



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 19-00807  
)  
Applicant for Security Clearance )  
)

**Appearances**

For Government: Raashid S. Williams, Esq., Department Counsel  
For Applicant: *Pro se*

02/03/2020

**Decision**

MASON, Paul J., Administrative Judge:

Applicant’s financial troubles were primarily due to marital discord in 2013, followed by bitter divorce litigation that was not finalized until March 2014. The divorce cost him his job and his security clearance. It took him a few years to regain his financial footing. His credible evidence in mitigation satisfies his ultimate burden of persuasion under the guideline for financial considerations. Eligibility for security clearance access is granted.

**Statement of the Case**

On November 1, 2016, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for a position with a defense contractor. On January 5, 2017, he completed a subject interview (PSI) with an investigator from the Office of Personnel Management (OPM). After reviewing the results of a security background investigation, the Department of Defense (DOD) could not make the affirmative findings required to grant a security clearance, and issued to Applicant a Statement of Reasons (SOR), dated April 5, 2019. The SOR

detailed security concerns under financial considerations (Guideline F). 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 adjudicative guidelines (AG) effective in the DOD on June 8, 2017.

Applicant provided his notarized answer on April 12, 2019. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on July 19, 2019, for a hearing on August 27, 2019. The hearing was held as scheduled. The Government's four exhibits (GE) 1-4 and Applicant's eight exhibits (AE) A-H were entered into evidence without objection. The record in this case closed on September 4, 2019, when DOHA received the hearing transcript (Tr.).

### **Findings of Fact**

The SOR lists five allegations under the financial considerations guideline. SOR 1.a alleges a line of credit (\$9,444) for Applicant's rental property. The account has been delinquent since June 2014. SOR 1.b is for the foreclosed property associated with the line of credit in SOR 1.a. SOR 1.c is for child support in the amount of \$19,334 that has been delinquent since April 2016. SOR 1.d is a delinquent credit card account that became delinquent in August 2014. SOR 1.e is a judgment for \$3,632 filed by a homeowner's association against Applicant in November 2016. Applicant admitted SOR 1.b, the foreclosure allegation. He denied the four debt allegations because he paid the three debts and returned the child support account to a current status. (Applicant's April 2019 answer to the SOR; AE A)

Applicant is 48 years old and has been married since July 2015. His wife is currently living in another country. He has two children from his previous marriage that ended in divorce in March 2014. He earned a degree in automotive technology in 1992. Since September 2018, Applicant has been employed as a field service engineer for a defense contractor. He installs security screening devices at airports. He held the same job with another contractor from August 2017 to June 2018. He was unemployed during at least the first eight months of 2017. Applicant received a security clearance in 2010, but the clearance was discontinued in 2014 because of marital problems. (GE 1 at 26-27, 32-35, 52; AE F; Tr. 8-11)

All allegations in the SOR are related to the rapid deterioration of Applicant's second marriage beginning in February 2013 to his second wife, and leading to divorce in March 2014. From January 2011 to February 2013, Applicant was working in telecommunications for a defense contractor in the Middle East. He returned to the US in February 2013, because of marital problems. Following a couple of marital incidents between Applicant and his second wife, she filed for divorce. The divorce became final in March 2014. As a result of the divorce Applicant lost his overseas contractor job and his security clearance. (AE A; AE F; Tr. 11)

Applicant was unemployed from May to September 2014, caring for his children and addressing family court matters like child custody for his two children. He was working part time as a taxi driver and other “side jobs,” including in a transportation service. His next full-time job was in August 2017. (GE 2 at 7; AE F; Tr. 33-36)

SOR 1.a – This account is an equity line of credit Applicant opened in 2008. His documentation shows he settled the account on February 13, 2019, after making monthly payments on the account in the preceding eight months. (GE 3 at 1; Tr. 31-34; AE B)

SOR 1.b – The property associated with the SOR 1.a account was foreclosed in 2014. The reason for foreclosure was that Applicant could not sell or rent the house during pendency of the divorce proceedings. He attempted a home loan modification (HLM), but did not have \$20,000 to restructure the mortgage. In addition, he was either unemployed or underemployed. He was more concerned about addressing his child support than attempting to save the property from foreclosure. (Tr. 34-37)

SOR 1.c – This delinquent account (\$19,344) represents child support arrears. Applicant missed a substantial number of monthly payments in 2016 and 2017. He began paying \$413 a week in October 2018 to eliminate the arrearage portion of support. He made two extra payments of \$500 in the same month. Between March and June 2019, Applicant made extra arrears payments totaling approximately \$15,134, eliminating his support arrears altogether. He restored his child support to a current status, continuing to pay \$1,291 monthly in support. He partially funded these payments with an overseas job bonus of \$10,000 in October 2018. The other funding source was his job earnings during the period as he was working 80 hours a week for his employer. (Tr. 38-43; AE A; AE C at 1-8)

