewed by an investigator

¹ Government exhibits are cited as GE followed by the exhibit number. Applicant exhibits are cited as AE followed by the exhibit number. The transcript will be cited as (Tr.) followed by the page number. The Government's discovery letter (January 28, 2014) and discovery email (March 7, 2014) are marked as Hearing

from the Office of Personnel Management (OPM) on May 2 and May 16, 2011. The interview summaries appear in Applicant's interrogatory answers signed by her on December 19, 2012. (GE 2)

On December 3, 2013, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing security concerns under personal conduct (Guideline E). On January 28, 2014, DOD filed an Amendment to the SOR containing an additional allegation under personal conduct. The motion to amend added a second paragraph under financial considerations (Guideline F). The actions were 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).

Applicant submitted her answer to the original SOR on December 31, 2013. She submitted her answers to the amended SOR on February 20, 2014.² DOHA issued a notice of hearing on February 7, 2014, for a hearing on March 14, 2014. The hearing was held as scheduled. At the hearing, ten government exhibits were admitted in evidence. Applicant's objections to two of the exhibits will be addressed below in Procedural Rulings. Applicant's nine exhibits were admitted without objection. Applicant and three character witnesses testified. Applicant's missing character reference (AE H8) was entered into evidence within the period allowed for post-hearing submissions. DOHA received the transcript on March 26, 2014. The record closed on March 26, 2014.

Procedural Rulings

Applicant objected to the entire first paragraph of GE 5 based on the hearsay in the first paragraph of the exhibit. In addition, she argued that the exhibit was dated almost three months after Applicant resigned from the agency. Because Applicant's objection relates to the weight of the exhibit rather than its admissibility, her objection was overruled and GE 5 was admitted in evidence. (Tr. 16-21)

Applicant objected to GE 9, a list of transactions Applicant executed with her Government travel card. The basis for Applicant's objection was a lack of authenticity and foundation for the exhibit, specifically documentation showing where the figures on the exhibit came from and how they were verified. In order to develop a full record regarding Applicant's alleged misuse of her government credit while not on travel, Applicant's objection was overruled. (Tr. 23-26) I am reversing my ruling of GE 9 because the exhibit

Exhibits HE 1 and HE 2.

² A one-page attachment to her answers to the SOR amendment is dated February 21, 2014.

lacks authenticity and foundation. Authenticity is lacking because the exhibit does not identify Applicant as the person who executed the transactions contained in the list. There is no way of determining that the exhibit represents Applicant's government credit card transactions in the time period covered by the exhibit. The exhibit is not admissible under the business record exception to the hearsay rule because it lacks indicia of reliability in the method of promulgation of the list. There is no independent evidence from Applicant's former employer, the Office of the Inspector General of the government agency, the agency travel program coordinator, or some other government entity that shows how the information within the exhibit was compiled. Reference to the exhibit and all entries in the exhibit will not be used in my decision in this case. (Tr. 23-26) Rather, my decision will be based on the testimony of Applicant and her character witnesses about her use of the government credit card. Applicant's objection is sustained and GE 9 is withdrawn from the record.

Pursuant to E3.1.17 of Directive 5220.6, SOR 1.e is amended by changing the date November 2011 to November 2010, to conform the SOR with the evidence in the record. Applicant resigned from the government agency in December 2010. (SOR 1.d, answer; GE 2, interview summary at 2; Tr. 95)

Findings of Fact

The SOR and amended SOR allege personal conduct and financial considerations security concerns. Though Applicant denied misusing her government credit card in her answer to SOR 1.a, she testified that she used her government credit card when she was not on work-related travel. She admitted improperly using her agency's express mail account on two occasions. (SOR 1.b) Though she denied SOR 1.c in her answer, she admitted borrowing money on three occasions. She admitted resigning from her employer in December 2010 (SOR 1.d) under unfavorable circumstances after misusing her employer's express mail account and her government travel card. She denied SOR 1.e. Applicant also denied SOR 1.f, claiming that she did not intend to falsify her negative response to Section 13C of her February 2011 e-QIP. She admitted that her debts were discharged by a Chapter 7 bankruptcy. (SOR 2.b) She denied SOR 2.a and 2.c. Following a thorough review of Applicant's admissions and denials, I make the following additional factual findings.

