DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
REDACTED	)	ISCR Case No. 16-03126
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Mary Margaret Foreman, Esq., Department Counsel
For Applicant: *Pro se*

10/17/2017

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant pleaded guilty to a lesser charge following her arrest in April 2004 for driving while intoxicated (DWI). She was convicted of an April 2015 DWI, for which she served 12 months of community supervision and was fined. She incurred delinquent debt after a 2006 bankruptcy that has been discharged in a 2016 Chapter 7 bankruptcy. Concerns persist about her alcohol consumption and her financial judgment. Clearance is denied.

Statement of the Case

On October 20, 2016, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline G, alcohol consumption, and Guideline F, financial considerations. The SOR explained why the DOD CAF was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for Applicant. The DOD CAF took the action 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 for Determining Eligibility for Access to Classified Information* (AG) effective within the DOD on September 1, 2006.

On November 4, 2016, Applicant answered the SOR allegations and requested a decision on the written record by an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On December 21, 2016, the Government submitted a File of Relevant Material (FORM), consisting of 11 exhibits (Items 1-11). DOHA forwarded a copy of the FORM to Applicant on December 22, 2016, and instructed her to respond within 30 days of receipt. Applicant received the FORM on January 3, 2017. She submitted a response ("supplemental answer") on January 30, 2017, to which the Government had no objections. On October 1, 2017, I was assigned the case to determine whether it is clearly consistent with national security to grant or continue a security clearance for Applicant. I accepted Applicant's supplemental answer as an Applicant exhibit (AE A).

While this case was pending a decision, Security Executive Agent Directive 4 was issued establishing National Security Adjudicative Guidelines (AG) applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The AG supersede the adjudicative guidelines implemented in September 2006 and are effective for any adjudication made on or after June 8, 2017. Accordingly, I have adjudicated Applicant's security clearance eligibility under the new AG.[1]

Evidentiary Ruling

Department Counsel submitted as Item 4 a summary of an unsworn subject interview of Applicant conducted on September 23, 2013. This document was part of the DOD Report of Investigation (ROI) in Applicant's case. Under ¶ E3.1.20 of the Directive, a DOD personnel background report of investigation may be received in evidence and considered with an authenticating witness, provided it is otherwise admissible under the Federal Rules of Evidence. The interview summary did not bear the authentication required for admissibility under AG ¶ E3.1.20.

In ISCR Case No. 15-01807 decided on April 19, 2017, the Appeal Board held that it was not error for an administrative judge to admit and consider a summary of personal subject interview in the absence of any objection to it or any indication that it contained inaccurate information. The applicant in that case had objected on appeal to the accuracy of some of the information in a FORM, but had not objected to the interview summary or indicated that it was inaccurate in any aspects when she responded to the FORM.

Applicant submitted a supplemental answer in which she provided facts for consideration in mitigation. She filed no objections to the interview summary even though she was provided a copy of the FORM and advised of her opportunity to submit objections or material that she wanted the administrative judge to consider. In a footnote, the FORM advised Applicant of the following:

[1] Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case.

> **IMPORTANT NOTICE TO APPLICANT**: The attached summary of your Personal Subject Interview (PSI) (Item 4) is being provided to the Administrative Judge for consideration as part of the record evidence in this case. In your response to this File of Relevant Material (FORM), you can comment on whether [the] PSI summary accurately reflects the information you provided to the authorized OPM investigator(s) and you can make any corrections, additions, deletions, and updates necessary to make the summary clear and accurate. Alternatively, you may object on the ground that the report is unauthenticated by a Government witness and the document may not be considered as evidence. If no objections are raised in your response to the FORM, or if you do not respond to the FORM, the Administrative Judge may determine that you have waived any objections to the admissibility of the summary and may consider the summary as evidence in your case.

