

Applicant responded to the SOR on November 24, 2014, and requested a hearing. The case was assigned to me on January 29, 2015, and was scheduled for hearing on February 23, 2015. At hearing, the Government's case consisted of two exhibits (GEs 1-2). Applicant relied on one witness (herself) and two exhibits (AEs A-B). The transcript (Tr.) was received on March 3, 2015.

Procedural Issues

Before the close of the hearing, Applicant requested the record be kept open to permit her the opportunity to provide evidence of job promotions, a Chapter 7 bankruptcy petition, a personnel action notice from her employer, and a character reference. For good cause shown, Applicant was granted four days to supplement the record. The Government was afforded one day to respond. Within the time permitted, Applicant submitted documentation of a Chapter 7 bankruptcy petition, a personnel action notice from her employer, and a character reference. Applicant's post-hearing submissions were admitted as AEs C-E.

Summary of Pleadings

Under Guideline F, Applicant allegedly accumulated 25 delinquent debts exceeding \$27,000. In her response to the SOR, Applicant admitted each of the debts. She claimed she completed a payment plan with a debt consolidation firm and pays \$420 a month to each of the listed creditors. She claimed she has learned valuable lessons about the importance of responsible management of her finances and has every intent of paying all of her creditors.

Findings of Fact

Applicant is a 29-year-old member of a security police/EMT unit for a defense contractor who seeks a security clearance. Since December 2014, she has been on administrative leave without pay. (Tr. 35, 64, 69) The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant married in July 2008 and separated in January 2013. (GE 1; Tr. 34-35, 56) She filed for divorce in the wrong county and is currently preparing to refile in the county where her husband resides. (Tr. 51) At this time, she is still legally married. (Tr. 51) She has one child (age six) from this marriage and receives no child support from her husband since their separation. (Tr. 35) Applicant claims no college credits.

Applicant enlisted in the U.S. Army Reserve in September 2003. (GE 1; Tr. 30) She transferred to the Army National Guard of her state in December 2007 and served four years in the Active Reserve. (GE 1; Tr. 30-31) In January 2011, she transferred back to the Active U.S. Army Reserve. (Tr. 31-34) She has remained in good standing with her

Reserve commitments throughout her 12 years of service. (Tr. 32) She has held a security clearance since September 2003.

Applicant's finances

In 2012, Applicant underwent surgery for the removal of a tumor and incurred medical bills that were not covered by her health insurance. (Tr. 36-37) Between 2012 and 2013, Applicant accumulated 25 delinquent debts exceeding \$27,000.

Many of Applicant's listed debts in the SOR are delinquent medical debts. One of the debts (creditor 1.j) represents a large deficiency balance on a vehicle repossession. (GE 2; Tr. 38) The creditor she contacted could not identify the debt, and she has been unable to obtain any account information from this creditor. (Tr. 59-61) Another debt (creditor 1.l) represents a debt arising from an apartment she vacated. (GE 2)

After receiving the SOR in November 2014, Applicant contacted each of her creditors to explore payment plans and was successful in working out credit plans with those creditors who could identify her accounts. (Tr. 54) With her limited income, she made payment arrangements for \$10 to \$20 a month. (Tr. 54) Once she was placed on administrative leave, she could no longer keep up with her payments. (Tr. 54)

Before she was placed on administrative leave, Applicant netted approximately \$3,600 a month from her full-time security position. (Tr. 70) Since she was placed on administrative leave in December 2014, Applicant received some unemployment benefits for the month of December, bi-weekly net earnings of \$575 from a part-time position with another firm, and \$250 to \$300 a month from her weekend Reserve duties. (Tr. 71-72)

In January 2015, Applicant contacted a debt repayment firm at the suggestion of a co-worker. (AE A; Tr. 53) After consulting with her bankruptcy attorneys, she and her attorneys settled on petitioning for Chapter 7 bankruptcy relief as the best course of action for her. (AEs A-B; Tr. 42-43)

In March 2015, Applicant petitioned for Chapter 7 bankruptcy relief. (AE C) In her petition, she scheduled assets totaling \$5,327, unsecured priority claims of \$1,000 (i.e., an outstanding state tax obligation), and unsecured non-priority claims totaling \$30,193. (AE C) She expects to receive a discharge within the ensuing six months. (AE C)

Endorsements

Applicant is well-regarded by her Army Reserve unit administrator. (AE D) She extolled her self-motivation, dependability, and high standards she has maintained over several years as an Army reservist. (AE E) She described Applicant as honest and fair and a superb team player, who volunteers for additional duties.