Applicant is 53 years old. Her second marriage began in August 1986. Her two sons are 37 and 32 years of age. Between August 1986 and December 31, 2010, she was employed by a government agency in several positions including administrative officer. At the time of her resignation from that agency in December 2010, she was a supervisory program analyst. Following unemployment for approximately a month, she was hired as a human relations administrator in February 2011 by a defense contractor. Applicant has held a security clearance since 1986 and has completed several security clearance applications.

She possessed a government travel card from 1988 to December 2010. (Tr. 95, 138, 177-179, 204)

Financial Considerations

Applicant filed a Chapter 7 bankruptcy in May 2001. (SOR 2.b) Her debts were discharged in September 2001. She explained that she was involved in an automobile accident in 1998 requiring therapy and treatment. Because of her husband's sporadic employment and the lack of available credit on her personal credit cards, she was unable to maintain payments on the medical bills and filed bankruptcy. The total amount of unsecured credit card debt in her Chapter 7 petition (Schedule F-unsecured debt) when she filed was about \$40,000. The amount of the medical debt was about \$1,600. On two occasions in 2006 and one occasion in 2008, Applicant borrowed a total of about \$5,000 to pay her son's bond and attorney fees. She repaid both loans. (Tr. 152-156, 170, 198-199)

SOR 2.a, which alleges the information in SOR 1.a, 1.b, and 1.c, demonstrates Applicant continued to have financial problems after her Chapter 7 bankruptcy discharge in September 2001. Applicant's 2004 credit report shows 15 medical collection accounts that she satisfied. Her 2013 credit report shows no delinquent accounts except for one medical account that has been paid. Her March 2014 credit report shows a delinquent medical bill from 2008 and an installment loan. Both debts have been resolved. (GE 8; AE F; AE G; Tr. 156-157, 170-173)

In the period from 2009 and 2010 (SOR 2.c), she described her sporadic gambling. She and her husband would occasionally take advantage of promotions offered by the casinos for meals, entertainment, and gambling. When asked by the OPM agent whether she had gambling debts, she told the investigator that she had one check returned to her for insufficient funds. The check was satisfied. Also, in 2009 and 2010, Applicant stated that one of the reasons for her government credit card misuse was unavailability of credit on her personal credit cards. Since moving in late 2010 to be closer to relatives, she has been to a casino once in 2012 and once in 2013. Applicant purchased a home in April 2012. (GE 8; AE F; AE G; Tr. 85, 156-157, 170-173, 200-201)

Personal Conduct

In October and November 2010, Applicant's agency inspector general (IG) interviewed her about alleged misconduct during her employment at the agency. These allegations included: (1) borrowing funds from other employees from her agency (SOR 1.c); (2) misusing her employer's express mail account (SOR 1.b); and (3) misusing her

government travel card on occasions unrelated to official travel (SOR 1.a). Applicant resigned from her agency under unfavorable circumstances after misusing her agency's express mail account and misusing her government credit card. (SOR 1.d)

Applicant admitted borrowing approximately \$3,000 in two payments from an employee and close friend in 2006 or 2007. She needed bail money for her son. She borrowed \$2,200 from a cleaning service contractor in 2008 to pay an attorney. (SOR 1.c) She repaid both loans. At the times she obtained the loans, she knew she was not supposed to borrow money from subordinates. Applicant did not use the loans to pay for gambling. (Tr. 152-154, 193-195)

Applicant admitted misusing her government employer's express mail account in 2007 and 2009 for personal items without reimbursing the Government. (SOR 1.b) She claims that she also told the IG that on five or six occasions she used her employer's express mail account to send birthday and retirement gifts. She did not believe the IG investigated the birthday and gift express mailings. At the hearing, she claimed she used the agency account because the United States (U.S) Post Office was not open at 7:30 a.m. She indicated she did not know it was against government policy to ship personal items using her agency's express mail account. She was never provided the rules that regulate the use of the express mail account. (Tr. 115-120, 191-193)

