



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



In the matter of: )  
 )  
 ) ISCR Case No. 15-04572  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Bryan Olmos, Esq., Department Counsel  
For Applicant: *Pro se*

08/21/2017

**Decision**

LOUGHRAN, Edward W., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 8, 2016, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on July 11, 2016, and elected to have the case decided on the written record in lieu of a hearing.

The Government's written case was submitted on August 18, 2016. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on September 2, 2016. As of October 26, 2016, she had not responded. The case was assigned to me on June 2, 2017. The Government exhibits included in the FORM are admitted in evidence.

## Findings of Fact

Applicant is a 45-year-old part-time employee of a defense contractor where she has worked since August 2014. She attended college for a period without earning a degree. She married in 1994 and separated in 2012. Her divorce was final in October 2014. She has three children.<sup>1</sup>

Applicant's finances were adversely affected by her separation and divorce. In addition to the costs associated with living as a single parent on one income after almost 20 years of marriage, her ex-husband did not pay his share of the marital debt. Her unemployment and underemployment also contributed to her financial problems.<sup>2</sup>

The SOR alleges three unpaid judgments totaling \$9,687; three delinquent debts totaling \$31,814 to a credit union; and \$429 owed to a telecommunications company. The SOR also alleges a debt that Applicant is not responsible for because she is only an authorized user on the account (SOR ¶ 1.b). The remaining debts are established through Applicant's admissions and credit reports.<sup>3</sup>

The three debts to the credit union are all joint accounts with Applicant's ex-husband. One of the debts is the deficiency owed on an auto loan after the car that Applicant's ex-husband drove, and was supposed to pay, was repossessed. Applicant thought the three debts were all related to the auto loan, but the credit reports indicate they are three separate accounts.<sup>4</sup>

Applicant admitted owing the \$429 telecommunications debt, but she indicated that she had a dispute with the company because she was not getting service in her area. She stated that she would look into the matter.<sup>5</sup>

Applicant denied owing the three judgments. The \$322 judgment is to a property company. It is a judgment against Applicant and her ex-husband. She stated that she thought it was a bill that her ex-husband did not pay, as she did not live in the property. Applicant did not recognize the remaining two judgments, likely because they were obtained by collection companies not the original creditors. A comparison of the credit reports suggests that the original accounts were to banks for a loan or credit card, with only Applicant listed on the accounts. Because she did not respond to the FORM, it is unknown what, if any, actions Applicant took to address her financial problems.<sup>6</sup>

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<sup>1</sup> Items 3, 4.

<sup>2</sup> Items 3, 4.

<sup>3</sup> Items 2-7.

<sup>4</sup> Items 2, 5-7.

<sup>5</sup> Item 2.

<sup>6</sup> Items 2, 5-7

## Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used 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, 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(a), 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 national security eligibility will be resolved in favor of the 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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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**

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

The security concern for financial considerations is set out in AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant had delinquent debts that she was unable to pay. The evidence is sufficient to raise the above disqualifying conditions.

Applicant is only an authorized user on the account alleged in SOR ¶ 1.b and not responsible for the debt. SOR ¶ 1.b is concluded for Applicant.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (a) 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;
- (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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit

counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's separation, divorce, ex-husband's actions, unemployment, and underemployment were beyond her control, but there is no information about what, if anything, she has done about her delinquent debts. There is insufficient evidence for a determination that Applicant's financial problems will be resolved within a reasonable period. I am unable to find that she acted responsibly under the circumstances or that she made a good-faith effort to pay her debts. Her financial issues are recent and ongoing. They continue to cast doubt on her current reliability, trustworthiness, and good judgment. AG §§ 20(a), 20(c), 20(d), and 20(e) are not applicable. AG § 20(b) is partially applicable. I find that financial considerations concerns remain despite the presence of some mitigation.

### **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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG § 2(d):

(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. I have incorporated my comments under Guideline F in my whole-person analysis. I considered the cause of Applicant's financial problems. However, she did not submit evidence that she is doing anything about those problems.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations security concerns.

### **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:	Against Applicant
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraphs 1.c-1.h:	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.

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Edward W. Loughran  
Administrative Judge