SOR 1.d – This account is a credit card. Applicant’s documentation shows that he paid this delinquent debt in May 2018. He used his overtime to pay the account. He had used the card to pay child support and legal fees related to his March 2014 divorce. (Tr. 45; AE D)

SOR 1.e – This account represents a delinquent homeowner’s association judgment that was filed against Applicant in November 2014. Applicant reported this judgment in his November 2016 e-QIP and his January 2017 PSI. The homeowner’s association manager notified Applicant by letter in October 2018 that his debt was settled for \$430. (GE 1 at 55; GE 2 at 15; Tr. 45-46; AE A; AE E)

Applicant earns approximately \$4,800 a month. After subtracting his child support and car rental payments, his net monthly income is \$1,900, which he deposits in his checking account. He has approximately \$140 in his savings account and \$5,000 in his checking account. His retirement account contains \$12,000. He has never had financial counseling and has no budget. His child support and his mortgage are automatically deducted from his checking account. (Tr. 47-62)

## **Character Evidence**

Reference A is a neighborhood friend of Applicant. She has known him for 27 years and met him when she was 10 years old. Applicant has become a close friend of Reference A's family. Applicant provided emotional support to Reference A when her grandfather died and when her mother was hospitalized for several days two years ago. Reference A recalled that Applicant's March 2014 divorce had a detrimental impact on him, but he recovered and merits a security clearance based on his trustworthiness. (Tr. 65-68); AE G)

Reference B is Applicant's aunt. She considers him a strong family man who returned home in 2013 to deal with emergency family problems and lost his security clearance and his overseas job as a result. His home went into foreclosure and he descended into deep debt. He has since pulled himself out of his debt and enjoys his work as a field service engineer. (AE G)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are not inflexible rules of law, should be applied 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**

The security concerns of the guideline for financial considerations are set forth 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. 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.

An applicant who seeks a security clearance with the Government must demonstrate that he has good judgment and is trustworthy. A gauge of his judgment and trustworthiness can be determined by an evaluation of how he manages his personal affairs. An applicant with a history of financial irresponsibility may also demonstrate irresponsibility in failing to comply with rules and regulations for safeguarding sensitive or classified information.

AG ¶19 describes conditions that could raise a security concerns and may be disqualifying:

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

Applicant's January 2017 PSI, his April 2019 answers to the SOR, and the credit reports establish the Government's case under the guideline for financial considerations. Applicant has a history of not meeting his financial obligations. AG ¶¶ 19(a) and 19(c) apply. AG ¶ 19(b) is inapplicable because there is no evidence indicating that Applicant was unwilling to pay any of the four listed debts or allow the property to slip into foreclosure. He was more concerned about doing his best to pay child support although the support records show he struggled to maintain the payment schedule in 2016 and 2017.

The pertinent mitigating conditions under AG ¶ 20 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; and

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

The record shows that all the allegations of the SOR are connected to Applicant's divorce. The foreclosure and the four debts became delinquent by April 2016. Applicant incurred the debts under circumstances that are unlikely to recur. By the time the divorce was finalized in March 2014, he lost his overseas employment and his security clearance. Then, he entered a period of unemployment or underemployment. After finally resuming full-time employment in August 2017, he began to tackle his debt delinquencies. He settled the SOR 1.a line-of-credit debt in February 2019, after making regular monthly payments for eight months. He began paying the child support arrearage (SOR 1.c) in October 2018 eliminating the arrearage in June 2019. He settled the SOR 1.e credit card debt in May 2018, and the SOR judgment in October 2018. Though he has never had financial counseling, there is ample documented evidence showing that his indebtedness has been resolved. AG ¶¶ 20(a), 20(b), 20(c), and 20(d) apply.

### **Whole-Person Concept**

I have examined the evidence under the specific guideline (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.

It is clear that Applicant's financial problems were caused by marital problems ending in his March 2014 divorce, and his subsequent employment issues. After he finally regained full-time employment in August 2017, he began clearing his delinquent debt load in May 2018. By June 2019, he eliminated all debts and arrears listed in the SOR. Significantly, he began resolving the debts almost a year before the issuance of the SOR. Financial counseling and utilizing a budget can help Applicant manage his finances in a more responsible manner. Considering the evidence as a whole, including the favorable character evidence from References A and B, Applicant has mitigated the security concerns arising from the guideline for financial considerations.

### **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-1e:	For Applicant

### **Conclusion**

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

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Paul J. Mason  
Administrative Judge