



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 14-05253

**Appearances**

For Government: Aubrey M. DeAngelis, Esquire, Department Counsel  
For Applicant: *Pro se*

05/23/2018

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

**Statement of the Case**

On December 18, 2017, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations).<sup>1</sup> In a response signed on January 25, 2018, she addressed the allegations and requested a determination based on the written record. On March 12, 2018, the Government issued a File of Relevant Material (FORM) with 10 attachments ("Items"). The case was assigned to me on May 17, 2018. Based on my review of the record as a whole, I find Applicant failed to mitigate financial considerations security concerns.

**Findings of Fact**

Applicant is a 35-year-old former munitions handler/clerk typist who first worked with her current employer from March 2009 through January 2010, when she was subject

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<sup>1</sup> The action was taken under Executive Order 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 or after June 8, 2017.

to a layoff. During her layoff, she had a child. In October 2011, she returned to her present employer. She was promoted to the position of real property technician in June 2016. Applicant is a high school graduate who has attended some post-secondary courses. She was first married from 2001 through 2003, then from 2007 through 2012. She has four children, ranging in age from approximately 18 to four years old.

Applicant was subject to an investigation for a security clearance previously in 2004. She was asked to go into a debt management program. She was denied a security clearance at the time because she could not afford to manage the bills she accrued, which she attributed to her lack of health care insurance coverage for her family. She also noted she could not afford to have someone help with her finances.

Applicant completed a security clearance application (SCA) in 2012, noting she had financial issues, including about 44 delinquent accounts. Many were related to her not having had medical insurance for her children. The ensuing investigation was abandoned when jurisdiction over the matter was lost.

Applicant completed another SCA in June 2016, in which she disclosed she had delinquent debts, including some related to medical services. She conveyed that she was in the process of contacting her creditors and addressing her debts. In the end, DOD adjudicators determined that it was not clearly consistent with the national interest to grant her a security clearance.

An SOR was issued on December 18, 2017, with 58 allegations related to her delinquent debt. The delinquent accounts date back as far as the birth of a child in 2005 (allegation 1.z). In sum, approximately \$46,600 in debt is at issue. Applicant admitted the allegations at 1.i, 1.p, 1.y, 1.z, 1.gg, 1.hh, 1.ww, and 1.yy, totaling about \$7,117. In denying the remainder of the debt-related allegations, she noted that a number of the alleged accounts that once appeared on credit reports offered in the FORM by the Government no longer appear on the credit report she offered.<sup>2</sup> (FORM, Item 3)

Little is known as to Applicant's actions and conduct while facing her financial difficulties over the past 14 or more years. In general, she cited to her lack of health care for her children as being the origin of much of her debt, but failed to discuss how she continued without such coverage for so many years. In addition, she cited to her layoff in January 2010 as a circumstance beyond her control that adversely affected her finances, but she did not provide documentation showing what prohibited her from finding some alternative work or generating some income before she was rehired in October 2011.

Of the debts at issue, Applicant specifically addressed the following allegations in her response to the SOR:

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<sup>2</sup> Notice is taken that the absence of an account entry on a credit report is of minor significance and does not indicate a delinquent account has been adequately addressed. Credit reports vary from reporting bureau to reporting bureau, and, among other reasons, accounts are often deleted when they reach a certain age, e.g., seven years.

1.b - College collection account (\$1,179) – Applicant wrote that this entry is a “mistype,” denying she ever attended or took any college courses at this institution. She wrote that she is “in the process of disputing” the related charges, but no documentation reflecting a formal dispute with the entity or a reporting bureau was offered. (SOR Response at 17)

1.i – Charged-off account (\$397) – Payments made. Applicant wrote, “I admit the charge off/dispute the balance due.” She attached evidence of payments to her response in the amounts of \$30, \$129.27, and \$133.78 from 2017, amounting to payment of \$293.05. (SOR Response at 9-11)

1.k – Telecommunications collection account (\$356) – Paid or settled. Applicant denies the amount noted, writing: “[the entity] debited, my bank account in the amount of \$324.95. This was the amount due. . . .” Applicant provided documentation reflecting a payment of \$324.95 was debited from her account to this creditor. (SOR Response at 12, 18)

