



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



In the matter of: )  
)  
) ISCR Case No. 20-00899  
)  
Applicant for Security Clearance )

**Appearances**

For Government: A. H. Henderson, Esq., Department Counsel  
For Applicant: *Pro se*

03/09/2021

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**Decision**

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RIVERA, Juan J., Administrative Judge:

Applicant’s financial problems resulted from circumstances beyond his control. He started the process to resolve his delinquent accounts before he received the Statement of Reasons (SOR). He has some work to do to completely resolve his financial problems, but he has acted responsibly under his circumstances. He mitigated the financial considerations security concerns. Clearance is granted.

**Statement of the Case**

Applicant submitted his most recent security clearance application (SCA) on March 13, 2019. He was interviewed by a government investigator on June 25, 2019. After reviewing the information gathered during the background investigation, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Facility (CAF) issued Applicant an SOR on September 8, 2020, alleging security concerns under Guideline F (financial considerations). Applicant timely answered the SOR and requested a decision based on the written record in lieu of a hearing.

A copy of the Government's file of relevant material (FORM), containing the evidence supporting the security concerns, was provided to Applicant by letter dated December 16, 2020. Applicant received the FORM on December 29, 2020. He was granted a period of 30 days after receipt of the FORM to submit any objections to the FORM and to provide material to refute, extenuate, or mitigate the concerns. Applicant failed to respond to the FORM. He submitted no evidence of his efforts to resolve his financial problems, and he raised no objections to the Government's proffered evidence. The case was assigned to me on February 25, 2021. Without objections, I admitted and considered the Government's proposed evidence.

### **Findings of Fact**

The SOR alleges 13 delinquent accounts in collection or charged off, totaling about \$23,419. In his SOR answer, Applicant admitted 10 of the financial allegations (SOR ¶¶ 1.a through 1.i and 1.m). He denied the factual allegations in SOR ¶¶ 1.j through 1.l. His admissions are incorporated herein as findings of fact. After a thorough review of the record evidence, I make the following additional findings of fact:

Applicant is a 38-year-old aircraft mechanic. He is a high school graduate. He enlisted in the U.S. Air Force in December 2002, and served honorably on active duty until his discharge in February 2017. He possessed a security clearance during most of his service.

Applicant married in 2004 and divorced in July 2012. He remarried in December 2012, separated in May 2016, and divorced in April 2019. He disclosed having no children in his 2019 SCA. However, Applicant told the government background investigator during his June 2019 interview that he has two children (ages unknown) for whom he provides financial support.

In January 2017, Applicant was hired by his current employer and security sponsor, a federal contractor. In response to Section 26 (Financial Record) of his March 2019 SCA, Applicant disclosed that he had financial problems, which included arrearages on his children's financial support, owing money to the Defense Finance and Accounting Service (DFAS) for an overpayment, and another delinquent account.

Applicant explained that his financial problems started when he and his second wife returned to the United States from an overseas assignment. Apparently, their earnings decreased when they lost their overseas cost of living allowance. Additionally, upon their return, they separated and he was financially responsible for two households. During the marital separation, from May 2016 through April 2019, Applicant agreed to provide monthly financial support of \$900 - \$1,000 for his two children. When the court finalized the divorce, he was ordered to provide \$2,262 in monthly child support, retroactively. He incurred automatic child support arrearages for the difference between what he was providing and what the court ordered in financial support. Applicant stated that he was never late or delinquent on his children's financial support payments.

The status of the delinquent accounts alleged in the SOR follows:

1.a. This is a charged-off account for \$3,352. During his June 2019 interview, Applicant claimed he had no knowledge of this account. The account is established by all the credit reports in evidence. (Items 4-6) In his SOR answer, Applicant claimed he contacted the creditor and made arrangements to pay the account. He presented no documentary evidence to corroborate his claims.

1.b. This is a charged-off account for \$5,325. The account is established by all the credit reports in evidence. (Items 4-6) In his SOR answer, Applicant claimed he contacted the creditor and made arrangements to pay the account. He presented no documentary evidence to corroborate his claim.

1.c. This is a collection account for \$2,132. (Item 6) The account is unresolved.