Applicant testified that: (1) she possessed a government travel credit card from 1988 to December 2010; (2) since 1988, she knew that it was improper to use the card when not on government travel; and (3) she has known since 2004 or 2005 that she could not withdraw funds more than five days in advance of work-related travel. (SOR 1.a) She provided extensive testimony regarding her knowledge of constructive travel and certain travel policies, e.g., per diem and travel-related expenses pertinent to work-related travel. She testified that she misused her government travel credit card when she was not on work-related travel. She indicated those occasions occurred when she had spent a lot of money on earlier work-related travel and had not been reimbursed. Her reasons for the improper use in 2009 and 2010 were that her personal credit cards were at their credit limits and her husband was having health problems.³ Even though Applicant could not estimate the number of times, she told the OPM agent in May 2011 that she had misused the government card twice in February and November 2010 for a cash advance and gasoline. She did not believe she did anything wrong because she was never contacted by her agency program coordinator office for improperly using her card. (SOR answer, attachment at 2; GE 2, interview summary at 2; Tr. 109-114, 125-126, 144-147, 150-152, 159, 160, 177-179)

³ Since late 2007, Applicant's husband has been unemployed for medical issues. After his claim was denied in 2008, he began receiving disability in April 2009.

During the IG investigation in October and November 2010, Applicant signed a non-disclosure statement on October 21, 2010. Applicant did not believe she could talk about the IG meetings or the IG investigation. On November 16, 2010, the IG showed Applicant information accusing her of misusing her government travel card when not on work-related travel. She then asked him whether she was going to lose her job. She contemplated resigning from her position, but did not want her security access to be adversely affected. Applicant claimed that the IG told her he could recommend to his captain that based on two substantiated incidents of express mail account misuse and two incidents of government credit card misuse, a simple report would be transmitted to the Joint Personnel Adjudication System (JPAS) and her access would not be affected. (GE 6; AE C; AE D; Tr. 136-138, 139-141, 143, 201-203)

On November 29, 2010, Applicant and the IG signed a resignation agreement. The agreement indicated that misuse of her agency's express mail account and misuse of a government credit card would be reported to the Department of the Navy Central Adjudication Facility (DON CAF). The agreement noted Applicant "would like to avoid having her permanent record marked by a resignation in lieu of a proposed removal" in her personnel file. The agreement also noted that her employer would not propose her removal and not suspend her access from her former employer. GE 6 does not support Applicant's testimonial claims that the IG would only report two instances of improper use of the express mail account and two instances of government credit card misuse. Nor does the document show that the IG provided any opinions regarding the outcome of the investigation on her security clearance access. (GE 6; AE C; AE D; Tr. 136-138, 139-141, 143, 201-203)

Applicant certified her e-QIP on February 16, 2011. (SOR 1.f) Section 13C asks an applicant whether, in the last seven years, she left a job under any of six listed situations. Applicant answered "no" to the Section. She did not disclose that in December 2010, she left her job by mutual agreement following allegations of misconduct. When Applicant read the question, she initially believed one of the situations in the section did apply to her. She testified that she called the IG and asked him how to answer the question. She was confused by the IG's continual reference to AE C. Her SF 50 (government personnel action document) reflected that she had resigned and was moving out of the area. She read each of the six situations to the IG. She claimed that he stated none of the situations applied. Though the IG told her to tell the truth, she relied on the IG's advice in answering "no" to Section 13C. Applicant's testimony is not credible. (Tr. 163-167, 195-197)

In May 2011 (SOR 1.e), Applicant was interviewed by an OPM investigator. She indicated she thought that misuse of the government credit card issue had been resolved with the IG telling her of two confirmed instances of government card misuse in November 2010. She claims she volunteered to the OPM investigator that there was an IG investigation. The interview summary does not corroborate her claim that she volunteered

the information. When the investigator asked her whether problems led to her leaving her previous employment, she indicated that the IG told her that there were two instances of misuse of the agency express mail account and two substantiated occurrences of improper use of the government credit card. She only mentioned two occasions of misuse of the government card because at the time (presumably at the times she misused the government card), she did not think she had done anything wrong. She had never been contacted concerning misuse by the travel office. Lastly, the investigator never specifically asked her about other instances of misuse of the card. Applicant's explanations for claiming only two incidents of misusing the government credit cards are inconsistent and not credible. (SOR answer, attachment at 4; Tr. 137-138, 158-162, 207-208)

Applicant feels remorse for misusing the government credit card in 2009 and 2010 and has not misused any government property since then. She indicated stress in 2009 and 2010 was the primary reason for the improper use. If she fills out another security form in the future, she will answer Section 13C "yes" and explain the circumstances. (Tr. 200-201, 204-205)

