



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



In the matter of: )  
)  
) ISCR Case No. 15-02166  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Charles Hale, Esquire, Department Counsel  
For Applicant: *Pro se*

December 7, 2016

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**Decision**

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MOGUL, Martin H., Administrative Judge:

On October 13, 2015, the Department of Defense (DoD) issued a Statement of Reasons (SOR) detailing the security concerns under Guideline F for Applicant. (Item 1.) 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) effective within the Department of Defense after September 1, 2006.

On November 2, 2015, Applicant replied to the SOR (RSOR) in writing, and she requested that her case be decided on the written record in lieu of a hearing. (Item 2.) On February 17, 2016, Department Counsel issued the Department's written case. A complete copy of the file of relevant material (FORM) was provided to Applicant. In the FORM, Department Counsel offered six documentary exhibits. (Items 1-6.) Applicant was given the opportunity to file objections and submit material in refutation, extenuation, or mitigation. A response was due on March 30, 2016. Applicant submitted additional evidence, which has been identified and entered into evidence without objection as Item A. The case was assigned to this Administrative Judge on July 19,

2016. Based upon a review of the pleadings and exhibits, eligibility for access to classified information is denied.

### **Findings of Fact**

After a complete and thorough review of the evidence in the record, including Applicant's RSOR and the FORM, and upon due consideration of that evidence, I make the following findings of fact:

Applicant is 57 years old. She received two Bachelor's degrees in 1981 and 1984, and a Master's degree in 2003. She has been married since 1983, and she has three adult children. Applicant was unemployed from 2009 to 2012. She has worked for a defense contractor since 2012, as a Business Analyst, and she seeks a DoD security clearance in connection with her employment in the defense sector. (Item 3.)

### **Guideline F, Financial Considerations**

The SOR lists 20 allegations (1.a. through 1.t.) regarding financial difficulties, specifically delinquent medical debts, student loans, a tax lien and a mortgage foreclosure, totaling \$124,768, under Adjudicative Guideline F. One or both of the two credit reports, dated October 18, 2012; and January 30, 2015, submitted with the FORM establish each of these debts. (Items 5 and 6.) The debts will be discussed below in the same order as they were listed on the SOR:

1.a. This overdue debt is cited in the SOR for a real estate mortgage account in the amount of \$68,393. In her RSOR, Applicant admitted that this property has been foreclosed. (Item 2.) As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.b. This overdue debt is cited in the SOR for a collection account in the amount of \$770. In her RSOR, Applicant wrote that she "does not know what medical procedure would have generated this charge." (Item 2.) As reviewed above, Items 5 and 6 show that this debt is owed. She reiterated her lack of knowledge of this debt in Item A. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.c. This overdue debt is cited in the SOR for a medical account in the amount of \$309. In her RSOR, Applicant wrote that she "does not know what medical procedure would have generated this charge." (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.d. This overdue debt is cited in the SOR for a medical account in the amount of \$212. In her RSOR, Applicant wrote that she "does not know what medical procedure would have generated this charge." (Item 2.) She reiterated her lack of knowledge of this

