



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 15-07347

Appearances

For Government: Alison O'Connell, Esq., Department Counsel

For Applicant: *Pro se*

08/14/2017

Decision

RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the security concerns under Guideline F, financial considerations. Eligibility for access to classified information is granted.

Statement of the Case

On May 1, 2016, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The action was taken 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) effective within the DOD on September 1, 2006. On June 8, 2017, new AG were implemented and are effective for decisions issued after that date.¹

¹ I considered the previous AG, effective September 1, 2006, as well as the new AG, effective June 8, 2017. My decision would be the same if the case was considered under the previous AG.

Applicant answered the SOR on May 27, 2016, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's file of relevant material (FORM). Applicant received it on August 28, 2016. The Government's evidence is identified as Items 1 through 8. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant provided documents marked as Applicant Exhibits (AE) A through N. There were no objections and the evidence for both parties were admitted. The case was assigned to me on July 3, 2017.

Findings of Fact

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

Applicant is 31 years old. She has been attending college at various time from 2002 to the present. She served in the military from 2003 until her honorable discharge in December 2013. She had hoped to serve until she retired, but due to downsizing she was not permitted to do so. Many of Applicant's military assignments were overseas. She deployed in support of Operation Iraqi Freedom. Applicant has never married and has no children.²

Applicant attributed her financial difficulties to several factors. While serving in the military, her single mother became unemployed and did not have the resources to buy food. Applicant wanted to make sure her mother was cared for, so she took out loans and used credit cards to help her. Her mother did not ask her to do this, but she felt obligated to do so. At the time, she was a young enlisted person with no financial experience. She stopped sending her mother support in 2012. She paid the debts and managed until she was unexpectedly told in September 2013 that she would be discharged in December 2013. She was unemployed from December 2013 to May 2014, when she took a job paying \$9.50 an hour, a significant reduction from her military pay. She was required to drive an hour to her place of employment, incurring significant gas expenses. Her pay did not cover basic living expenses. Applicant fell behind in paying her bills and some months she would pay one bill, and not another; and then switch the following month, and pay different bills. She was unable to pay all of her bills.³

Applicant admitted she made mistakes with her finances because often times she did not understand the contractual obligations she made. She takes full responsibility for the debts she incurred. Because she was stationed overseas for most of her career, she became accustomed to receiving more allowances for expendable income. She had lived in the barracks the entire time she was in the military and was forced to find a place to live as a civilian. The first job she started in May 2014 required manual labor. She worked long hours and hurt herself while lifting an item. She was out

² Item 5.

³ Item 4; AE A.

of work for two weeks and did not understand the requirements of workers' compensation. Because she did not comply with the stringent rules, the validity of her injury was questioned. She became concerned that her medical bills would not be covered. Losing two weeks of pay affected her finances. She was unable to pay her full rent and her landlord agreed to let her pay less and catch up later. Applicant's landlord provided a letter confirming that when Applicant was able, she repaid what was owed.⁴

In 2013, Applicant enrolled in a consolidated payment plan (CPP). She included the debts in SOR ¶¶ 1.a, 1.b, 1.c, 1.e, 1.f, 1.g, and 1.j.⁵ The CPP document she provided shows payments from May 2013 through February 2014. Presumably, because of her unemployment, she could not maintain consistent payments.

In 2015, Applicant began paying delinquent bills one by one starting with the smallest debt. She went back to school, which is funded by the GI Bill, and she receives a monthly stipend for a work-study program. She is now receiving Veterans' Affairs disability payments and is also working a second job. She stated she specifically took the second job, so she could expedite repayment of her debts.⁶

Once her income stabilized, she resumed consistently paying her delinquent debts. In her response to the FORM, she stated that she had payment plans with all her delinquent creditors. She provided additional documents to show payments for the debts in SOR ¶¶ 1.a, 1.b, 1.c, 1.e, 1.f, and 1.g.⁷ Applicant has a payment plan with the creditor in SOR ¶ 1.d, but had not yet received a verification document for it. Other creditors would not provide documents, so she provided copies of bank statements to show payments.⁸

The debts in SOR ¶ 1.h, 1.i, 1.j, 1.k, and 1.l are paid. Applicant provided supporting documents.⁹ In February 2015, Applicant made a \$622 payment on the delinquent debt in SOR ¶ 1.m. She then set up a recurring payment beginning in December 2015 and has been making consistent monthly payments of \$75.¹⁰

⁴ Item 4; AE M.

⁵ Item 4; AE F, K, N.

⁶ Item 4.

⁷ AE A, B, C, D.

⁸ AE K, N.

⁹ AE A, E, F, G, H, I.

¹⁰ Item 4; AE J.

Applicant stated she has matured and has been aggressively addressing her debts. She requested and was granted advance pay, so she could use the lump sum payment to pay more of delinquent debts.¹¹

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied 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(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 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 applicant or proven by Department Counsel, and 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 that an applicant may deliberately or inadvertently fail to 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.

¹¹ AE L.

Section 7 of EO 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 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.

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

- (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.

Applicant had numerous unresolved delinquent debts beginning in 2013, which she was unwilling or unable to pay. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 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; and

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

Applicant experienced financial difficulty when she was discharged from the military, took a significant reduction in pay, and was unemployed. Although she has been making strides at reducing her delinquent debts, all debts are not yet resolved. AG 20(a) does not apply.

Applicant took out loans and used credit cards to support her mother. She was able to stay current on the debts until she was discharged from the military and was unemployed. After she found a job that paid significantly less than she was previously earning, she was unable to meet her basic needs. These were conditions that were beyond her control. For the full application of AG ¶ 20(b), Applicant must have acted responsibly under the circumstances. Applicant provided evidence that she has not ignored her debts, but made payments when she had the money. She is working two jobs. She took the second job so she could expedite payments of her delinquent debts. She is going to school and receiving a stipend and also receives a VA disability payment. She has paid some of her debts and is making payments on the remaining debts. I find that under the circumstances she has acted responsibly. I find AG ¶ 20(b) applies.

There is evidence that Applicant had financial counseling and there are clear indications her financial problems are being resolved and under control. There is evidence that she has initiated a good-faith effort to repay overdue creditors and otherwise resolve her debts. AG ¶¶ 20(c) and 20(d) apply.

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(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. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

Applicant is 31 years old and served her country for 10 years, including during Operation Iraqi Freedom. She admittedly made some poor financial choices due to inexperience and maturity. She also was confronted with a drastic reduction in her income after she was discharged from the military. She was unemployed for six months and had difficulty paying her bills. She never ignored her delinquent debts, but paid what she could. Once she was in a stable financial position, she made more consistent payments to resolve debts. She has paid some and is making payments on others. Applicant is working a second job so she can expedite the resolution of her delinquent debts.

A security clearance adjudication is not a debt collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). There is also no requirement that an applicant pay every debt listed in the SOR, only that she remove concerns about her reliability and trustworthiness raised by those debts. See ISCR Case No. 14-00504 at 3 (App. Bd. August 4, 2014).

The record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under Guideline F, financial considerations.

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: FOR APPLICANT

Subparagraphs 1.a-1.m: For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Carol G. Ricciardello
Administrative Judge