Character Evidence

Three witnesses testified in Applicant's behalf. Shortly after witness A met Applicant during the 1980s in the finance division of their former employer, witness A moved to the human relations (HR) division where she became an employment discrimination officer. Their relationship became closer after Applicant transferred to another facility of their employer in the early 1990s. Witness A recalled working with Applicant on a personnel matter that was resolved favorably. In the aftermath of the hurricane in 2005, witness A and Applicant organized an internet monitoring system to keep employees aware of significant events at the facility. They also established a family program and an exchange program furnishing food and clothes for employees recovering from the hurricane. Applicant was one of three recipients of a special award for her laudable contributions in keeping the facility in operation during the hurricane's aftermath. Witness A had no knowledge of a gambling problem by Applicant. Witness A, who currently speaks to Applicant every three or four weeks, considers her trustworthy. (Tr. 39-60)

Shortly after Applicant's first child was born in 1976, she met witness B. They worked together at a sewing plant in the 1970s and 1980s. They have been social friends since 1994 with witness B contacting Applicant about two or three times a year. Witness B believed that Applicant left her employment about three years ago for mishandling a credit card, which witness B believed related to a package Applicant sent to her son. Applicant is a role model whom witness B would trust to raise her son. Witness B recalled playing slot machines with Applicant about four or five times a year. She is not aware that Applicant has a gambling problem. (Tr. 62-75)

Witness C, Applicant's relative, has known her since 1989. Applicant and her husband relocated and lived with witness C from 2010 to approximately April 2012, when Applicant moved into her own home. Applicant and her husband did not pay rent, but they babysat, bought groceries, and prepared meals for witness C's family. Witness C was aware that Applicant played the slot machines, but is not aware whether Applicant has gambled since she moved in 2010. Applicant told witness C that she had used her government credit card, but never inappropriately. Applicant never told witness C that she had been accused of misusing the government card for personal reasons unrelated to travel. Witness C believes Applicant is very professional, honest and goal-oriented; she has an excellent reputation in human resource issues. Applicant told witness C that the former employer's express mail account and the government credit card were specific reasons for her resignation from her employment. (Tr. 78-92)

Applicant provided eight character statements. In a letter dated February 26, 2014, the head of research at her former employer indicated that based on his working relationship with Applicant from 1994 to 2003, he found her to be an outstanding administrative officer. On March 10, 2014, the head of the physics branch of Applicant's former employer indicated that he worked with Applicant from 1997 to 2005. He considered her trustworthy. On March 10, 2014, Applicant's colleague for 30 years indicated that he is aware of Applicant's positive contributions during the 2005 hurricane. He considered Applicant to be a dedicated and honest administrative officer. In a letter dated March 5, 2014, her oldest son commends Applicant for providing the emotional and financial support during his divorce between 2008 and 2011. (AE H1-H4)

The program manager for Applicant's current employer hired her three years ago, and has learned that Applicant is very knowledgeable in government human resource practices. In an email letter from a deputy director of a government program dated January 26, 2014, addressed to Applicant's current employer and two government officials, Applicant was praised for her expertise and support in hiring decisions. A personal friend and coworker of Applicant from 1986 to 1997, recommended her for a position of trust based on her professionalism and character. In an email dated January 3, 2014, the governmental agency head of the human resources advisory division stated that Applicant has made important contributions to merging the commands. The agency head noted that as an employee of a contractor, Applicant is unable to completely fulfill her role as staffing specialist which she is qualified for with her experience. The agency head believes Applicant should be reinstated to the staffing group. Applicant's performance evaluation for the 2013 calendar year was rated as superior. Her manager viewed her as a technical expert and an effective leader. (AE H5-H8; AE I)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. Each guideline lists potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant's eligibility for access to classified information.

The administrative judge's ultimate goal is to reach a fair and impartial decision that is based on commonsense. The decision should also include a careful, thorough evaluation of a number of variables known as the "whole-person concept" that brings together all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. Likewise, I have avoided drawing inferences grounded on speculation or conjecture. 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 the potential, rather than actual, risk of compromise of classified information.

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.

Analysis

Personal Conduct

The security concern for personal conduct is set forth in AG ¶ 15:

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.

