



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 19-00233  
)  
Applicant for Security Clearance )  
)

**Appearances**

For Government: Ross Hyams, Esq., Department Counsel  
For Applicant: *Pro se*

07/11/2019

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**Decision**

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MASON, Paul J., Administrative Judge:

Between October 2014 and April 2017, Applicant accumulated three delinquent debts totaling approximately \$28,103. His largest delinquent debt, for which he is jointly liable, is an installment account that became delinquent in September 2015. His complete payoff of the personal loan debt of \$2,219 is insufficient to overcome the negative evidence under the guideline for financial considerations. Eligibility for security clearance access is denied.

**Statement of the Case**

On February 22, 2017, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) (Item 4) to retain a security clearance required for a position with a defense contractor. He provided a summary interview (PSI) (Item 5) to an investigator from the Office of Personnel Management (OPM) on October 5, 2017. DOD issued a Statement of Reasons (SOR) to Applicant on February 11, 2019, detailing security reasons under the financial considerations guideline (Guideline F) for denial of his security clearance application. The action was taken under Executive

Order (E.O.) 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 Security Executive Agent Directive 4, establishing *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs).

Applicant provided his notarized answer to the SOR on March 4, 2019. He elected to have his case decided on a written record instead of a hearing. (Item 3) The Government sent a copy of the File of Relevant Material (FORM), the Government's evidence in support of the allegations in the SOR, to Applicant on April 2, 2019. Applicant received the FORM on April 10, 2019. The Government advised Applicant that he could either file objections, furnish explanations, submit additional material, or take advantage of all three options within 30 days of receiving the FORM. Applicant's response was due on May 10, 2019. The Defense Office of Hearings and Appeals (DOHA) received no response from Applicant. DOHA assigned the case file to me on June 14, 2019.

### **Rulings on Procedure**

In a footnote at the bottom of the second page of the FORM, Department Counsel advised Applicant that the PSI (Item 5) would be excluded from evidence if he objected to the exhibit. Alternatively, Department Counsel advised him that he could correct, update, or modify the exhibit to improve its clarity or accuracy. Applicant did not object, and the exhibit was admitted into evidence. See, E3.1.20. of DOD Directive 5220.6, page 52.

### **Findings of Fact**

The SOR identifies three delinquent debt allegations under the financial considerations guideline. The delinquent debts total approximately \$28,103. Applicant admitted the first allegation (SOR 1.a, delinquent car debt). He denied the second allegation (SOR 1.b, personal loan) and the third allegation (1.c, child support arrears). He attached an undated statement containing explanations for the delinquent accounts. Concerning SOR 1.a, he provided documentation that the installment loan had been discharged in his former wife's bankruptcy. He provided proof that he paid the SOR 1.b debt in February 2018. According to his documentation dated June 2018, his child support arrears were eliminated after a negotiation conference with the child's mother.

Applicant is 32 years old and is separated from his third wife. He has a seven-year-old son who lives with one of his former wives in state Y. He served in the U.S. Army from August 2008 until his honorable medical discharge in August 2014. Applicant has been living and working as a field service representative in state Y since September 2016. In February 2019, he was living and working in state Y when he signed for documentation from DOD regarding his security clearance eligibility. From July 2015 to

September 2016, Applicant was living and working as a mechanic in another country for a company headquartered in state U. Applicant has never possessed a security clearance. (Item 1 at 7-23, 33; Item 5 at 4-7)

SOR 1.a – Applicant and his former wife jointly signed an installment loan contract to purchase a truck in November 2013. Both of their signatures on the installment loan meant that they were jointly liable for a failure to make regular payments on the loan. When his former wife announced that she did not want the truck anymore, Applicant called the dealer to have the truck repossessed. The last monthly payment made on the truck was in September 2015. The debt was charged off in December 2015. Applicant had made no attempt to pay off the debt, but intended to handle the installment account in 2018. In his answer to the SOR, he claimed that he was no longer liable for debt because it was discharged in his wife’s Chapter 7 bankruptcy. Had he and his former wife filed the Chapter 7 bankruptcy jointly, or had he been removed from joint liability through a court action like a divorce decree, then he would no longer be responsible for the debt. Applicant is still liable for the debt and the creditor can pursue collection efforts against him as the joint account holder. (Item 5 at 9-10, 14; Item 6 at 5; Item 7 at 1; answer to SOR, attached documentation)