Concerning whether Applicant understood the meaning of authentication or the legal consequences of waiver, Applicant's *pro se* status does not confer any due process rights or protections beyond those afforded her if she was represented by legal counsel. She was advised in ¶ E3.1.4 of the Directive that she may request a hearing. In ¶ E3.1.15, she was advised that she is responsible for presenting evidence to rebut, explain, or mitigate facts admitted by her or proven by Department Counsel and that she has the ultimate burden of persuasion as to obtaining a favorable clearance decision. While the Directive does not specifically provide for a waiver of the authentication requirement, Applicant was placed on sufficient notice of her opportunity to object to the admissibility of the interview summary, to comment on the interview summary, and to make any corrections, deletions, or updates to the information in the report. She was advised that if she did not respond, the interview summary may be considered as evidence in her case. Applicant filed no objections to any of the information in the interview summary. I cannot presume without any evidence that Applicant failed to understand her due process rights or obligations under the Directive or that she did not want the summary of her interview considered in her case. Accordingly, I accepted Item 4 in the record, subject to issues of relevance and materiality in light of the entire record, including Applicant's admissions to some of the allegations in the SOR.

Findings of Fact

The SOR alleges under Guideline G that Applicant pleaded guilty to an April 2015 DWI (SOR ¶ 1.a) and to an April 2004 offense of obstructing a highway passageway following her arrest for DWI (SOR ¶ 1.b). Under Guideline F, Applicant was in Chapter 7 bankruptcy proceedings as of October 2016 (SOR ¶ 2.a) after having been granted a Chapter 7 bankruptcy discharge in February 2006 (SOR ¶ 2.b). She was also alleged to owe three delinquent debts totaling $22,183 (SOR ¶¶ 2.c-2.e). When she answered the SOR allegations, Applicant admitted that she pleaded guilty to the April 2015 DWI but explained that she had complied with all court orders. She admitted that she had been arrested for DWI in April 2004, but she was not convicted of the charge. Applicant did not dispute the debts in SOR ¶¶ 2.c-2.e, which were included in her 2016 Chapter 7

bankruptcy discharge. She indicated that she filed for the 2006 because a roommate had moved and left her with the bills when she had bills of her own from a past relationship. After considering the FORM, which includes Applicant's Answer to the SOR as Item 2, and Applicant's supplemental answer (AE A), I make the following findings of fact.

Applicant is a 39-year-old high school graduate, who has been employed by a defense contractor since February 1997. (Item 2.) She currently works as a material coordinator, and she has held a DOD secret clearance since July 1998. In September 2013, Applicant began taking a night class at a junior college. (Item 4.) Applicant has one child, a daughter now age 10, from her second marriage, which lasted from May 2006 to January 2012. Applicant was married to her first husband from December 1997 to September 1998. (Item 3.)

Alcohol Consumption

On August 27, 2013, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86) to renew her security clearance eligibility. She responded "No" to a police record inquiry concerning whether she had ever been charged with an offense involving alcohol or drugs. She responded negatively to an alcohol-use inquiry concerning whether she had ever been ordered to seek counseling or treatment as a result of her alcohol use, but answered "Yes" to having voluntarily sought counseling as a result of her use of alcohol. Applicant disclosed that she had successfully attended counseling in December 2004. (Item 3.)

On September 23, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). When asked whether she had ever been charged with an alcohol offense, she responded "No." She was then confronted with her arrest in April 2004 for DWI, a Class B misdemeanor. (Item 4.) Public safety records had revealed the arrest but also that she pleaded guilty to count II, a lesser charge of obstructing a highway passageway, a Class B misdemeanor. She was given deferred adjudication for one year and placed on one year of probation, fined $500, and ordered to pay court costs of $251.(Items 5-6.) As for her failure to disclose the 2004 DWI charge, Applicant explained that she did not consider the incident to be a DWI because she was not convicted of the charge. Regarding her listed alcohol counseling, Applicant explained that she had voluntarily attended and completed a three-day alcohol awareness program in December 2004. She was working a second job as a bartender at that time and the stress of working two jobs and being around alcohol so often had made it easy to drink too much. She became concerned that her drinking was becoming excessive. She stopped working as a bartender. Applicant asserted that her current alcohol consumption of three to four beers at home three or four times a week was under control and that she was not drinking to intoxication. (Item 4.)