debt in Item A. As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.e. This overdue debt is cited in the SOR for a medical account in the amount of \$140. In her RSOR, Applicant wrote that she “does not know what medical procedure would have generated this charge.” (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.f. This overdue debt is cited in the SOR for a medical account in the amount of \$114. In her RSOR, Applicant wrote that she “does not know what medical procedure would have generated this charge.” (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.g. This overdue debt is cited in the SOR for a medical account in the amount of \$99. In her RSOR, Applicant wrote that she “does not know what medical procedure would have generated this charge.” (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.h. This overdue debt is cited in the SOR for a medical account in the amount of \$88. In her RSOR, Applicant wrote that she “does not know what medical procedure would have generated this charge.” (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.i. This overdue debt is cited in the SOR for a medical account in the amount of \$61. In her RSOR, Applicant wrote that she “does not know what medical procedure would have generated this charge.” (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.j. This overdue debt is cited in the SOR for a medical account in the amount of \$31. In her RSOR, Applicant wrote that she “does not know what medical procedure would have generated this charge.” (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Items 5 and 6 show that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.k. This overdue debt is cited in the SOR for a student loan account in the amount of \$11,030. In her RSOR, Applicant wrote that she “has not applied for a loan with [this creditor.]” (Item 2.) She reiterated her lack of application for a loan from this creditor in Item A. As reviewed above, Item 6 shows that this loan is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.l. This overdue debt is cited in the SOR for a state tax lien account in the amount of \$2,447. In her RSOR, Applicant wrote that she was “not aware of this tax lien.” (Item 2.) She reiterated her lack of knowledge of this tax lien in Item A. As reviewed above, Item 6 shows that this lien is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.m. This overdue debt is cited in the SOR for a judgement filed against Applicant in the amount of \$905. In her RSOR, Applicant wrote that she did “not know what this judgment is all about.” (Item 2.) She reiterated her lack of knowledge of this judgment in Item A. As reviewed above, Item 5 shows that this judgement is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.n. This overdue debt is cited in the SOR for a student loan account in the amount of \$16,233. In her RSOR, Applicant wrote that she has “made some payments off and on. I admit I do owe.” (Item 2.) I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.o. This overdue debt is cited in the SOR for a student loan account in the amount of \$18,969. In her RSOR, Applicant wrote that she has “made some payments off and on. I admit I do owe.” (Item 2.) I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.p. This overdue debt is cited in the SOR for a collection account in the amount of \$3,590. In her RSOR, Applicant wrote that she has “inquired about this [debt] in the past and I could not get information that could help me with this charge.” (Item 2.) As reviewed above, Item 5 shows that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.q. This overdue debt is cited in the SOR for a collection account in the amount of \$110. In her RSOR, Applicant wrote that she was “not aware of why this charge is being made by [this creditor.]” (Item 2.) As reviewed above, Item 5 shows that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.r. This overdue debt is cited in the SOR for a collection account in the amount of \$204. In her RSOR, Applicant wrote that she was “not aware of why this charge is being made by [this creditor.]” (Item 2.) As reviewed above, Item 5 shows that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.s. This overdue debt is cited in the SOR for a collection account in the amount of \$232. In her RSOR, Applicant wrote that she “does not know what medical procedure would have generated this charge.” (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Item 5 shows that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

1.t. This overdue debt is cited in the SOR for a collection account in the amount of \$936. In her RSOR, Applicant wrote that she “does not know what medical procedure would have generated this charge.” (Item 2.) She reiterated her lack of knowledge of this debt in Item A. As reviewed above, Item 5 shows that this debt is owed. I find that no evidence has been introduced to establish that this debt has been resolved or reduced.

## **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 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.

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 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 applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion as to obtaining a favorable security 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. 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 potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that 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**

### **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.

The guideline notes several conditions that could raise security concerns and could potentially apply in this case. 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. I find that both of these disqualifying conditions apply to Applicant in this case. The evidence has established that Applicant accumulated significant delinquent debts, many of which have not been satisfied.

AG ¶ 20 provides conditions that could mitigate security concerns from financial difficulties. Under AG ¶ 20(b), it may be mitigating 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.” As reviewed above, some of Applicant’s financial problems were beyond her control, as she was unemployed from 2009 to 2012. However, since no evidence has been introduced to establish that Applicant has resolved or reduced any of the debts listed on the SOR, even those that are quite small, I cannot find that she acted responsibly under the circumstances. Therefore, I do not find that this mitigating condition is a factor for consideration in this case.

AG ¶ 20(d) is also not applicable, since Applicant has not “initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” Therefore, I find that this mitigation condition does not apply to this case.

Finally, since Applicant has not submitted a Personal Financial Statement, nor was any independent evidence offered about her current financial stability, I cannot conclude that Applicant will be able to pay off her past-due debts or keep up to date on her current debts and expenses, especially if any new or unexpected debts are incurred. Therefore, I find that Applicant has not mitigated the Financial Consideration concerns, which are found against Applicant.

### **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 circumstances. The administrative judge should 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.

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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Based on all of the reasons cited above as to why the disqualifying conditions apply and why the concerns about Applicant’s current finances have not been mitigated, I find that the record evidence leaves me with significant questions and doubts as to Applicant’s eligibility and suitability for a security clearance under the whole-person concept. For all these reasons, I conclude Applicant has not mitigated the security concerns under the whole-person concept.

### **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.-1.t.:                      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.

Martin H. Mogul  
Administrative Judge