



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



In the matter of:	)	
	)	
	)	ISCR Case No. 14-04682
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Gina L. Marine, Esq., Department Counsel  
For Applicant: *Pro se*

08/24/2015

**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny her eligibility for a security clearance. Applicant did not present any information to explain, refute, or mitigate the financial concerns alleged in the Statement of Reasons (SOR). The \$22,000 in delinquent debts alleged in the SOR remain unresolved. Clearance is denied.

**Statement of the Case**

On October 23, 2014, the DOD issued a SOR detailing security concerns under the financial considerations and personal conduct guidelines.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance.

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<sup>1</sup> This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

Applicant answered the SOR and requested a decision without a hearing. The Government submitted its written case on March 26, 2015. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the SOR allegations. Applicant received the FORM and did not respond. The items appended to the Government's brief are admitted as Government's Exhibits (GE) 1 through 5, without objection. The case was assigned to me on August 15, 2015.

### **Procedural Rulings**

In the FORM, Department Counsel moved to amend the SOR by withdrawing the falsification allegation made in paragraph 2.a. The motion is granted.

### **Findings of Fact**

Applicant, 56, has worked for a federal contractor since 2000. This is her first application for access to classified information. On the security clearance application she submitted in October 2014, Applicant disclosed a dismissed 2008 Chapter 13 bankruptcy petition, two delinquent credit card debts, and delinquent homeowners' association dues.<sup>2</sup>

The investigation revealed that Applicant filed for bankruptcy protection six times between 1991 and 2008. Applicant received a discharge of debts from Chapter 7 bankruptcy petitions in 1991 and 1998. Applicant had Chapter 13 bankruptcy petitions dismissed in 1992, 1994, 1997, and 2008. Since 2008, Applicant has accumulated \$22,000 in delinquent accounts. Applicant admits her history of filing for bankruptcy protection as well as the delinquent accounts.<sup>3</sup>

In her June 2014 interview with a background investigator, Applicant explains that her financial problems began after 2006 when she purchased a home. Shortly after purchasing the home, Applicant and her husband separated for 18 months and she was forced to pay the household bills on her own. In 2008, she suffered a medical condition that required surgery and six weeks of recovery time. She could not afford to pay her medical bills and also relied on credit cards. Applicant filed for Chapter 13 bankruptcy protection in 2008 to save her home. She claims to have made the court-approved \$1,500 monthly payment to the trustee for approximately six months. In 2012, Applicant's accumulated more debt as she provided financial support to her daughter, who was diagnosed with a life-threatening medical condition, and paid her granddaughter's college expenses. The record does not provide any explanation about Applicant's financial problems before 2006.<sup>4</sup>

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<sup>2</sup> GE 2.

<sup>3</sup> GE 4-5.

<sup>4</sup> GE 3.

Applicant has not provided any evidence showing her efforts to resolve her delinquent accounts. Currently, all of the alleged debts remain unresolved.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. 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.

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.

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.

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**

Unresolved delinquent debt is a serious trustworthiness concern because failure to "satisfy debts [or] 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 sensitive information."<sup>5</sup> Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding sensitive information.

The SOR alleges and Applicant admits that she owes approximately \$22,000 in delinquent debts and that she has a history of seeking debt relief through bankruptcy protection dating back to 1991. The record supports a finding that Applicant has both a

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<sup>5</sup> AG ¶ 18.

history of not meeting her financial obligations and inability to do so.<sup>6</sup> Applicant has not provided any evidence to merit the application of any of the financial considerations mitigating conditions. While Applicant's most recent financial problems may have been caused by events beyond her control, she has not provided any evidence that she acted responsibly in response to these events. She has not provided any evidence showing a good-faith effort to resolve her indebtedness. Nor has she provided any evidence to indicate that her financial problems are under control.

Based on the record, doubts remain about Applicant's eligibility for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(a). Ultimately, Applicant failed to meet her burdens of production and persuasion. The security concerns raised in the SOR remain. Following *Egan*<sup>7</sup> and the clearly-consistent standard, I resolve these doubts in favor of protecting national security.

### **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, Financial Considerations:	AGAINST APPLICANT
Subparagraphs 1.a – 1.bb:	Against Applicant
Paragraph 2, Personal Conduct	WITHDRAWN

### **Conclusion**

In light of all of the circumstances presented, it is clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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Nichole L. Noel  
Administrative Judge

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<sup>6</sup> AG ¶¶ 19 (a) and (c).

<sup>7</sup> *Navy v. Egan*, 484 U.S. 518 (1988).