A Government official who has worked closely with Applicant credited her with ensuring that officers under her supervision were always timely with training information

pertaining to their work. (AE E) This Government official lauded Applicant's work ethic and capable supervisory responsibilities. (AE E)

Policies

The AGs list guidelines to be used by administrative judges in the decision-making process covering security clearance cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information.

These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns." They must be considered before deciding whether or not a security clearance should be granted, continued, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c).

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person.

The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk. The following AG ¶ 2(a) factors are pertinent: (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.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent in this case:

Financial Considerations

The Concern: 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 having to engage in illegal acts to generate funds. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts. AG ¶ 18.

Burden of Proof

By virtue of the principles and policies framed by the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995). As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. “[S]ecurity-clearance determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

Analysis

Security concerns are raised over Applicant's accrual of delinquent debts (mostly medical-related), attributable to income deficits following her separation and heavy medical debts following her 2012 surgery. Applicant's actions warrant the application of two of the disqualifying conditions (DC) of the Guidelines: DC ¶ 19(a), “inability or unwillingness to satisfy debts,” and DC ¶ 19(c), “a history of not meeting financial obligations.”

Holding a security clearance involves the exercise of important fiducial responsibilities, among which is the expectancy of consistent trust and candor. Financial stability in a person cleared to access classified information is required precisely to inspire trust and confidence in the holder of the clearance. While the principal concern of a clearance holder's demonstrated financial difficulties is vulnerability to coercion and influence, judgment and trust concerns are also explicit in financial cases.

Applicant has since addressed her accumulated debts with a debt repayment firm. Based on the advice of her attorneys, she petitioned for Chapter 7 bankruptcy relief in March 2015. She hopes to obtain her discharge within six months and is committed to restoring her finances to stable condition.

Applicant's past financial problems for the most part were beyond her control. Surgery, legal separation, the lack of child support, and work suspension without pay all played a major role in her accumulations of delinquent debts between 2012 and 2013. Applicant's multitude of extenuating circumstances and recent mitigation efforts merit application of MC ¶ 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."

Applicant's pre-bankruptcy initiatives to work out payment plans with her creditors and documented bankruptcy petition reflect positive efforts on her part to resolve her debts through legally afforded means in accordance with the criteria established by the Appeal Board for assessing an applicant's efforts to rectify her poor financial condition with responsible efforts considering his circumstances. See ISCR Case No. 08-06567 at 2-3 (App. Bd. Oct. 29, 2009). Applicant's bankruptcy petition and favorable prospects for obtaining a discharge within six months enable her to meet the Appeal's Board requirements for stabilizing her finances. ISCR Case No. 07-06482 (App. Bd. May 21 2008); see ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007)(citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000)); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999).

From a whole-person standpoint, Applicant documents a meritorious record of civilian employment with her Army Reserve unit and with her defense contractor before her work suspension in December 2014. She has impressive support from her Army Reserve unit administrator and Government official familiar with her work.

Addressing her finances, Applicant has taken significant measures to resolve her debts through bankruptcy. She is committed to maintaining her finances at respectable levels consistent with holding a security clearance.

Applicant's documented payment initiatives are significant and reflect a serious commitment to restore her credit and stabilize her finances. Overall, Applicant's corrective actions to date are sufficient to meet mitigation requirements imposed by the

guideline governing her finances. Favorable conclusions are warranted with respect to the allegations covered by Guideline F.

Formal Findings

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

GUIDELINE F (FINANCIAL CONSIDERATIONS): FOR APPLICANT

Subparas. 1.a-1.y:

For Applicant

Conclusions

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is granted.

Roger C. Wesley
Administrative Judge