SOR 1.b. – Applicant opened an unsecured personal loan account in April 2013. His last payment on the account was in October 2014, and the account was charged off in April 2015. Applicant provided documentation indicating that he satisfied the account on February 27, 2018. (Answer to SOR, attached documentation)

SOR 1.c – The allegation reads that Applicant is indebted to the state of Y in the amount of \$6,054 for child support arrears. He explained that the arrears occurred when he was unemployed in November 2016. His wages were garnished for payment. He submitted incomplete court documentation entitled “Child Support Review Order.” That documentation contains 17 pages, but Applicant only attached three pages with his answer. The order indicates that on March 22, 2018 (time stamped on June 7, 2018) Applicant’s arrears were eliminated after a negotiation conference. Missing from the order is information explaining the reason why the arrears were canceled. Except for Applicant’s claims, there is no documented information of the current status of Applicant’s child and medical support. (Item 5 at 12; answer to SOR, attached documentation)

Although Applicant told the OPM investigator in October 2017 that he intended to enroll in a debt consolidation plan, but he provided no information that he pursued the plan. (Item 5 at 9) In addition, Applicant provided no information about whether he has had any kind of financial counseling or has taken steps to improve his overall finances.

### **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are flexible rules of law, are applied together with common sense and the general

factors of 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(d) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

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 applicant or proven by Department Counsel. . .” The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

## **Analysis**

### **Financial Considerations**

AG ¶ 18. Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

AG ¶ 19. Conditions that could raise a security concern and may be disqualifying include:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

The credit reports (Item 6, item 7) show that when the SOR was issued in February 2019, Applicant owed \$28,103. The accounts became delinquent between October 2014 and April 2017. AG ¶¶ 19(a) and 19(c) apply.

AG ¶ 20. Conditions that could mitigate security concerns include:

- (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;

(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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the 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.

AG ¶ 20(a) does not fully apply as Applicant is still responsible for SOR 1.a debt. While his child support arrears were eliminated March 2018, he provided no reason for the cancellation and no information explaining the current status of his child support obligations.

AG ¶ 20(b) provides some mitigation for the child support arrears (SOR 1.c) because Applicant was unemployed for an unidentified period around November 2016. However, the record shows no unforeseen event in Applicant's life that was a primary or contributing factor for the repossession of the SOR 1.a vehicle, or why he did not assume the payments based on his joint liability. He acted responsibly to pay off the SOR 1.b personal loan, but he provided no information about why he was excused from paying child support arrears. AG ¶¶ 20(c) and 20(d) apply only in part. AG ¶ 20(e) does not apply because there is no evidence to infer that the arrearage was eliminated because it was disputed by Applicant.

### **Whole-Person Concept**

I have examined the evidence under the specific guidelines of financial considerations in the context of the nine general factors of the whole-person concept listed at AG ¶ 2(d):

(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant is 32 years old and separated with a seven-year-old son. He received an honorable medical discharge from the U.S. Army in August 2014. He has worked at his current job as a field service representative since November 2016.

Weighing against the favorable evidence is Applicant's adverse security record showing that he accumulated \$28,103 in delinquent debt between October 2014 and April 2017. To his credit, he satisfied the personal loan more than a year before the SOR was issued. But he has done nothing to resolve his joint liability for the installment car loan. Though documentation shows that Applicant's child support arrearage was withdrawn in March 2018, Applicant furnished no documented up-to-date information on his child support. He decided not to respond to the FORM which he received on April 10, 2019. Having weighed and balanced all the evidence under the specific conditions in light of the record as a whole, Applicant has not mitigated the security concerns arising from the financial considerations guideline.

### **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.c:	Against Applicant
Subparagraph 1.b:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the security interests of the United States to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

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Paul J. Mason  
Administrative Judge