



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 12-11189

Appearances

For Government: Ray T. Blank, Jr., Esquire, Department Counsel

For Applicant: *Pro se*

July 27, 2016

DECISION

ROSS, Wilford H., Administrative Judge:

Applicant submitted her Electronic Questionnaire for Investigations Processing (e-QIP), on December 16, 2010. (Item 4.) On March 16, 2015, the Department of Defense issued a Statement of Reasons (SOR) detailing the security concerns under Guideline F (Financial Considerations) concerning Applicant. The action was taken under Executive Order (EO) 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.

Applicant answered the SOR in writing on April 30, 2015, (Answer) and requested a decision by an administrative judge without a hearing. (Item 2.) Department Counsel submitted the Government's written case (FORM) to Applicant on September 15, 2015.¹ Applicant acknowledged receipt of the FORM on October 15, 2015. She was

¹Department Counsel submitted ten items in the FORM. Item 10 is inadmissible and will not be considered or cited as evidence in this case. It is the summary of an unsworn interview of Applicant conducted by an interviewer from the Office of Personnel Management on June 20, 2012. The summary was never adopted

given 30 days from receipt of the FORM to submit any additional documentation. Applicant did not submit any additional information within that time. The case was assigned to me on December 21, 2015. Based upon a review of the pleadings and exhibits, eligibility for access to classified information is denied.

Findings of Fact

Applicant is 31, and single. She works for a defense contractor, and seeks to obtain a security clearance in connection with her employment.

Paragraph 1 (Guideline F, Financial Considerations)

The Government alleges in this paragraph that Applicant is ineligible for clearance because she is financially overextended and therefore potentially unreliable, untrustworthy, or at risk of having to engage in illegal acts to generate funds. Applicant admitted subparagraphs 1.a, b, c, d, g, h, k, and n in the SOR under this paragraph. Those admissions are findings of fact. She denied the remaining allegations.

The SOR lists fifteen delinquent debts (SOR 1.a through 1.p). The total of the debts alleged in the SOR is approximately \$18,314. The existence and amount of all the debts are supported by credit reports dated January 15, 2011; two reports dated January 11, 2012; June 13, 2012; and October 7, 2014. (Items 5, 6, 7, 8, and 9.) Some of the past-due debts have been delinquent since 2010, according to the available credit reports.

With regard to her debts in general, Applicant states, "I have a twin sister and we found our credit report was combined and we are still working to resolve this." (Answer.)² Three credit reports, Items 5, 7, and 8, have the names of Applicant and her twin sister on them, along with two separate social security numbers. None of the available credit reports, however, show that Applicant or her sister have notified the credit reporting agencies of this issue, or that they have disputed any of the debts because of it.

The current status of the debts is as follows:

1.a. Applicant admitted owing this debt for a repossessed automobile in the amount of \$8,847. She further states in her Answer, "I was young and chose to keep the apartment I had instead of the car." No other information was submitted. I find that this debt is not resolved.

by Applicant as her own statement, or otherwise certified by her to be accurate. Under EO 10865 Section 5, and Directive ¶ E3.1.20, this Report of Investigation summary is inadmissible in the absence of an authenticating witness. Given Applicant's admissions, it is also cumulative.

²See Item 4, Section 18.

1.b. Applicant admitted owing a past-due debt in the amount of \$852. No other information was submitted. I find that this debt is not resolved.

1.c. Applicant admitted owing this past-due debt in the amount of \$217. She stated in her Answer, "Job loss in 2013 and didn't find full time work until July 2014." No further information was received. This debt is not resolved.

1.d. Applicant admitted owing a past-due debt in the amount of \$210. She stated in her Answer, "Job loss in 2013 and didn't find full time work until July 2014." No further information was received. This debt is not resolved.

1.e. Applicant denied owing this past-due debt in the amount of \$99. She stated in her Answer, "I have no idea who [or] what this is." Support for the existence of this debt is found in Item 8. No further information was submitted about this debt, and I find that it is not resolved.

1.f. Applicant denied owing a past-due medical debt in the amount of \$615. She stated in her Answer, "I have no unpaid medical expenses that I know of." Support for the existence of this debt is found in Item 7. No further information was received. This debt is not resolved.

1.g. Applicant admitted owing a past-due mobile telephone bill in the amount of \$450. She stated in her Answer, "Disputing with [mobile telephone company] as account was not cancelled when requested." Support for the existence of this debt is found in Item 8. No further information was received. This debt is not resolved.

1.h. Applicant admitted owing a past-due telephone bill in the amount of \$130. No further information was received. This debt is not resolved.

1.i. Applicant denied owing a past-due mobile telephone bill in the amount of \$827. She stated in her Answer, "does not belong to me." Support for the existence of this debt is found in Item 7. No further information was received. This debt is not resolved.