Applicant was arrested for DWI on or about April 10, 2015, and detained overnight after completing a blood-alcohol test at a local hospital. Applicant reported her arrest to security officials at work, who, in turn, notified the DOD CAF about the incident on April 15, 2015. On July 23, 2015, Applicant pleaded guilty to a charge of misdemeanor DWI. She

was sentenced to pay a $400 fine and $50 court costs, to serve 12 months of community supervision at a cost of $50 a month, to submit to a substance abuse evaluation within 60 days, and to attend a victim impact panel within 180 days. (Item 11.) She was assessed a driver's license fee of $2,000 a year for the next three years. (Item 10.)

In response to the SOR, Applicant stated the following about her April 2015 DWI:

> I knew I made a mistake and went to court and pleaded guilty. I did everything the court asked me to do. I paid all fines, attended all classes and every probation appointment. I reported to [employer name] security as soon as it happened. (Item 2.)

Applicant provided no information about the circumstances that led to her April 2015 arrest. In response to the FORM, Applicant indicated that she has sought counseling through an Employee Assistance Program (EAP) "for effective ways to deal with stress and anxiety." Applicant did not indicate when she sought those services. There is no documentation showing the result of the substance abuse evaluation that the court ordered or any details about her drinking pattern after September 2013.

Financial

On October 12, 2005, Applicant filed a Chapter 7 bankruptcy petition. She listed unsecured nonpriority claims totaling $23,578, consisting of $20,881 in credit card debt, a $200 medical bill from 2004, and a $2,497 personal loan obtained in 2004 to address some bills. She listed monthly income and expenses of $1,657 and $1,555, respectively. (Item 9.) On October 20, 2005, Applicant reported to her employer that she had filed for bankruptcy. (Item 11.) She was granted a Chapter 7 discharge in February 2006. (Items 4, 7.) Applicant explained in response to the SOR that a roommate moved out and let her with all the bills when she had bills of her own accumulated from a past relationship.[2] She could not pay some of her debts. Apparently, after she was turned down by a consumer credit counseling service, she applied for bankruptcy on the advice of her attorney so that she could rebuild her credit. (Item 2.)

Applicant was extended consumer credit after her bankruptcy discharge. She opened more than 20 consumer-credit accounts, including a joint mortgage loan obtained in April 2009 for $220,702. (Items 7-8.)

Applicant disclosed no financial issues of potential security concern on her August 2013 SF 86. She responded negatively to all the financial record inquiries concerning any delinquency involving routine accounts. (Item 3.) A check of Applicant's credit record on September 17, 2013, revealed her 2006 Chapter 7 bankruptcy discharge, but no recent delinquencies. In August 2013, she obtained from a credit union (credit union X) a car loan of $15,020, to be repaid at $342 per month, and an installment loan of $6,964, to be repaid

[2] According to the address information on her SF 86, Applicant lived with a former boyfriend from May 1999 to January 2003. She rented or lived with a friend until December 2004 when she began cohabiting with her second husband in a home they owned. (Item 2.)

at $148 per month. She was making timely payment of $152 per month a credit card balance of $7,542 (SOR ¶ 2.d). She otherwise owed only $20 on a credit card account opened in August 2009. Applicant had two open credit card accounts with zero balances, including the account alleged in SOR ¶ 2.e. (Item 7.)

During her September 2013 interview with the OPM investigator, Applicant described her financial situation as good in that she was meeting all of her financial obligations on time. She volunteered that she had been recently approved for a home loan but chose instead to save for a better down payment on a home and to pay for private school for her daughter. (Item 4.)

