



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



In the matter of:	)	
	)	
	)	ISCR Case No. 19-00062
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric C. Price, Esquire, Department Counsel  
For Applicant: *Pro Se*

09/19/2019

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

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

On 14 March 2019, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 3 June 2019 and I convened a hearing 10 July 2019. DOHA received the transcript 19 July 2019.

**Findings of Fact**

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<sup>1</sup>Consisting of the transcript (Tr.), Government exhibits (GE) 1-3, hearing exhibit (HE) I, and Applicant Exhibits (AE) A-C. AE A-C were timely received post hearing. The record closed 24 July 2019, when Department Counsel stated no objection to Applicant's evidence.

<sup>2</sup>DoD acted 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 Security Executive Agent Directive 4, effective on 8 June 2017.

Applicant admitted the SOR allegations. He is a 50-year-old network technician pending a pre-employment clearance decision since November 2016. He claims to have held a clearance in February 2002 and to have undertaken a polygraph examination in December 2006.

The SOR alleges, Government exhibits substantiate, and Applicant admits five delinquent debts totaling over \$24,000. The debts comprise \$15,110 of delinquent education loans, \$8,200 in delinquent condominium fees, a delinquent telephone account, and two delinquent medical bills. He has been married since 1997. His wife is a teacher.

Applicant reported the delinquent education loans and two other debts not alleged in the SOR on his November 2011 clearance application (GE 1). He discussed the SOR debts during interviews with a Government investigator in June, August, and October 2017. Applicant acknowledged the delinquent debts and stated his intent to investigate the current status of the debts and make payment arrangements (GE 2). Nevertheless, Applicant's December 2018 credit report (GE 3) reflects that the debts remain unresolved. Applicant testified that except for the SOR 1.b debt, he has not contacted any of his creditors.

AE A is an undated account transaction report showing some payments between December 2018 and 2019 on an account that Applicant states is his home loan, but which is otherwise unidentified, and is nevertheless not alleged in the SOR. AE B is a similar undated report that Applicant states is a credit union loan, but which is otherwise unidentified, and is nevertheless not alleged in the SOR. However, the documents highlight the difficulty Applicant has had getting his finances in order. AE C documents a \$2,000 payment made to the SOR 1.b creditor in June 2019. Applicant stated that with additional fees and penalties, this payment was unlikely to have lowered the balance due alleged in the SOR.

Applicant attributes his financial problems to his being unemployed August-October 2012, at a time when he was making about \$90,000 annually. He then worked a series of lesser jobs that reduced his income to about \$15,000 annually. However, he was laid off from his original clearance sponsor when the contract expired, and was unemployed April-December 2018. His current employer pays him about \$50,000 annually, but is not his current clearance sponsor.

In addition to not providing any evidence of efforts to deal with the specific debts, Applicant has not received any credit or financial counseling. He does not have a budget. His long-time friend and former coworker considers him honest and trustworthy, and recommends him for his clearance. He is generally aware of the security concerns. (Tr. 69-73)

## **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, and Applicant failed to mitigate the security concerns. Applicant had five delinquent debts totaling \$24,000 that he has not acted upon since at least 2017, except for one \$2,000 payment made to the SOR 1.b creditor in June 2019. He did not submit a complete list of his current finances, or any plan to address the SOR debts and any other debts he may have.<sup>4</sup>

The mitigating conditions for financial considerations provide insufficient help to Applicant. The conduct was recent, frequent, and the circumstances likely to recur.<sup>5</sup> The circumstances of his financial problems were certainly largely beyond his control, he has

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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 to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so; (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 . . .

not documented that his overall approach to resolving his debts has been responsible, given the lack of evidence to show his complete financial picture.<sup>6</sup>

Applicant has not had credit and financial counseling, and has no budget. There is no evidence that his financial problems have been resolved or are under control.<sup>7</sup> This failure of evidence precludes a conclusion that Applicant has made a good-faith effort to address his debts because he cannot show substantial evidence that he is adhering to his effort.<sup>8</sup> Moreover, his one favorable character references is insufficient under the circumstances to support a whole-person assessment to overcome the security concerns raised by his current financial situation. I conclude Guideline F against Applicant.

### **Formal Findings**

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-e: Against Applicant

### **Conclusion**

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

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 and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.