



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



In the matter of: )  
 )  
 ) ISCR Case No. 15-06663  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Pamela Benson, Department Counsel  
For Applicant: *Pro se*

10/10/2017

**Decision**

DAM, Shari, Administrative Judge:

Applicant did not mitigate the security concerns raised under the guideline for financial considerations. National security eligibility for access to classified information is denied.

**History of the Case**

On May 9, 2016, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued to Applicant a Statement of Reasons (SOR), alleging security concerns under Guideline F, Financial Considerations. The action was taken under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines (AG) in effect on September 1, 2006. On June 8, 2017, new AG were implemented and became effective that day. I considered both sets of guidelines in reaching this decision, and it would be the same under either set.

On May 9, 2016, Applicant responded to the SOR in writing (Answer) and elected to have her case decided on the written record in lieu of a hearing. (Item 1) On August 9, 2016, Department Counsel prepared a File of Relevant Material (FORM), containing seven Items, and mailed it to Applicant on August 10, 2016. She received the FORM on August 23, 2016, and had 30 days from its receipt to file objections and submit additional information.

Applicant timely submitted a letter to the FORM (Reply) that I marked as Applicant Exhibit (AE) A. In the Reply, she did not object to the Government's evidence, or submit additional documentary evidence. The Government had no objection to AE A. All exhibits are admitted into evidence. On May 22, 2017, the Defense Office of Hearings and Appeals (DOHA) assigned the case to me.

### **Findings of Fact**

Applicant admitted all of the 17 allegations in the SOR. (Item 1) After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 37 years old and divorced since 2005. She has an eight-year-old daughter. She served in the Air Force from March 1999 until March 2008, when she separated with an Honorable discharge. (Item 3)

Applicant's financial problems began after her 2005 divorce and later received orders to serve in Europe in 2006. After separating from service in 2008 she was hired as a civilian at a U.S. agency, operating in Europe. She became pregnant and did not have medical insurance. In 2009, she was terminated from that employment and was then unemployed. She remained in Europe until after the birth of her child, and relied on financial support from friends for many months. After returning home, she learned that her former husband had not been paying the mortgage on their home, which resulted in its foreclosure. She stated that being a single parent, with periods of unemployment, made it difficult to pay her bills. (Items 1, 2, 7) It is unclear when Applicant began her current position with a defense contractor, although it appears that she is working in the Middle East with a contractor. (Item 1)

On January 1, 2014, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP). (Item 2) In response to questions about financial delinquencies, she disclosed a garnishment, delinquent student loans, and a foreclosure. Based on credit bureau reports (CBR) from January 2014, June 2015, and March 2016, the SOR alleged 17 debts, including the foreclosure, which totaled \$277,619 and became delinquent between 2011 and 2015.

On February 11, 2014, Applicant was interviewed by a government investigator about her background and information included in her e-QIP. During that interview, she discussed various matters, including most of the SOR debts. (Item 6)

Applicant submitted evidence documenting the resolution of the following six SOR debts: ¶ 1.c – a payday loan for \$1,289 was paid in June 2016 (Answer); ¶ 1.e – an overpayment of \$809 on an education loan was paid in June 2016 (Answer); ¶ 1.f – an overpayment of \$750 on an education loan was paid in June 2016 (Answer); ¶ 1.g – a utility bill for \$575 was paid in June 2016 (Answer); ¶ 1.j – a utility bill for \$81 was paid in June 2016 (Answer); and ¶ 1.k – a \$23,811 defaulted student loan is being paid through automatic monthly payments of \$326. Applicant began those payments in February 2016. She submitted evidence of five payments. (Answer)

Applicant stated that she paid and resolved most of the remaining 12 debts or was paying them. She did not provide documentary evidence to confirm those statements in either her Answer or Reply. In particular, she did not provide evidence that she resolved a deficiency on the defaulted mortgage on her foreclosed home, alleged in ¶ 1.a. Nor did she provide evidence addressing the status of a large student loan listed in ¶ 1.b.

Applicant did not submit evidence that she obtained credit or financial counseling, or sought other assistance to resolve the delinquent debts. She did not provide a budget demonstrating financial stability and ability to pay debts.

### **Policies**

When evaluating an applicant's national security eligibility, the administrative judge must consider the disqualifying and mitigating conditions in the AGs. 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 overarching adjudicative goal is a fair, impartial, and commonsense decision. 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." 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. Directive ¶ E3.1.15 states that an "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 applies for national security eligibility seeks to enter 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 national security eligibility. 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 sensitive information.

Finally, as emphasized in Section 7 of Executive Order 10865, "[a]ny 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 *a/s/o* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **Guideline F: Financial Considerations**

AG ¶ 18 sets out the security concerns pertaining to financial considerations:

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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.<sup>1</sup>

AG ¶ 19 describes three conditions that could raise security concerns and be disqualifying in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Between 2011 and 2015, Applicant accumulated 17 delinquent accounts totaling over \$277,000, many of which remain unresolved. That ongoing pattern of inability or unwillingness to pay lawful debts, raises security concerns under the above disqualifying conditions, and shifts the burden to Applicant to rebut, extenuate, or mitigate those concerns.

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

AG ¶ 20 provides three conditions that could mitigate the security concerns established in this case:

(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; and

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

AG ¶ 20(b) provides some mitigation of the security concerns. Applicant's financial problems can be attributed to her divorce in 2005, a pregnancy without medical insurance, living abroad, and periods of unemployment. Those were circumstances beyond her control. In order to establish full mitigation under this condition, Applicant must provide evidence that she acted responsibly under the circumstances, which she did not do. The evidence does not establish full mitigation under AG ¶ 20(c) because she did not provide evidence that she received financial counseling, and that her financial problems and all SOR-listed debts are under control. Applicant provided documentation that she made a good-faith effort to resolve six of the SOR-listed debts. AG ¶ 20(d) applies to those debts.

### **Whole-Person Concept**

AG ¶ 2(a) requires an administrative judge to evaluate an applicant's national security eligibility by considering the totality of the applicant's conduct and all relevant circumstances, commonly referred to as the whole-person concept. Under AG ¶ 2(c) the ultimate determination of whether to grant eligibility for a security clearance must include an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. The administrative judge should also consider the following 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.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. Applicant is a 37-year-old woman, who honorably served in the Air Force for almost ten years. Subsequently, she began accumulating significant debt that remains unresolved and includes a defaulted mortgage and student loans. Although she stated she does not owe any mortgage deficiency after the foreclosure sale, she failed to provide proof of that assertion. She did not submit proof of making payments on a large student loan. In its FORM, Department Counsel clearly pointed out that the documents she submitted with her Answer did not resolve the SOR allegations. Despite being on notice of the Government's concern, she failed to submit additional evidence with her Reply. Overall, the record evidence leaves me with doubts as to Applicant's national security eligibility. Applicant did not meet her burden to 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 ¶ E3.1.25 of Enclosure 3 of the Directive, are:

| Paragraph 1, Guideline F:      | AGAINST APPLICANT |
|--------------------------------|-------------------|
| Subparagraphs 1.a and 1.b:     | Against Applicant |
| Subparagraph 1.c:              | For Applicant     |
| Subparagraph 1.d:              | Against Applicant |
| Subparagraphs 1.e through 1.g: | For Applicant     |
| Subparagraphs 1.h and 1.i:     | Against Applicant |
| Subparagraphs 1.j and 1.k:     | For Applicant     |
| Subparagraphs 1.l through 1.o: | 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 security to grant Applicant access to classified information. National security eligibility is denied.

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Shari Dam  
Administrative Judge