



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



In the matter of:)	
)	
)	ISCR Case No. 14-05740
)	
Applicant for Security Clearance)	

Appearances

For Government: Alison O’Connell, Esquire, Department Counsel
For Applicant: *Pro se*

10/13/2015

Decision

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

Applicant submitted insufficient documentary evidence to mitigate Guideline F security concerns. Applicant’s eligibility for a security clearance is denied.

Statement of the Case

On February 6, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations). 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 September 1, 2006.

In responses to the SOR, dated March 25, 2015, and March 26, 2015, Applicant admitted five of the six allegations raised. Together, the six SOR allegations represent approximately \$16,500 in delinquent debt. The sole SOR allegation denied reflects a debt of \$98 (SOR allegation 1.f). She also requested a determination based on the written record in lieu of a hearing. On July 1, 2015, the Government issued a File of Relevant Material (FORM) that contained nine attachments (“Items”). Applicant received the FORM on July 31, 2015, but did not respond within the 30 days provided. Based on

my review of the case file and submissions, I find Applicant failed to mitigate financial considerations security concerns.

Findings of Fact

Applicant is a 53-year-old civilian working for a defense contractor. She has over a decade of experience as a video-teleconference technician. She served on active duty in the United States military from 1981 through 1989. Applicant is divorced and receives approximately \$500 a month in spousal support. She admits all but one of the debts noted in the SOR, reflected at allegations 1.a-1.e and 1.f, respectively. In denying 1.f, a \$98 telecommunications balance, Applicant wrote that despite the denial, she would pay the debt. No evidence of payment or dispute was presented.

Applicant wrote that she first acquired delinquent debt in 2008 due to personal medical issues. That summer, a former boyfriend loaned her \$10,000 to address her medical debts. She made one payment of \$500. She then ceased using his money for debts because she believed he was holding this obligation over her head. (FORM, Item 9, at 4) He received a judgment against her in 2010 (SOR allegation 1.c).

Although the timeframe is not defined, Applicant also wrote that “during this time of accumulation of debt,” she was dealing with the passing of several family members (two grandparents, both parents, mother-in-law, two aunts, an uncle, and a brother), the death of a close friend’s husband in 2001, and her 2004 divorce.¹ She conveyed that these facts left her alone and overwhelmed, leading her to making bad decisions. (FORM, Item 4 at 4) In retrospect, she noted that she “would have dealt with [the debts] immediately, but didn’t. It felt easier not to deal with it at the time.” (FORM, Item 4 at 4)

Once Applicant felt she could address her debt situation, she found working with collection companies to be “harsh.” (FORM, Item 4 at 4) She also attended more than one court hearing concerning her obligations. A legal firm advised her that filing for bankruptcy would be “damagingly costly.” (FORM, Item 4 at 4) In 2014, she hired a debt consolidator to help her resolve her debts.

In 2013, Applicant was adversely affected by the government-wide shutdown. In September 2014, she was laid off from work until she found a new job in November 2014. During this time she abandoned her plans with the debt consolidator. (FORM, Item 4 at 4) It is her present intent to hire another debt consolidator. She provided no documentary evidence, however, reflecting any efforts to work with her creditors or with a consolidator. There is no documentary evidence showing she has devised a reasonable plan for approaching her delinquent debts aside from her intent to again try a debt consolidation service. There is no evidence she has received financial counseling.

¹ The 2014 security clearance application reflects Applicant’s parents and a brother, but only her parents are noted as deceased. Her other kin are not noted. Inasmuch as the application does not ask for the dates of death, this information provides little help indicating the timeframe at issue.

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. 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.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of 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. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, 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 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. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information.

Section 7 of Executive Order 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 F, Financial Considerations

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 information. An individual who is financially overextended is at risk of engaging in illegal acts to generate funds.

Here, the Government introduced credible evidence showing, and Applicant admitted, about \$16,500 in delinquent debts. This is sufficient to invoke two of the financial considerations disqualifying conditions:

AG ¶ 19(a) inability or unwillingness to satisfy debts; and

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

Five conditions could mitigate these finance-related security concerns:

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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

AG ¶ 20(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

AG ¶ 20(d) the individual initiated 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's delinquent debts are multiple in number and remain unaddressed. There is insufficient information about her current financial situation, her methodology for handling her debts, and related issues to gauge whether the behavior demonstrated

here will be limited to this timeframe and not recur. Therefore, I cannot find that AG ¶ 20(a) applies.

Applicant attributes her accumulation of delinquent debt to a 2008 medical scare, a 2004 divorce, and the undated deaths of various family members. She does not, however, explain how any of these events contributed to that acquisition or to what extent. These facts also fail to indicate that she behaved responsibly during that time. Indeed, her comment that she felt alone, overwhelmed, and had made some bad financial decisions, along with her concession that she should have dealt with her financial situation sooner, indicate that her behavior was less than responsible. Consequently, AG ¶ 20(b) does not apply.

There is no documentary evidence showing Applicant received actual financial counseling, formally disputed any of her debts with her creditors or any of the leading credit reporting bureaus, or made any efforts to address the delinquent debts at issue. At best, there is her narrative that she consulted a law firm for advice and briefly engaged a debt consolidator she soon thereafter abandoned. Moreover, there is no evidence her debts are currently being brought under control. Furthermore, Applicant has not presented a plan or strategy for addressing her debts, other than expressing her intent to reengage a debt consolidator sometime in the future. Under these facts, I conclude that none of the available financial considerations mitigating conditions apply.

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 at AG ¶ 2(a). Under AG ¶ 2(c), the determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based on 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 incorporated my comments under the guideline at issue in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant is a 53-year-old employee of a defense contractor. She has considerable experience as a video-teleconference technician. She served on active duty in the United States military from 1981 through 1989. She is divorced, receiving approximately \$500 a month in spousal support. She admits SOR allegations 1.a-1.e. She denies, but assumes responsibility for allegation 1.f, which represents \$98. Together, approximately \$16,500 in delinquent debt is at issue.

Applicant cited to multiple facts that, had she documented a sufficient nexus to the debts at issue, could have potentially mitigated financial considerations security concerns. Without such a nexus shown, however, the most they can do is help explain

the circumstances in her life at the time she acquired such debt. Moreover, they do not demonstrate responsible behavior on her part at that time, demonstrate progress or more than negligible efforts to address her delinquent debts, or reflect a reasonable strategy for ameliorating her financial situation.

While this process does not require an Applicant to satisfy all one's delinquent debts, it does demand that an Applicant set forth a reasonable plan for addressing one's debts and present documentary evidence reflecting that such efforts have been successfully implemented. Applicant has not met that standard. Consequently, 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.f:	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.

Arthur E. Marshall, Jr.
Administrative Judge