1.l – Collection recovery effort (\$306) – Disputed. Applicant denies this amount because her “credit report does not state this amount due.” She wrote that she attached a credit report providing evidence that a payoff arrangement was created to settle the matter, and that her ability to finance another car through the same entity reflects that the settlement was successful. Her evidence shows she disputed this account. (SOR Response at 18)

1.p – Medical collection (\$117) – Applicant wrote, “I Admit, the reported amount on my credit report. As of 01/03/2018, my credit report does indicate that I owe the full amount of \$117, Medical Amount.” (SOR Response at 17)

1.s – Medical collection (\$101) – Applicant wrote, “I Deny, the reported amount on my credit report. As of 01/03/2018, my credit report does not state this amount due.” As corroboration that it no longer appears on her credit report, Applicant attached a portion of her recent TransUnion credit report.<sup>3</sup> It reflects, however, a past-due sum of \$129. (SOR Response at 20)

1.t – Medical collection (\$99) – Applicant again noted that her recent TransUnion credit report does not reflect this entry.<sup>4</sup> However, it still reflects this sum as past due. (SOR Response at 21)

1.y – Adverse judgment filed in April 2013 (\$693) – Applicant feels the debt should be split with her ex-boyfriend, with whom she shared the account and service. She told the court this was her reasoning, and was told it is her responsibility to take action against him to collect his half if that is how she wishes to proceed. There is no documentation reflecting any efforts to seek money from her former boyfriend.

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<sup>3</sup> The SOR allegation, however, is derived from an Equifax (EFX) entry. See FORM, Item 9, at 3.

<sup>4</sup> The SOR allegation, however, is derived from an Equifax (EFX) entry. See FORM, Item 9, at 3.

1.z – Adverse judgment filed in April 2010 (\$3,399) – This debt relates to the birth of a child in 2005, when she had no health insurance coverage. Applicant wrote that because the court will not accept monthly payments, she has been unable to address this balance in the interim.

1.gg – Medical collection (\$1,162) – Applicant reported that she is in a monthly repayment plan on this account, but her evidence, a section of her credit report, reflects no payment plan or reduction in balance. The credit reports still shows this amount past due. (SOR Response at 24)

1.hh – Medical collection (\$1,138) - Applicant reported that she is in a monthly repayment plan on this account, but her evidence, a section of her credit report, reflects no payment plan or reduction in balance. The credit reports still shows this amount past due. (SOR Response at 25)

1.ww – Medical collection (\$109) – Applicant stressed that this credit report entry now reflects a zero balance because the account is now “stale.”<sup>5</sup> (SOR Response at 7-8; 19) She presented no documentary evidence, however, of any action she took to address the debt.

1.yy – Medical collection (\$102) – Applicant admitted responsibility for this debt and noted that she had spoken with the collection entity. Apparently, no documentation was generated as a result of that conversation. The debt remains delinquent. (SOR Response at 8, 20)

## **Policies**

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 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. 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, in making a decision.

The protection of the national security is the paramount consideration. Any doubt concerning personnel being considered for access to classified information will be

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<sup>5</sup> That a delinquent debt has become “stale” does not indicate Applicant made any effort to address the debt in a positive manner. Similarly, that an account has been deleted from a credit report does not necessarily indicate any outstanding balance was satisfied or appropriately addressed.

resolved in favor of national security. In reaching this decision, I have only drawn conclusions that are reasonable, logical, and based on the evidence provided.

Under the Directive, the Government must present evidence to establish controverted facts alleged in the SOR. 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 to obtain a favorable security decision.

A person seeking access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. This relationship transcends normal duty hours. Decisions include consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such 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.

### **Analysis**

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that 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 or sensitive information.

Here, Applicant admits several of the 58 delinquent debts noted in the SOR. In sum, all the debts at issue amount to approximately \$46,607. They include collection accounts, charged-off accounts, and adverse judgments. Some date back over a decade. This is sufficient to invoke financial considerations disqualifying conditions:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the inability to do so; and

AG ¶ 19(c): a history of not meeting financial obligations.