In May 2014, Applicant obtained a mortgage loan for $137,237. In July 2013, she obtained a loan with a credit union to be repaid at $567 per month (SOR ¶ 2.c). As of May 2016, the loan was charged off for $11,252. She made no payments on the credit card account alleged in SOR ¶ 2.d after July 2015, As of February 2016, she owed a charged-off balance of $9,970. Additionally, she made no payments on the account alleged in SOR ¶ 2.e after August 2015. As of July 2016, she owed a charged-off balance of $960. A credit card account that she opened in February 2015 was charged off for $723 and sold (not alleged). As for the two loans obtained from credit union X in August 2012, the car loan had a balance of $4,671. The unsecured loan had been refinanced in September 2014 for $6,955. As of August 2016, she had made payments to reduce the balance of that loan to $4,775. (Item 8.) Applicant borrowed against her retirement in an effort to address her financial obligations. (AE A.) She is repaying the loan at $50 a month by payroll deduction. (Item 10.)

On August 4, 2015, Applicant informed her employer that she intended to file for bankruptcy due to legal expenses. (Item 11.) She had bills from her DWI, including court costs and probation fees. Additionally, her mortgage payment increased from $845 per month to $1,449 due to an error in calculating the amount required in escrow to pay the property taxes. (AE A.) To relieve her financial strain, on July 7, 2016, Applicant filed a Chapter 7 bankruptcy petition listing nonpriority unsecured claims totaling $42,188: a $1,143 payday loan from 2015; a $946 credit card debt from December 2014; a $900 personal loan from 2013; a $466 credit card debt from March 2015; a $9,970 credit card debt from November 2008 (SOR ¶ 2.d), an $867 medical debt from April 2016; an $11,447 loan from July 2014 (SOR ¶ 2.c); $5,085 on the signature loan refinanced in September 2014 (later reaffirmed); a $724 credit card debt that was charged off and sold; a $3,743 PayPal credit card debt from 2011; a $631 loan from June 2015, a $493 medical debt from 2014; a $1,828 personal loan from April 2013; the $960 charged-off credit card debt (SOR ¶ 2.e); and a $2,981 signature loan from August 2014.[3] Applicant reported monthly gross income of $3,482 per month ($3,790 with overtime). With child support income of $847 per month, her net discretionary income with overtime was reportedly $3,648 while her monthly expenses totaled $3,633 leaving her with only $15 a month with overtime income. Her monthly expenses included her mortgage payment of $1,449, school tuition for her daughter at $212, $342 for her car loan, and $166 for her driver's license fee. (Item 10.)

[3] The dates Applicant provided for when the debts were incurred correspond in some cases to when the accounts were opened, e.g., the $9,970 credit card debt in SOR ¶ 2.ein s

Applicant reaffirmed her mortgage loan and her car and signature loans with credit union X. (Items 2, 11; AE A.) On October 19, 2016, Applicant was granted a Chapter 7 discharge of the unsecured nonpriority debts that she had not reaffirmed. (Item 2.) In response to the FORM, Applicant indicated on January 30, 2017, that she had successfully completed the payments to cover the escrow error and that her monthly mortgage obligation would be considerably lower in the next 90 days. (AE A.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. 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 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. 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 G: Alcohol Consumption

The security concern for alcohol consumption is articulated in AG ¶ 21, which states:

> Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

The evidence of abusive drinking is limited in this case, although Applicant's April 2015 DWI establishes disqualifying condition AG ¶ 22(a) and perhaps AG ¶ 22(c), which provide:

> (a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouses abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder; and
>
> (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

Concerning Applicant's arrest for DWI in April 2004, the record evidence is insufficient to prove that she was intoxicated at the time. She pleaded guilty to a lesser charge of obstructing a highway passageway, and there is information in the record about how many drinks she had consumed. Applicant felt her drinking was becoming sufficiently excessive by December 2004 for her to seek assistance through her EAP program at work and to attend a three-day alcohol awareness program in December 2004, but there is no evidence that she was engaging in habitual or binge consumption.

Applicant was drinking three to four beers a night three or four times a week as of September 2013. While she denies becoming intoxicated from drinking in that quantity and regularity, she does not dispute that she was intoxicated on the occasion of her April 2015 DWI. Her DWI conviction could be characterized as "so infrequent" under AG ¶ 23(a), which provides:

> so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment.

