



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



In the matter of: )  
 )  
XXXXXXXX, XXXXXX XXXXXX, Xx. ) ISCR Case No. 10-08129  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Philip J. Katauskas, Esquire, Department Counsel  
For Applicant: *Pro se*

06/07/2012

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**Decision**

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METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> Applicant's clearance is granted.

On 12 October 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a hearing. DOHA assigned the case to me 7 February 2012, and I convened a hearing 6 March 2012. DOHA received the transcript (Tr.) 15 March 2012.

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<sup>1</sup>Consisting of the transcript (Tr.), Government exhibits (GE) 1-6, and Applicant exhibits (AE) A-F and H. AE H was timely received post-hearing.

<sup>2</sup>DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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 1 September 2006.

## Findings of Fact

Applicant admitted SOR financial allegations 1.a, 1.d, 1.g-1.j, and 1.n-1.q. He denied the remaining allegations. He is a 44-year-old engineering manager employed by a U.S. defense contractor since August 2010. He has not previously held an industrial clearance. He has been continuously employed since June 2001.

The SOR alleges, and Government exhibits substantiate, 16 delinquent accounts totaling nearly \$66,000. Applicant admits ten debts totaling nearly \$35,000. Applicant's evidence (AE F) shows that SOR debts 1.a, 1.k, and 1.m belong to his father, and SOR debts 1.n, 1.o, and 1.p—while properly in Applicant's name—are his father's responsibility as they relate to an automobile previously owned by his father (AE F). SOR debt 1.e belongs to Applicant's wife, and has been paid. SOR debt 1.i is a duplicate of SOR debt 1.f, SOR debt 1.j is included in SOR debts 1.g and 1.h, and SOR debt 1.l is a duplicate of SOR debt 1.g. Consequently, six delinquent debts totaling just over \$27,000 are at issue: SOR 1.b-1.e and 1.f-1.h.

Applicant reached a settlement agreement with the creditor at SOR debt 1.f in December 2011, and made an initial down payment (AE E). He made required payments in January, February, and March 2012, and the company declared the account settled in full in March 2012 (AE H). The debt at SOR 1.b is an erroneous entry by the collection agent for a credit union account that Applicant still uses. The account had been delinquent, but has been brought current (Tr 35-36). The debt at SOR 1.d is an erroneous entry by the creditor. The collection agent for the creditor offered Applicant a discount in that amount if Applicant made a significant down payment on the amount owed and accelerated payments on the remaining balance that was originally around \$1,600 (Tr. 36-37). Over \$21,000 of the delinquent debt is for two education loans (SOR 1.g and 1.h). Applicant made rehabilitation payments on the debts from September 2008 to February 2012. These payments included diversion of Applicant's state income tax refund in March 2011 (AE B). The total principal, interest, fees, and collection costs rehabilitated totaled nearly \$34,000 (AE H). However, the balance referred for regular repayment totaled just under \$19,000, with a regular repayment scheduled to begin in March 2012 (AE A).

The only debt that remains unresolved is SOR debt 1.c. Applicant is working with the creditor to straighten out some confusion between Applicant's account with the creditor and his father's account with the same creditor (SOR 1.a).

Applicant attributed his recent financial problems to employment issues he had that led him to return to school to improve his education, coupled with financial problems his father had after his mother died. Applicant got a better job and has been working the last four years to correct his financial problems.

## Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.<sup>3</sup>

## Analysis

The Government established a case for disqualification under Guideline F, but Applicant mitigated the security concerns. Applicant has an extensive history of financial difficulties that became unmanageable around 2008.<sup>4</sup>

The mitigating factors for financial considerations give Applicant substantial aid. His financial difficulties are both recent and multiple, and the circumstances that caused them are capable of recurring.<sup>5</sup> However, his financial problems were largely due to circumstances beyond his control, and he began addressing the largest single debts, his student loans in September 2008, and has been working to address his other

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>¶ 19(a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

<sup>5</sup>¶ 20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

delinquent debts since then.<sup>6</sup> While there is no evidence that Applicant has had any financial counseling, he has clearly acted to get his finances under control.<sup>7</sup> The only debt not completely resolved is the \$2,000 debt at SOR 1.c, and Applicant is working with the creditor to address that account. Overall, substantial progress has been made addressing his delinquent debt.<sup>8</sup> The Appeal Board has stated that an Applicant need not have paid every debt alleged in the SOR, need not pay the SOR debts first, and need not be paying on all debts simultaneously. Applicant need only establish that there is a credible and realistic plan to resolve the financial problems, accompanied by significant actions to implement the plan.<sup>9</sup> Applicant's efforts to date constitute such a plan, and his consistent payments reflect significant actions. I conclude Guideline F for Applicant.

### **Formal Findings**

Paragraph 1. Guideline F: FOR APPLICANT

Subparagraphs a-q: For Applicant

### **Conclusion**

Under the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

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JOHN GRATTAN METZ, JR.  
Administrative Judge

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<sup>6</sup>¶ 20(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

<sup>7</sup>¶ 20(c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

<sup>8</sup>¶ 20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

<sup>9</sup>ISCR Case No. 07-06482 (App. Bd. 21 May 2008).