The potentially disqualifying conditions under AG ¶ 16 are:

(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;

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative;

(c) credible adverse information in several adjudicative 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 may not properly safeguard classified information; and

AG ¶ 16(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating the person may not properly safeguard protected information. This includes but is not limited to consideration of: (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or other government protected information; (2) disruptive, violent, or other behavior in the workplace; (3) a pattern of dishonesty or rule violations; and (4) evidence of significant misuse of government or other employer's time or resources.

Between 2006 and 2008, Applicant borrowed \$3,000 in two payments from a subordinate employee to pay her son's bail. In 2008, she borrowed approximately \$2,200 for her son's attorney fees. Despite knowing at the time she was not supposed to borrow money from employees, she borrowed the money anyway. AG ¶ 16(d)(3) applies.

Applicant admitted improperly using her employer's express mail account in 2007 and 2009. She mentioned misuse of the account on five or six additional occasions for personal reasons. Applicant's misuse of her agency's express mail account was one of the reasons she resigned on December 31, 2010. AG ¶ 16(d)(3) applies.

Applicant provided extensive testimony about her knowledge of work-related travel. She has known since 1988 that she could only use the government travel card for official government travel. She has known since 2004 or 2005 that she could not use the government card to withdraw funds more than five days before work-related travel. She

admitted that she used the government travel card because of her husband's health and unavailability of credit on her personal credit cards. Her testimonial explanations of distress and being unable to use her credit cards strongly suggest that her misuse of the government card was much more than she is willing to admit. AG ¶ 16 (d)(3) applies.

Omission of relevant information in an e-QIP raises security concerns under AG ¶ 16(a). Not every omission of information in a security form or in a security clearance interview is intentional. Even though omissions can result from oversight, haste, or lack of understanding, none of those reasons apply to the circumstances of this case. When Applicant certified her e-QIP on February 16, 2011, she answered "no" to Section 13C, creating the false impression that there were no adverse reasons why she chose to resign. Her statement that she preliminarily considered one of the six options of the section applied to her resignation, clearly indicates she understood the scenarios presented in the section question. Yet, she relied on the advice of the IG that none of the options in the question applied to her. I conclude she did not rely on the IG's advice in good faith because she knew her negative answer was false. Applicant should have answered "yes" and explained that she left her position with her employer by mutual agreement following allegations of misconduct. Her claim that in the future she will answer "yes" to the same question, does not mitigate the deliberate omission May 2011 e-QIP. AG ¶ 16(a) applies.

Applicant was interviewed by an OPM investigator in May 2011. Her misplaced belief that the government card misuse issue had been resolved in November 2010 is not supported by the resignation agreement or any other document in the record. She knew she had misused the government card more than the two times she told the investigator. Yet, she did not inform him because he did not specifically ask. Her deliberate decision to provide only a partial account of the misuse represents poor judgment and untrustworthiness. AG ¶ 16(b) applies.

There are four mitigating conditions under AG ¶ 17 that are potentially applicable to the circumstances in this case. Those conditions are:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense was 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; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate stressors, circumstances, or factors that caused untrustworthy, unreliable or other inappropriate behavior, and such behavior is unlikely to recur.

The loans Applicant received from her subordinate and a contractor in 2006 and 2007 are mitigated because the misconduct was isolated and last occurred in 2007. Applicant's misuse of her former employer's express mail account occurred on only two occasions over four years ago. Her admission of the infrequent conduct and passage of time is mitigating under AG ¶ 17(c).

Applicant's misuse of her government credit card in 2009 and 2010 demonstrated seriously poor judgment given the fact that she had known since 1988 that she could only use the card for work-related travel. Having no credit availability on her personal credit cards, coupled with her husband's medical issues during the period, do not excuse or justify her misuse of her government credit card. While Applicant has acknowledged that she used the card improperly, insufficient time has passed for me to confidently conclude that this type of conduct is unlikely to recur. AG ¶ 17(d) does not apply

Regarding Applicant's deliberate falsification of Section 13C of her February 2011 e-QIP, AG ¶ 17(a) does not apply because Applicant continues to deny she answered the question dishonestly. Her future intention of how she will respond to the same question in the future does not mitigate her deliberate falsification of the e-QIP. AG 17(b) is not available because I conclude that the IG did not recommend that Applicant provide dishonest information in the e-QIP. AG ¶ 17(c) is inapplicable because a deliberate falsification during a security clearance investigation is serious. Three months later in 2011, she disclosed only two occasions of credit card misuse even though she knew there were additional occasions. Applicant has not mitigated the February 2011 e-QIP omission and the partial admission in May 2011.