However, her 2015 DWI is relatively recent. With scant information about her current consumption in the record, it is difficult to conclude that she is unlikely to abuse alcohol in the future.

Applicant's attendance at a three-day alcohol awareness program in December 2004 is an action taken to overcome her maladaptive alcohol use that could trigger AG ¶ 23(b), which states:

> the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Whatever she learned in the alcohol awareness class, it did not preclude her from driving while intoxicated in April 2015. In January 2017, Applicant indicated that she sought counseling for effective ways to deal with stress and anxiety, but she provided no detail about the counseling, to include its focus or its duration, or about any changes in her drinking habits that would make recurrence of excessive alcohol consumption less likely. In November 2016, Applicant asserted that she completed all the requirements of the court for her DWI, including attending all classes. In its adverse information report concerning the disposition of Applicant's 2015 DWI, her employer indicated that Applicant was to submit to an alcohol abuse evaluation within 60 days. An evaluation from a qualified medical professional showing a good prognosis would have gone a long way toward mitigating the alcohol consumption security concerns raised by her 2015 DWI. It is not clear that Applicant has an established a pattern of modified consumption or abstinence satisfying AG ¶ 23(b) or AG ¶ 23(d). AG ¶ 23(d) requires that "the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations." Too many questions about Applicant's drinking remain unanswered. She failed to present enough information in reform to mitigate the concerns raised by her 2015 DWI.

Guideline F: Financial Considerations

The security concerns about financial considerations are articulated 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.

Applicant's delinquent debts, which led to two Chapter 7 bankruptcies, establish the Government's *prima facie* case for disqualification. After she was granted a discharge of $23,578 in unsecured nonpriority claims in February 2006, she opened several consumer credit accounts that for the most part were paid on time until 2015, when she stopped paying on several accounts, including those alleged in SOR ¶¶ 2.c-2.e.Disqualifying conditions AG ¶ 19(a), "inability to satisfy debts," and ¶ 19(c), "a history of not meeting financial obligations," apply.

Applicant has the burden of presenting evidence of explanation, extenuation, or mitigation to overcome the security concerns raised by her delinquent debts. Under the AG effective for any adjudication on or after June 8, 2017, a record of undisputed consumer delinquency may be mitigated under one or more of the following conditions under ¶ 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;
>
> (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 person has received or is receiving 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.

Mitigating condition AG ¶ 20(a) cannot reasonably apply. Two bankruptcy filings in little more than a decade raises considerable concern about Applicant's financial judgment. Although she paid her debts on time for several years after her first bankruptcy, she relied heavily on consumer credit over the years. Her September 2013 credit report (Item 7) shows that she opened over 20 consumer-credit accounts after her 2006 bankruptcy discharge. Despite borrowing from her retirement account to cover her expenses, she could not afford to pay all her bills and had to resort to her very recent bankruptcy to alleviate her financial stress. One of the debts discharged in her 2016 bankruptcy is a payday loan of $1,143, which suggests that she was living from paycheck to paycheck.

Mitigating condition AG ¶ 20(b) has some applicability if, as Applicant asserts, her first bankruptcy was caused by a former roommate vacating their apartment and leaving

her with all the bills, and her second bankruptcy was caused or contributed to by a mistake in escrow calculations for her current mortgage loan. Applicant presented no corroborating documentation. Her credit report from August 2016 (Item 8) shows that she acquired a mortgage of $137,237 in May 2014 that was transferred in July 2015. Neither the high credit nor the monthly payment for that loan is reflected on the credit report. Even assuming an appreciable increase in her monthly mortgage obligation from $845 to $1,449, her recent financial difficulties cannot be fully attributed to the unexpected mortgage debt. As shown on her list of monthly expenses as of her 2016 bankruptcy petition, Applicant is paying a driver's license fee of $2,000 for her DWI at $166 per month for three years. Legal fees and fines and costs incurred for her 2015 DWI clearly contributed to her financial stress. AG ¶ 20(b) does not apply to legal and court costs caused by her own irresponsibility. Moreover, among her expenses is a monthly tuition fee of $212 for her daughter which is difficult to justify when her creditors are left with no recourse in the Chapter 7 bankruptcy.

