



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



In the matter of: )  
)  
) ISCR Case No. 19-02204  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Daniel F. Crowley, Esq., Department Counsel  
For Applicant: *Pro se*

02/04/2020

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**Decision**

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LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On September 20, 2019, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on October 15, 2019, and requested a hearing before an administrative judge. The case was assigned to other administrative judges on November 27, 2019, and December 17, 2019, and reassigned to me on January 8, 2020.

The hearing was convened as scheduled on January 14, 2010. Government Exhibits (GE) 1 through 6 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through I, which were admitted without objection.

## Findings of Fact

Applicant is a 29-year-old employee of a defense contractor. He has worked for his current employer since February 2017. He is applying for a security clearance for the first time. He earned a bachelor's degree in 2016. He is single, with one child. (Transcript (Tr.) at 27, 38-39; GE 1)

The SOR alleges a \$16,400 medical account in collections and six miscellaneous delinquent debts totaling \$4,570. In his response to the SOR, Applicant admitted owing five of the debts, and he asserted the remaining two were paid. He attributed his financial problems to being a student, unemployment for about six months after college, and an auto accident in 2012. (Tr. at 21-23; GE 1, 2)

Applicant was injured in 2012 while a passenger in a car accident. He did not have medical insurance at the time. The \$16,400 medical account in collection (SOR ¶ 1.e) resulted from the medical bills associated with the accident. He thought the driver had auto insurance, but Applicant's medical expenses were not paid, so he may have been mistaken about the driver having insurance. Applicant called the medical provider and the collection company, and both told him that they did not have the debt. The debt is listed by all three credit reporting agencies on the June 2017 combined credit report. The activity date is March 2012. It is not listed on any subsequent credit report, most likely because it is beyond the seven-year reporting period. (Tr. at 22-25, 34; Applicant's response to SOR; GE 5, 6; AE G)

Applicant denied owing the \$637 debt to a collection company on behalf of a financial institution (SOR ¶ 1.f), asserting that the debt was paid in 2017. He provided proof in 2018, as part of his background investigation, that the debt and a non-alleged \$722 debt to the same collection company on behalf of a different financial institution were paid. All three credit reporting agencies listed the debts on the June 2017 combined credit report. Neither debt is listed with a balance on any subsequent credit report. (Tr. at 35; Applicant's response to SOR; GE 2, 3, 5, 6; AE G)

Applicant provided documentation in his response to interrogatories, his SOR response, and at his hearing that the \$634 debt alleged in SOR ¶ 1.c was paid in May 2019. He testified that he paid the \$214 debt alleged in SOR ¶ 1.g. The debt was listed by Equifax and Experian on the June 2017 combined credit report, with an activity date of September 2015. The debt is not listed on the February 2019 Equifax credit report or the January 2020 combined credit report. (Tr. at 33, 35-36; Applicant's response to SOR; GE 2-6; AE B-D, F, G)

Applicant paid \$218 and \$1,094 in January 2020 to resolve the \$1,313 debt alleged in SOR ¶ 1.a. He paid \$300 and \$941 the same month to resolve the \$1,241 debt alleged in SOR ¶ 1.b. He paid \$267, also in January 2020, to settle the \$535 debt alleged in SOR ¶ 1.d. (Tr. at 31-34; Applicant's response to SOR; GE 5, 6; AE B-D, G)

To summarize, Applicant started paying his debts well before the SOR was issued. He paid or settled all of the debts in the SOR, with the exception of the medical debt. He also paid debts that were not alleged in the SOR. He has not received financial counseling, but he is able to pay his current bills and not accrue any additional delinquent debts. His January 2020 credit report lists the SOR debts that were recently paid. It does not list any other delinquent debts. (Tr. at 21-22, 25-26, 29-31, 36-38; GE 2-6; AE E, G)

Applicant submitted letters attesting to his superior job performance. He is praised for his good character, reliability, responsibility, dependability, and integrity. (AE H, I)

### **Policies**

This case is adjudicated under Executive Order (EO) 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 adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

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 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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This

relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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**

### **Guideline F, Financial Considerations**

The security concern for financial considerations is set out in 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

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

Applicant has a history of financial problems, including delinquent consumer debts and a medical debt after an auto accident. The evidence is sufficient to raise the above disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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; and

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

Applicant attributed his financial problems to being a student, unemployment while he was in college, and an auto accident in 2012. He started paying his debts well before the SOR was issued. All of the non-medical debts have been paid or settled. His medical debt should have been paid by the driver's auto insurance, if the driver was insured. In any event, that debt is about eight years old, no longer on Applicant's credit report, and not being actively collected. His finances are now in order. He is able to pay his current bills and not accrue any additional delinquent debts.

A security clearance adjudication is not a debt-collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant had a plan to resolve his financial problems, and he took significant action to implement that plan. He acted responsibly under the circumstances and made a good-faith effort to pay his debts. The above mitigating conditions are sufficiently applicable to mitigate financial considerations security concerns.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors 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 a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline F in my whole-person analysis. I also considered Applicant's favorable character evidence.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

### **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:	For Applicant
Subparagraphs 1.a-1.g:	For Applicant

### **Conclusion**

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Edward W. Loughran  
Administrative Judge