



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



In the matter of: )  
)  
) ISCR Case No. 17-02025  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Julie R. Mendez, Esq., Deputy Chief Department Counsel  
For Applicant: *Pro se*

04/26/2018  
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**Decision**  
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LOUGHRAN, Edward W., Administrative Judge:

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

**Statement of the Case**

On June 21, 2017, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on July 11, 2017, and requested a hearing before an administrative judge.

The case was assigned to another administrative judge on February 14, 2018, and reassigned to me on April 16, 2018. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on March 14, 2018, scheduling the hearing for April 16, 2018. The hearing was convened as scheduled. Government Exhibits (GE) 1 through 3 were admitted in evidence without objection. Applicant testified, but she did not submit any documentary evidence. DOHA received the hearing transcript (Tr.) on April 24, 2018.

## Findings of Fact

Applicant is 47 years old. She was hired by a defense contractor in September 2015. She was laid off in May 2017 after her interim security clearance was withdrawn. She will return to work if she receives a security clearance through this process. She attended college for a period without earning a degree. She has never married, and she has no children.<sup>1</sup>

Applicant lived with her parents, and her finances were unremarkable for most of her adult life. In 2008, she completely paid off student loans totaling about \$12,500 and an auto loan of about \$19,600. She also paid other bills and debts. Then a series of events adversely affected her family and their finances.<sup>2</sup>

Applicant's mother was in her mid-70s when she was laid off her job in 2009. She was unable to find another job. Applicant's father passed away in 2010. Applicant's mother received her late husband's Social Security benefits, which were more than she was receiving, but she lost the benefits she was receiving in her own right.<sup>3</sup>

Applicant and her mother were able to make ends meet with her father's life insurance of about \$70,000 and withdrawals from her mother's Individual Retirement Account (IRA) and 401(k) retirement account. In late 2010, Applicant became sick and was out of work for about ten days. She had no more vacation or sick time and was not paid. She sent her aunt \$1,000 for roof repairs, and she also had to pay for repairs to their home. There were costly vehicle repairs. Applicant made the minimum payments on her credit cards for as long as she could, and then she made less than the minimum payments of about \$10 to \$25 in order to show that she always intended to pay her debts.<sup>4</sup>

The SOR alleges 12 delinquent debts with balances totaling about \$17,400. Applicant admitted owing all the debts. All of the debts are also listed on at least one of the two credit reports in evidence.<sup>5</sup>

Applicant has not made any payments on any of the debts since the SOR was issued in June 2017, which coincided with the loss of her interim security clearance and her job. A review of the credit reports shows that between September 2015 and May 2017, she made payments on six of the debts alleged in the SOR.<sup>6</sup> The balances on those debts declined in the following amounts between those two periods:

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<sup>1</sup> Tr. at 15-16, 18-19; GE 1.

<sup>2</sup> Tr. at 19-20; Applicant's response to SOR; GE 1.

<sup>3</sup> Tr. at 11-13; Applicant's response to SOR; GE 1.

<sup>4</sup> Tr. at 12-13, 20; Applicant's response to SOR; GE 1.

<sup>5</sup> GE 2, 3.

<sup>6</sup> Tr. at 14-15; Applicant's response to SOR; GE 2, 3.

- SOR ¶ 1.a: \$3,775 to \$3,666;
- SOR ¶ 1.b: \$2,554 to \$2,365;
- SOR ¶ 1.d: \$2,520 to \$2,320;
- SOR ¶ 1.e: \$2,352 to \$2,163;
- SOR ¶ 1.j: \$726 to \$410; and
- SOR ¶ 1.l: \$251 to \$71.

Applicant had a pay increase to about \$84,000 when she obtained her job in September 2015. She explained that she wanted to pay more towards her debts while she was working, but unexpected events prevented her from doing so. She had additional car repairs; a \$900 dental bill; a \$300 podiatrist bill; a \$600 veterinarian bill to diagnose her sick dog and then euthanize it; and her refrigerator broke and had to be replaced. Applicant decided not to pursue bankruptcy. She consulted with a financial advisor, but the fees were too expensive. She credibly testified that if she receives a security clearance and returns to her job, she will continue her efforts and eventually pay all her delinquent debts.<sup>7</sup>

### **Policies**

This case is adjudicated 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), which became effective on June 8, 2017.

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 to be 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, administrative judges apply the guidelines 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.

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<sup>7</sup> Tr. at 13-17, 19; Applicant's response to SOR.

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.”

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 the 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

(a) inability to satisfy debts; and

(c) a history of not meeting financial obligations.

Applicant has a history of financial problems, including unpaid debts. The evidence is sufficient to raise the above disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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; and

(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.

Applicant's finances were unremarkable until her mother lost her job in 2009 and her father passed away in 2010. Of note is that in 2008, Applicant completely paid off student loans totaling about \$12,500 and an auto loan of about \$19,600. Additional unexpected events made it difficult to keep up with her credit card payments. She made the minimum payments for as long as she could, and then she made less than the minimum payments of about \$10 to \$25 to show that she always intended to pay her debts. She hoped that her new job in September 2015 would solve her financial problems, and she would pay her debts. She made payments on six of the debts alleged in the SOR. She wanted to pay more towards her debts while she was working, but events beyond her control prevented her from doing so. She credibly testified that if she receives a security clearance and returns to her job, she will continue her efforts and eventually pay all her delinquent debts.

Applicant acted responsibly under the circumstances. Her financial decisions do not reflect questionable reliability, trustworthiness, or judgment. It may take time, but I am convinced that when she returns to work, she will eventually resolve her financial problems.<sup>8</sup> The above mitigating conditions are applicable.

### **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

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<sup>8</sup> See ISCR Case No. 08-06567 at 3 (App. Bd. Oct 29, 2009) and ISCR Case No. 09-08462 at 4 (App. Bd. May. 31, 2011): "Depending on the facts of a given case, the fact that an applicant's debts will not be paid off for a long time, in and of itself, may be of limited security concern."

conduct and all relevant 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.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

### **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
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Subparagraphs 1.a-1.i:	For Applicant
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### **Conclusion**

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Edward W. Loughran  
Administrative Judge