AG ¶ 20(c) applies in that her financial stress has been alleviated by the Chapter 7 bankruptcy discharge of her debts in October 2016. Absent fraud, her unsecured nonpriority debts have been discharged. She is no longer legally liable to repay the delinquencies in SOR ¶¶ 2.c-2.e. As required for a bankruptcy discharge, Applicant was required to complete approved financial counseling.

Concerning AG ¶ 20(d), the concept of good faith requires a showing that a person acts in a way that shows reasonableness or adherence to duty or obligation. *See* ISCR Case No. 02-30304 at 3 (App. Bd. April 20, 2004). Reliance on a legally available option such as a Chapter 7 bankruptcy does not carry the same mitigating weight as repayment arrangements or negotiated settlements. Creditors covered by a bankruptcy discharge are left without a legal remedy. A Chapter 7 bankruptcy is not a substitute for a demonstrated track record of debt repayment. AG ¶ 20(d) is not satisfied.

The salient issue going forward is whether Applicant can be counted on to live within her means without incurring new delinquencies. There is mixed evidence in that regard. She paid off some consumer credit accounts on terms acceptable to her creditors in the years between her bankruptcies. Her extensive reliance on consumer credit raises some concern about her financial management, however. Her present monthly income and expenses indicate a tight budget. She reported only $15 in monthly net income after paying her expenses, which included $1,449 on her mortgage loan and $342 on her car loan, which she reaffirmed in her bankruptcy, but nothing for personal care expenses or recreation. More significantly, her positive cash flow appears to be dependent on $300 in monthly overtime earnings. It is unclear whether she has any savings or checking deposits that she could rely on in the case of an unexpected expense.

Applicant indicated in late January 2017 that her mortgage payment would be considerably lower in the next ninety days. I can only base my decision on the evidence before me, which suggests overuse of consumer credit, a reliance on loans and borrowing from her retirement assets to pay debts, and leaving creditors without legal recourse.

Applicant's bankruptcy discharge does not fully mitigate the financial considerations security concerns.

Whole-Person Concept

In assessing the whole person, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d).[4] The analyses under Guidelines G and F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment.

The security clearance adjudication is not designed to punish an applicant for past actions. Nor is it aimed at collecting an applicant's personal debts. Rather, it involves an evaluation of an applicant's judgment, reliability, and trustworthiness in light of the security guidelines in the Directive. *See* ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010).

Having chosen to rely on the written record, it was incumbent on Applicant to provide sufficient information to supplement the record with relevant and material facts regarding her circumstances. Not enough is known about Applicant's current alcohol consumption for me to conclude that a recurrence of excessive consumption is unlikely. Applicant asserts, with no evidence to the contrary, that "[she has] not failed any review or been accused of committing any act by [her] employer during this 11 year period that cast doubt on [her] reliability, trustworthiness, or good judgment." However, the Appeal Board has repeatedly held that the government need not wait until an applicant mishandles or fails to safeguard classified information before denying or revoking security clearance eligibility. *See*, *e.g.*, ISCR Case No. 08-09918 (App. Bd. Oct. 29, 2009, citing Adams v. Laird, 420 F.2d 230, 238-239 (D.C. Cir. 1969)). It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). For the reasons discussed, Applicant has raised enough doubt in that regard to where I am unable to conclude that it is clearly consistent with the national interest to continue her security clearance eligibility.

[4] The factors under AG ¶ 2(d) are as follows:

> (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.

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 G:	Against Applicant
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Paragraph 2, Guideline F:	Against Applicant
Subparagraphs 2.a-2.e.	Against Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

_____
Elizabeth M. Matchinski
Administrative Judge