Five conditions could mitigate the finance related security concerns posed here:

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(c) the person has received or is receiving counseling for the problem from a legitimate and credible source, such as a non-profit counseling service, and there are clear indications that the problem is being resolved or is under control;

AG ¶ 20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(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 attributes the majority of her delinquent debts to her having lacked medical insurance coverage for the birth of one child and for other medical bills accumulated over the years for the care of her children. While she was subject to a layoff in January 2010, she provided little insight into what she did to seek employment, generate income, or forestall the acquisition of additional debt while unemployed. Consequently, whether she acted reasonably at the time cannot be adjudged. As well, she failed to adequately address what, if any, efforts she made to acquire the medical coverage she needed at any point in the past dozen years. Indeed, there is no documentary evidence reflecting whether she maintains appropriate coverage today that would preclude her from acquiring additional debts in the future. Moreover, there is no evidence reflecting whether she has received financial counseling. Such facts are insufficient to give rise to AG ¶ 20(a)-(c).

To her credit, she showed that she has made some payments on her delinquent debts (e.g., 1.i and 1.k) and disputed accounts she questions (e.g., 1.l) While such examples represent a significantly low percentage of the 58 delinquent accounts at issue, they can be deemed sufficient to raise AG ¶ 20(d)-(e) in part.

### **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 adjudicative process factors listed in the AG. Under AG ¶ 2(a), the need to utilize a "whole-person" evaluation is set forth. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I incorporated my comments under the guideline at issue in my whole-person analysis.

Applicant is a 35-year-old real property technician who worked for her present employer from March 2009 through January 2010, when she was subject to a layoff, and

from October 2011 to date. Applicant has been married twice, from 2001 through 2003 and from 2007 through 2012. She has four children, all under 21 years of age.

Other than her 2010 layoff, which continued until October 2011 for no known reason except the birth of one child, Applicant attributes her considerable delinquent accounts and the resultant debt to her lack of proper medical insurance coverage. That is her main cited reason for her current financial distress. However, she provides scant information as to what she did to acquire appropriate medical insurance coverage over the past dozen years. There is no documentary evidence indicating, for example, that she sought state financial aid, Medicaid, or coverage under the Patient Protection and Affordable Care Act, which became effective in 2010 and had most major provisions phased in by January 2014. There is also no documentary evidence reflecting attempts to seek financial assistance from the children's fathers. She additionally failed to adequately enumerate any attempts to seek additional income through part-time work or implement a reasonable plan to better utilize her available financial resources.

That her finances are at issue should be no surprise to Applicant, given her past attempts to obtain a security clearance. As in 2004, her financial situation today remains a significant concern. At one point, Applicant noted that she could not afford to hire someone to help her better organize her finances. However, she failed to provide any examples of attempts to obtain such help. There is no evidence she ever sought free or reduced-cost financial resources or assistance that might be offered within her region, for example, at community centers, houses of worship, or credit unions. There is no documentary evidence reflecting an attempt to explore bankruptcy protection as a viable option for resolving her delinquent debt. In short, Applicant submitted a considerable amount of paperwork in response to the SOR, but failed to clearly explain and document her efforts to improve her lot, organize her finances, and address her debts.

This process does not demand that an applicant resolve or even address all delinquent debts at issue. It does, however, require that an applicant set forth a practical and reasonable plan for addressing one's debt, and provide persuasive documentary evidence that such a plan has been implemented. At present, Applicant fails to meet this threshold. Financial considerations security concerns remain unmitigated.

### **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**

Subparagraphs 1.a-1.h:

Against Applicant

Subparagraph 1.i:

For Applicant

Subparagraph 1.j:

Against Applicant

Subparagraphs 1.k-1.l:

For Applicant

Subparagraphs 1.m-1.fff:

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 a security clearance. Eligibility for access to classified information is denied.

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Arthur E. Marshall, Jr.  
Administrative Judge