1.j. Applicant denied owing a past-due debt to W College in the amount of \$230. She stated in her Answer, "this belongs to my twin sister who attended [W College]." Section 12 of Item 4 shows that Applicant received a bachelor's degree from a different college. This allegation is found for Applicant.

1.k. Applicant admitted owing a past-due debt in the amount of \$3,669. No further information was received. This debt is not resolved.

1.l. Applicant denied owing a past-due mobile telephone bill in the amount of \$526. Support for the existence of this debt is found in Item 5. No further information was received. This debt is not resolved.

1.m. Applicant denied owing a past-due mobile telephone bill in the amount of \$297. She stated in her Answer, "I'm with [this mobile telephone company] now and my account is current." Support for the existence of this debt is found in Item 5. No further information was received. This debt is not resolved.

1.n. Applicant admitted owing a past-due debt in the amount of \$1,526. She stated in her Answer, "Family member had account but stopped paying." No further information was received. This debt is not resolved.

1.o. Applicant denied owing a past-due medical bill in the amount of \$139. She stated in her Answer, "do not know what this is." Support for the existence of this debt is found in Item 5. No further information was received. This debt is not resolved.

1.p. Applicant denied owing a past-due medical bill in the amount of \$40. She stated in her Answer, "no unpaid medical expenses." Support for the existence of this debt is found in Item 5. No further information was received. This debt is not resolved.

Applicant submitted no evidence that she has received any financial counseling. She did not submit a budget, or any other information concerning her income and expenses. As stated, the record does not show any disputes filed with the credit reporting companies concerning the debts Applicant states are not hers.

Applicant provided no evidence concerning the quality of her professional performance, the level of responsibility her duties entail, or her track record with respect to handling sensitive information and observation of security procedures. I was unable to evaluate her credibility, demeanor, or character in person since she elected to have her case decided without a hearing.

Policies

Security clearance decisions are not made in a vacuum. 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 are to be used as appropriate in evaluating 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 AG ¶ 2 describing the adjudicative process. The administrative judge's over-arching 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. In addition, the administrative judge may also rely on

his or her own common sense, as well as knowledge of the law, human nature, and the ways of the world, in making a reasoned decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that, “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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. Security clearance decisions include, by necessity, consideration of the possible risk that 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.

Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination 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

Paragraph 1 (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.

This concern is broader than the possibility that an individual might knowingly compromise sensitive information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting sensitive information. An individual who is financially irresponsible may also be negligent, unconcerned, or irresponsible in handling and safeguarding sensitive information.³

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an "inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly under AG ¶ 19(c), "a history of not meeting financial obligations" may raise security concerns. Applicant has admitted having over \$15,000 in past-due debts, which have been due and owing for several years. This does not include the debts that she denied owing, but which remain unresolved. The evidence is sufficient to raise these potentially disqualifying conditions.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying conditions may be mitigated where "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." This condition does not apply as Applicant's financial difficulties have been in existence for several years and largely continue to date.

AG ¶ 20(b) states that the disqualifying conditions may be mitigated where "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." Applicant states that she was unemployed from sometime in 2013 until June 2014. However, Applicant did not submit any evidence that would show she behaved responsibly with regard to her debts. This condition minimally applies to Applicant's situation.

AG ¶ 20(d) states it can be mitigating where, "the individual has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts." Applicant elected to submit no information showing that she has paid any of her creditors, no matter how small.

In conclusion, looking at Applicant's entire financial situation at the present time, I cannot find that "there are clear indications that the problem is being resolved or is under control," as is required by AG ¶ 20(c). Paragraph 1 is found against Applicant.

³ See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

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 relevant circumstances. 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. The administrative judge must 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.

I considered the potentially disqualifying and mitigating conditions in light of all the relevant facts and circumstances surrounding this case. The discussion under Guideline F, above, applies here as well. Applicant has had financial problems for several years, which she has not yet resolved. If she is able to successfully resolve her debts, Applicant may be eligible for a security clearance in the future. However, at the present time, Applicant's conduct with regard to her finances is not mitigated.

Under AG ¶ 2(a)(3), her conduct is recent and continuing. I cannot find that there have been permanent behavioral changes under AG ¶ 2(a)(6). Accordingly, I also cannot find that there is little to no potential for pressure, coercion, exploitation, or duress (AG ¶ 2(a)(8)); or that there is no likelihood of continuation or recurrence (AG ¶ 2(a)(9)).

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the security concerns arising from her financial situation. Accordingly, the evidence supports denying her request for a security clearance.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a to 1.i:	Against Applicant
Subparagraph 1.j:	For Applicant
Subparagraphs 1.k to 1.p:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, 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.

WILFORD H. ROSS
Administrative Judge