1.d. This was a collection on behalf of a communications provider for \$595. Applicant settled the account for less than owed and paid it off in September 2020. (Item 6)

1.e. This was a charged-off account for \$492. Applicant paid it off in September 2020. (Item 6)

1.f. This was a collection for \$119. Applicant paid it off in September 2020. (Item 6)

1.g. This was a past-due account with a total balance of \$5,068. Applicant paid it off in September 2020. (Item 6)

1.h. This was a past-due account with a total balance of \$4,130. The credit reports reflect several accounts for A. F. Bank (all of which have been paid and closed) and several accounts for A. F. Loans (all of which shows that the accounts are being paid as agreed). It is not clear from the evidence presented what account was alleged as delinquent. Regardless, the accounts are either current or paid off.

1.i. This is a collection on behalf of a lender for \$1,955. The credit report from December 2020 (Item 6) shows the account is still outstanding.

1.j. This is a collection on behalf of communications provider for \$744. The debt is reflected only in the April 2019 credit report. Applicant claimed he paid the account. The account is not reflected in the May 2019 or December 2020 credit reports. The account is resolved.

1.k. This is a collection on behalf of communications provider for \$482. The debt is reflected in the April and May 2019 credit reports. Applicant claimed he paid the account, and it is not reflected in the December 2020 credit report. The account is resolved.

1.l. This is a collection on behalf of a communications provider for \$287. The debt is reflected only in the April 2019 credit report. Applicant claimed he paid the account, and it is not reflected in the May 2019 or December 2020 credit reports. The account is resolved.

1.m. This is a collection on behalf of a gas company for \$169. The debt is reflected only in the April 2019 credit report. Applicant claimed he paid the account and it is reflected as paid in the May 2019 and December 2020 credit reports. The account is resolved.

During his June 2019 interview, Applicant told the investigator that he was making \$7,400 in monthly income: \$4,400 from his current employment, and \$3,000 from the Department of Veterans Affairs (VA). In addition to the \$2,262 monthly child support payments, he disclosed the following monthly expenses: \$1,500 in rent and utilities; \$200 for food and groceries; \$350 for car payment; \$200 for gas; \$675 in car and renters' insurance; \$230 in loan payments; \$190 cell phone payment; \$200 for internet and cable; \$60 on miscellaneous subscriptions; and \$100-\$200 in children visitation expenses. Applicant has about \$1,300 of discretionary income after paying his monthly expenses. (Item 3)

Applicant believes that his financial situation is stable. He is current with his present financial obligations and promised to continue to meet them. He also promised to continue paying his delinquent accounts with his discretionary income until they are resolved. In his SOR answer, Applicant claimed the he had contacted his creditors to either resolve or make arrangements to resolve his delinquencies. He did not submit documentary evidence to corroborate his efforts to contact all of his creditors. Nevertheless, the credit reports in evidence corroborate his contacts with creditors and the payment or resolution of at least nine SOR debts.

Applicant accepted responsibility for his delinquent accounts. He admitted that after his divorce he failed to follow up on many of the delinquent accounts because he believed they were his ex-wife's accounts. Applicant's credit reports show that he is living within his financial means, and that he has acquired no additional delinquent accounts. Although Applicant presented no evidence to show he has received financial counseling, he has been paying his delinquent accounts.

Applicant's current job allows him to meet his financial obligations and living expenses. His credit reports show that he has paid or resolved nine of the 13 accounts alleged in the SOR, paying approximately \$11,799. (SOR ¶¶ 1.d through 1.h and 1.j through 1.m). He has yet to resolve the accounts alleged in SOR ¶¶ 1.a through 1.c and 1.i, totaling about \$11,620. Applicant promised to pay all of his remaining delinquent accounts. Because he already paid nine delinquent accounts, I find his promise to pay the remaining delinquent accounts credible.

## Policies

The SOR was issued under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), applicable to all adjudicative decisions issued on or after June 8, 2017.

Eligibility for access to classified information may be granted “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

The AGs list disqualifying and mitigating conditions for evaluating a person’s suitability for access to classified information. Any one disqualifying or mitigating condition is not, by itself, conclusive. However, the AGs should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Each decision must reflect a fair, impartial, and commonsense consideration of the whole person and the factors listed in SEAD 4, App. A ¶¶ 2(d) and 2(f). All available, reliable information about the person, past and present, favorable and unfavorable, must be considered.

