



**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. 17-04127

Appearances

For Government: Christopher Morin, Esq., Department Counsel

For Applicant: *Pro se*

08/30/2018

Decision

LEONARD, Michael H., Administrative Judge:

Applicant contests the Defense Department's intent to deny her eligibility for a public trust position. She did not present sufficient documentary evidence to explain, extenuate, or mitigate the trustworthiness concern stemming from her history of financial problems or difficulties. Accordingly, this case is decided against Applicant.

Statement of the Case

Applicant completed and submitted a Questionnaire for National Security Positions (SF 86 format) on March 16, 2017.¹ Thereafter, on December 27, 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 and Guideline E for personal conduct.

¹ Exhibit 3.

Applicant answered the SOR on January 30, 2018. She admitted all the allegations under Guideline F, but her answer to the sole allegation (a falsification allegation) under Guideline E was largely nonresponsive. She requested a decision based on the written record in lieu of a hearing.

On March 6, 2018, Department Counsel submitted all relevant and material information that could be adduced at a hearing. The file of relevant material (FORM) consists of Department Counsel's written brief and supporting documentation. The FORM was mailed to Applicant, who received it on March 27, 2018. She did not reply to the FORM within the 30-day period provided for under the Directive. The case was assigned to me on August 28, 2018.

Procedural Matters

Department Counsel withdrew the falsification allegation under Guideline E for the reasons set forth in his Brief.² Accordingly, it is unnecessary to discuss this matter further.

Findings of Fact

Applicant is a 29-year-old customer care service advisor for a health-care contractor to the Defense Department. She has been so employed since about June 2017. She is seeking 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). This is her first time applying for such eligibility.

Applicant's educational background includes an associate's degree in culinary arts and an associate's degree in business management. Both degrees were awarded in 2010. She married in 2012, separated in 2013, and divorced in 2017. She has lived with a cohabitant since 2017.

Applicant has an uneven history of employment.³ She was unemployed when she was a student during 2007-2009. She had a part-time internship with a restaurant during 2009-2010. She was then unemployed for about seven months during 2010. She had a part-time job as a barista during 2010-2011. She had a part-time job as a photographer during 2011-2012. She had a part-time job as an office clerk for several months during 2012. She was a stay-at-home mother during 2012-2016. She had a part-time job as a sales representative for a furniture store for about four months in 2016. Her next part-time job was as a line cook at a country club for about three months in 2016. She was unemployed from August 2016 until beginning her current job in June 2017.

² Department Counsel's Brief at 2.

³ Exhibit 3 (Section 13A – Employment Activities).

The SOR alleges a history of financial problems or difficulties consisting of 32 delinquent accounts ranging in amounts from \$60 to \$46,053 for a total of about \$82,000. The delinquent accounts include 24 medical collection accounts, 4 student loan accounts, and 4 consumer collection accounts. The largest delinquent account is a medical collection account for more than \$46,000. The four student loan accounts total approximately \$23,672. The 32 delinquent accounts are established by (1) Applicant's admissions in her answer to the SOR and (2) a May 2017 credit report.⁴

In her answer to the SOR, Applicant stated that she reached payment agreements (at the rate of \$10 monthly) with or contacted creditors holding the medical collection accounts and the consumer collection accounts. She did not present any documentation in support of her claim. She also stated that she entered into a payment arrangement with the creditor holding her four delinquent student loan accounts. She provided a January 11, 2018 letter from the creditor showing a balance due of \$30,560 for the four loans, and the letter reflects that she has agreed to pay \$5 monthly beginning January 19, 2018. There is no documentary proof that she has made any of the monthly payments mentioned above.

Other than discussed above, Applicant did not submit any supporting documentation with her answer to the SOR. Nor did she take advantage of the opportunity to reply to the FORM by submitting documentation in extenuation, mitigation, or explanation, as appropriate, in support of her case. Given these circumstances, there is insufficient documentation to establish that the 32 delinquent accounts were paid, settled or compromised, in a payment arrangement, disputed, cancelled, forgiven, or resolved by some other means.

Law and Policy

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.

Discussion

Under Guideline F for financial considerations, the suitability of an applicant may be questioned or put into doubt when that applicant has a history of excessive indebtedness or financial problems or difficulties. The overall concern is:

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

⁴ Exhibit 5.

questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . .⁵

The concern is broader than the possibility that a person might knowingly compromise classified or sensitive information to obtain money or something else of value. It encompasses concerns about a person's self-control, judgment, and other important qualities. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified or sensitive information.

In analyzing the facts of this case, I considered the following disqualifying and mitigating conditions:

AG ¶ 19(a) inability to satisfy debts;

AG ¶ 19(c) a history of not meeting financial obligations; and

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; and

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

The evidence supports a conclusion that Applicant has a problematic financial history sufficient to raise a trustworthiness concern under Guideline F. There is no reliable documentary evidence that Applicant has made forward progress in resolving the 32 delinquent accounts that altogether are more than \$80,000. The best thing that can be said at this point is that she has taken the first step toward resolving her delinquent accounts, but she has miles to go. Her problematic financial history suggests she may be irresponsible, unconcerned, or negligent in handling and safeguarding sensitive information such as PII or PHI.

With that said, Applicant's financial problems are probably related to her history of unemployment and underemployment, her marital separation and divorce, and the need for medical care that resulted in numerous medical collection accounts. Nevertheless, what is missing here is documentation in support of Applicant's case. There is no documentation to establish that she initiated and is adhering to a good-faith effort to pay the medical collection accounts or the consumer collection accounts. And other than the January 11, 2018 letter, there is no documentation to establish that she initiated and is adhering to a good-faith effort to pay the delinquent student loan accounts. In short, she has not met her burden of production because she did not present sufficient documentation showing that she is making an adequate effort to resolve her delinquent debts.

⁵ AG ¶ 18.

Following the clearly-consistent standard, I have doubts and concerns about Applicant's reliability, trustworthiness, good judgment, and ability to protect sensitive information. In reaching this conclusion, I weighed the evidence as a whole and considered if the favorable evidence outweighed the unfavorable evidence or *vice versa*. I also considered the whole-person concept. Accordingly, I conclude that she did not meet her ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant her eligibility for access to sensitive information.

Formal Findings

The formal findings on the SOR allegations are:

Paragraph 1, Guideline F:	Against Applicant
Subparagraphs 1.a -- 1.ff:	Against Applicant
Paragraph 2, Guideline E:	Withdrawn
Subparagraph 2.a:	Withdrawn

Conclusion

It is not clearly consistent with the interests of national security to grant Applicant eligibility for access to sensitive information. Eligibility denied.

Michael H. Leonard
Administrative Judge