



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 19-02389  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Erin P. Thompson, Esq., Department Counsel  
For Applicant: *Pro se*

09/16/2020

**Decision**

COACHER, Robert E., Administrative Judge:

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

**Statement of the Case**

On September 4, 2019, the Department of Defense Consolidated Adjudication Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DOD CAF acted 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 effective June 8, 2017 (AG).

Applicant answered (Answer) the SOR on October 2, 2019, and he requested a hearing before an administrative judge. I was assigned the case on July 21, 2020. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on July 29, 2020, and the hearing was convened as scheduled on August 20, 2020. The Government offered exhibits (GE) 1 through 3, which were admitted into evidence. Applicant objected

to GE 2 on the basis of having inaccurate information. I overruled that objection determining that the objection went to the weight of the evidence as opposed to its admissibility. The Government's exhibit list was identified as hearing exhibit (HE) I. Applicant testified and offered two exhibits (AE A-B), which were admitted without objection. The record remained open until September 11, 2020, to allow Applicant to submit additional documentary evidence. He submitted AE C through E, which were admitted without objection. The email correspondence documenting Applicant's submission of post-hearing evidence is marked as HE II. DOHA received the hearing transcript (Tr.) on August 27, 2020.

### **Findings of Fact**

Applicant admitted the SOR allegations, with explanations, and his admissions are incorporated into these findings of fact. After a review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is a 62-year-old employee of a defense contractor. He began working at his present job in September 2017. Aside from two months of unemployment from July to September of 2017, he has worked for defense contractors since 1996. He holds a master's degree earned in 1990. He is divorced (married in 1987, divorced in 2017) and has two adult children. He has held a security clearance since 2002. (GE 1)

The SOR alleged Applicant had three delinquent credit card debts including a collection debt of \$26,514 (SOR ¶ 1.a); a charged-off debt of \$2,270 (SOR ¶ 1.b); and a collection debt of \$21,118 (SOR ¶ 1.c). The debts were listed in credit reports from April 2018 and April 2019. (GE 2-3)

Applicant credibly explained that his financial difficulties began when his then-wife lost her job in 2015 and remained unemployed for approximately 18 months. He further testified that he paid for the college education of both of his children and he is currently providing \$400 monthly to his son to help fund his graduate studies. Applicant testified that his divorce in 2017 also impacted his finances. He paid his ex-wife a settlement lump sum of approximately \$200,000, from his retirement account, and pays her alimony of \$400 monthly. (Tr. at 24, 30-32, 35; Answer)

Applicant documented that he earns approximately \$168,000 per year from his job; that his retirement account's balance is approximately \$320,000; and that he is current on his home mortgage payments. He also pointed out that he is current on the student loan payments he took out to assist his son with his undergraduate payments and that he owns a second home worth approximately \$130,000 with no mortgage obligation. (Tr. at 35, 39-40; Answer)

The status of his delinquent debts is as follows:

**Credit Card Debt-\$26,514 (SOR ¶ 1.a).** Applicant credibly explained that he became delinquent on this account when his ex-wife was unemployed. He attempted to negotiate a lower payment and interest rate, but was told by the creditor the only way to

do so was to stop making payments. He did so, which resulted in the delinquency. He documented that he reached a settlement with the creditor in August 2020 and paid the agreed upon settlement amount of approximately \$19,700 in September 2020 (the documentation showed his written check to the creditor, but not the completed transaction. I infer that the check process was completed). This debt is resolved. (Tr. at 24-26, 37-38; AE B, E)

**Credit Card Debt-\$2,270 (SOR ¶ 1.b).** Applicant credibly explained that he became delinquent on this account when his ex-wife was unemployed. He attempted to negotiate a lower payment and interest rate, but was told by the creditor the only way to do so was to stop making payments. He did so, which resulted in the delinquency. He documented that he reached a settlement with the creditor in August 2020 and paid the agreed upon settlement amount of approximately \$1,795 in August 2020 (the documentation showed his written check to the creditor, but not the completed transaction. I infer that the check process was completed). This debt is resolved. (Tr. at 27-28; AE C-D)

**Credit Card Debt-\$21,118 (SOR ¶ 1.c).** Applicant credibly explained that he became delinquent on this account when his ex-wife was unemployed. He attempted to negotiate a lower payment and interest rate, but was told by the creditor the only way to do so was to stop making payments. He did so, which resulted in the delinquency. He documented that he reached a settlement with the creditor in July 2018 and paid the agreed upon settlement amount of approximately \$16,000 in July 2018. This debt is resolved. (Tr. at 35-36; AE A; Answer)

### **Policies**

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 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, these guidelines are applied 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(a), 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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**

AG ¶ 18 expresses the security concern for financial considerations:

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.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶ 19 and the following potentially apply:

- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant incurred credit card debts after his then wife became unemployed. He also stopped paying the debts in order to negotiate better terms with the creditors. I find the above disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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's divorce and period of unemployment contributed to his delinquent debts. Although he was not particularly timely in negotiating settlements on these three debts, he ultimately resolved them all through settlement payments. All the above mitigating conditions have some applicability.

### **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 the 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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

I considered Applicant's contractor service, and the circumstances surrounding his indebtedness. Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, 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.c:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

---

Robert E. Coacher  
Administrative Judge