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 the applicant to rebut, explain, extenuate, or mitigate the facts. The applicant bears the heavy burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of those who must protect national interest 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. “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; SEAD 4, ¶ E(4); SEAD 4, App. A, ¶¶ 1(d) and 2(b). Clearance decisions are not a determination of the loyalty of the applicant concerned. They are merely an indication that the applicant has or has not met the strict guidelines the Government has established for issuing a clearance.

## Analysis

### Financial Considerations

AG ¶ 18 articulates the security concern relating to financial problems:

Failure or inability 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 . . . .

Applicant's financial problems are documented in the record. He was separated from his wife between May 2016 and April 2019, when his divorce became final. He also was discharged from the service after 15 years on active duty in February 2017. Because of his reduced earnings, separation, and divorce, he acquired 13 delinquent accounts, some of which were charged off. AG ¶ 19 provides disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts;" and "(c) a history of not meeting financial obligations." The record established these disqualifying conditions, requiring additional inquiry about the possible applicability of mitigating conditions.

The following mitigating conditions under AG ¶ 20 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.

All of these mitigating conditions are partially or fully supported by the facts in this case. Applicant developed financial problems after he relocated back to the United States from an overseas assignment and his earnings were reduced. Additionally, his lengthy marital separation leading to his divorce, and his discharge from the service were contributing factors to his financial problems. His income was insufficient to support two households, he could not pay his living expenses and accrued the delinquent debts. Thus, I find that his financial problems could be attributed to, or were aggravated by, circumstances beyond his control.

Both the April and May 2019 credit reports show that Applicant was making payments on charged-off accounts before his SOR was issued in September 2020. Although Applicant could have been more diligent addressing his charged-off accounts, I find that he has been financially responsible under his circumstances.

Clearance decisions are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of every debt or issue alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve issues or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts or issues alleged in an SOR be resolved first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts, or resolution of such issues, one at a time. Mere promises to resolve financial issues in the future, without further confirmed action, are insufficient.

In this instance, there is no evidence of prior financial problems; circumstances beyond his control contributed to his financial problems; he started to resolve his delinquent accounts before the SOR was issued; he has paid 9 of the 13 delinquent SOR accounts; and he has acquired no additional delinquencies. I further find that Applicant has established a good-faith effort to resolve his delinquent debts. His actions are sufficient to demonstrate his current financial responsibility, and that his financial problems are being resolved and are under control. Applicant promised the government investigator to pay all of his delinquent accounts. Because he already paid nine delinquent accounts, I find it likely that he would pay the remaining delinquent accounts. The financial considerations security concerns are mitigated.

### **Whole-Person Concept**

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, and under the whole-person concept. Security Executive Agent Directive (SEAD) 4, App. A, ¶¶ 2(a) and 2(d). I have incorporated my comments under Guideline F in my whole-person analysis. Some of

these factors were addressed under that guideline, but some warrant additional comment.

Applicant, 38, served on active duty for 15 years and was honorably discharged. He held a clearance while in the service. There is no evidence of any security concerns, except for those in the current SOR. He has been employed with a federal contractor since January 2017.

On balance, Applicant's evidence is sufficient to establish that circumstances beyond his control contributed to or aggravated his financial problems. After that, he has been financially responsible addressing his delinquent accounts within his financial means. He has established a viable plan to resolve the accounts alleged in the SOR. He resolved or paid 9 of the 13 SOR accounts. He is in control of his finances. Given the opportunity, I believe that Applicant would resolve or pay all of the accounts alleged in the SOR.

Because of his service, experience possessing a security clearance, and the security clearance process he went through to renew his clearance eligibility, Applicant likely understands that if he fails to establish and maintain his financial responsibility, he would be considered ineligible for a clearance.

### **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.m:	For Applicant

### **Conclusion**

In light of all 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's eligibility for a security clearance. Clearance is granted.

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JUAN J. RIVERA  
Administrative Judge