Financial Considerations

The security concern for financial considerations is set forth 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. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts.

The pertinent disqualifying condition under AG ¶ 19 are:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of failing to meet financial obligations; and
- (f) financial problems that are linked to drug abuse, alcoholism, gambling problems, or other issues of security concern.

AG ¶¶ 19(a) and 19(c) clearly apply to Applicant's financial profile before May 2001 when she filed for a Chapter 7 bankruptcy. Following a discharge of her debts in September 2001, she continued to have some financial problems as reflected in her credit report in 2004 showing 15 medical collection accounts. She satisfied the medical bills. The record provides some evidence that Applicant gambled, however, she provided credible explanations for patronizing gambling venues. Although she indicated financial problems in 2009, her 2013 and 2014 credit reports reveal no financial issues.

One condition under AG ¶ 20 can potentially mitigate Applicant's delinquent indebtedness:

- (c) the person is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or under control.

The record reflects that when Applicant could not keep abreast of the medical bills related to a serious car accident, she filed a Chapter 7 bankruptcy petition May 2001, which was discharged in September 2001. Applicant encountered documented financial problems in 2004 because of medical issues. She resolved those medical issues. Inability to use her personal credit cards demonstrates that she had financial problems in approximately 2009 and 2010. However, her 2013 credit report reflects only one medical debt that was paid. The two delinquent debts in Applicant's March 2014 credit report have been resolved. The recent credit reports show clear indications that her financial problems are being resolved or under control. Applicant receives full mitigation under AG ¶ 20(c).

Whole-Person Concept

I have examined the evidence under the disqualifying and mitigating conditions under the personal conduct and financial considerations guidelines. I have also weighed the circumstances within the context of nine variables known as the whole-person concept. In evaluating the relevance of an individual's conduct, the administrative judge should consider the following factors:

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 the participation was 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 a commonsense judgment based on careful consideration of the guidelines in the context of the whole-person concept.

Applicant provided some important mitigating evidence under the whole-person concept. Witness A has known Applicant since the 1980s. After the hurricane in 2005, witness A and Applicant organized an internet monitoring system and helped establish programs to help families recover from the hurricane's destruction. Applicant was one of three people who received an award for her efforts in keeping her employer's facility in operation during and after the hurricane. Witness A considers Applicant to be trustworthy. Having known Applicant since the 1970s, witness B would trust Applicant with her son. Witness C has found Applicant to be an honest person who prides herself on getting the job done. The statements from eight additional character references consider Applicant to be honest and trustworthy. She has a topnotch job evaluation for 2013. None of the character evidence provided probative information about Applicant's improper government credit card use.

The favorable evidence of Applicant's honesty and trustworthiness from her current and former coworkers, her supervisors, government officials, and relatives, cannot be viewed in isolation, but together with all the other evidence in the record. Applicant's personal conduct has not been mitigated. She has held a security clearance since 1986 and completed several security forms over the years. In that period, she knew or should have known the importance of providing truthful information during all phases of a security investigation. She had a government travel credit card from 1988 to the end of December 2010. While she knew that she could not use the government card when not on work-

related travel, she misused the card several times in 2009 and 2010. In February 2011, Applicant knew that she left her job in December 2010 following allegations of misconduct. Yet, she answered “no” to the section. I am not persuaded that the IG recommended that she lie on the security form about why she resigned from her employment. In her May 2011 OPM interview summary, she exercised poor judgment by not providing a full account of what she knew about her misuse of the government travel card. Having weighed and balanced the evidence under the financial considerations and personal conduct guidelines in the context of the whole-person concept, Applicant has mitigated the financial considerations security concerns, but her evidence is insufficient to mitigate the security concerns relating to 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 E): AGAINST APPLICANT

Subparagraph 1.a:	Against Applicant
Subparagraphs 1.b, 1.c, 1.d:	For Applicant
Subparagraphs 1.e, 1.f	Against Applicant

Paragraph 2 (Financial Considerations): FOR APPLICANT

Subparagraphs 2.a-2-c: For Applicant.

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Paul J. Mason
Administrative Judge