



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



In the matter of:

Applicant for Public Trust Position

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ADP Case No. 16-03620

Appearances

For Government: Robert B. Blazewick, Esq., Department Counsel

For Applicant: Harris S. Ammerman, Esq.

03/29/2018

Decision

LEONARD, Michael H., Administrative Judge:

Applicant completed and submitted a Questionnaire for National Security Positions (SF 86 format) on August 17, 2015. She submitted the application to obtain eligibility to occupy a position of public trust for her job responsibilities. Eligibility is necessary because her job involves access to sensitive but unclassified information, such as personally identifiable information (PII) or protected health information (PHI).¹

On January 9, 2017, after reviewing the application and the information gathered during a background investigation, the Department of Defense Consolidated Adjudications Facility, Fort Meade, Maryland, sent Applicant a statement of reasons (SOR), which is similar to a complaint, detailing a trustworthiness concern under Guideline F for financial considerations. Applicant timely answered the SOR; her answers were mixed with admissions and denials; and she requested a hearing.

¹ This case is adjudicated under Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Review Program* (Jan. 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective June 8, 2017.

The case was assigned to me November 9, 2017. The hearing was held as scheduled on January 31, 2018. The hearing transcript was received on February 8, 2018. Applicant timely submitted post-hearing matters on February 23, 2018. Thereafter, on March 27, 2018, I proposed to the parties that this case was appropriate for a summary disposition in Applicant's favor.² Both parties had ten days to consider the matter and lodge an objection to a summary disposition, but neither party objected.

The evidence establishes that Applicant's financial problems were caused by circumstances largely beyond her control. She had an unexpected job loss due to a reduction-in-force in 2010. She was then unemployed for a substantial period, during which time she moved across the country to be near family and obtain further education to improve her job prospects. She qualified as a certified nursing assistant in 2013. She had a series of lower-paying jobs until she relocated to her previous location in 2015. She has since been gainfully employed. She sought to resolve her indebtedness through a debt-management plan in 2017, but with the advice and assistance of her current counsel, she is now resolving her indebtedness in a more structured way via a court-approved Chapter 13 bankruptcy payment plan. She also filed past-due federal income tax returns for 2010, 2013, and 2014, and a state income tax return for 2010 before the SOR was issued in this case.

Applicant presented clear and substantial evidence that the conditions that resulted in her indebtedness were largely beyond her control. Moreover, she acted responsibly under the circumstances by making a good-faith effort to resolve her indebtedness, initially through a debt-management plan and now through a court-approved Chapter 13 payment plan. Based on the evidence as a whole, I conclude that Department Counsel presented sufficient evidence to establish the facts alleged in the SOR under Guideline F. I also conclude that the trustworthiness concerns are resolved under the following mitigating conditions: AG ¶¶ 20(b), (d), and (g). Accordingly, I conclude that she met her ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant her eligibility to occupy a position of public trust. This case is decided for Applicant.

Michael H. Leonard
Administrative Judge

² A summary disposition is simply a procedural device that allows for a speedy, more streamlined decision when the undisputed evidence justifies a favorable clearance decision for an applicant and there are no foreseeable appellate issues.