



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



In the matter of: )  
 )  
----- ) ISCR Case No. 20-03653  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Moira Modzelewski, Esquire, Department Counsel  
For Applicant: *Pro se*

05/17/2021

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

**Statement of the Case**

On January 17, 2021, the Department of Defense (DOD) Consolidated Adjudication Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations). The action was taken under Executive Order 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 within the DOD on or after June 8, 2017.

In a response dated January 19, 2021, Applicant admitted two of the five allegations raised in the SOR. He also requested a decision based on the written record by a Defense Office of Hearings and Appeals (DOHA) administrative judge. The Government composed a written brief with four supporting documents (Items 1-4), known as the File of Relevant Material (FORM). On February 4, 2021, a complete copy of the FORM was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant did not respond to the FORM within the time allotted. I was assigned the

case on May 17, 2021. Based on the record, I find Applicant failed to mitigate financial considerations security concerns.

### **Findings of Fact**

Applicant is a 38-year-old Systems Integration Engineer who has worked for the same employer since 2009. He has had a security clearance since 2010. Applicant graduated from high school in 2002 and is currently taking post-secondary courses online. Married in 2005, he is the parent of a teenage child. His wife manages the family's finances.

On his January 2021 security clearance application (SCA), Applicant disclosed his debts. He blames their creation on an incident in 2012. In that year, Applicant chose to participate in a labor strike at work. It lasted 10 months, much longer than the few weeks initially anticipated. Consequently, Applicant's savings were soon depleted and obligations became delinquent in early 2013. (FORM, Item 4 at 2) At least two of his accounts went to collection after Applicant and his wife chose to cease making payments on those accounts. When those accounts appeared as derogatory information on his credit report, he chose to let them remain on his credit report for seven years and then have them deleted from his credit report due to their age. He still plans on maintaining this strategy. (FORM, Item 3 at 42-43; Item 4 at 2)

At issue in the SOR are five delinquent accounts (SOR allegations 1.a-1.e) reflecting debts amounting to about \$24,000. In response to the SOR, Applicant denied the debt noted at 1.a for \$3,058, writing that he has no record of this debt. He also denied the debts at 1.b for \$9,204 and 1.e for \$1,811 for approximately the same reason (FORM, Item 2 at 1-2). He admits the allegations related to the debts at 1.c-1.d, amounting to about \$10,000 related to adverse judgments.

In his subject interview, Applicant admitted the debt in SOR allegation 1.e, but claimed the accounts referenced in SOR allegations 1.a and 1.b were his wife's credit cards in his wife's name (FORM, Item 4 at 2-3) He offered documents reflecting judgments against his wife, but they failed to show that the judgments were for the same accounts referenced in the allegations and in his credit report. (FORM, Item 4 at 6-8) Applicant provided no other documents and did not submit any materials directly related to the delinquent accounts at issue. There is no indication of efforts to address these accounts in recent years. There is no documentation showing Applicant has received financial counseling. His plan with regard to his delinquent debts in collection is to let them be dropped by the credit reporting agencies after seven years

### **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. 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(c), the entire process is a conscientious scrutiny of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that any doubt concerning personnel being considered for access to classified information will be resolved in favor of national security. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence.

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, and transcends duty hours. The Government reposes a high degree of trust and confidence in those granted such access. Decisions necessarily include consideration of the possible risk an applicant may deliberately or inadvertently fail to safeguard such information. Decisions shall be in terms of the national interest and do not question the loyalty of an applicant.

### **Analysis**

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that 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.

Here, the Government offered documentary evidence reflecting that Applicant has acquired delinquent debt. This is sufficient to invoke financial considerations disqualifying conditions:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the ability to do so;  
and

AG ¶ 19(c): a history of not meeting financial obligations.

Under these facts, three conditions could mitigate related security concerns:

AG ¶ 20(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;

AG ¶ 20(c): the individual has received or is receiving financial counseling for the problems 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 under control; and

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant attributes his past financial difficulties to his voluntary participation in a labor strike in 2012. The fact that his participation was voluntary obviates application of AG ¶ 20(b). There is no indication Applicant has received financial counseling, so AG ¶ 20(c) cannot apply. Applicant provided no documentation reflecting any efforts to address the delinquent accounts at issue. The materials he submitted regarding judgments against his wife were not linked to the delinquent accounts at issue in SOR allegations 1.a and 1.b. There was no showing by Applicant that he has initiated any effort to address his delinquent debts other than letting time pass until these derogatory entries are removed from his credit report. Therefore, AG ¶ 20(d) does not apply.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of his conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d). Here, I have considered those factors. I am also mindful that, under AG ¶ 2(a), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based on careful consideration of the guidelines and the whole-person concept.

Applicant is a 38-year-old high school graduate who has worked as a systems integration engineer since 2009. He has maintained a security clearance since 2010. He is married and has one teenage son.

After choosing to participate in a protracted labor strike, Applicant found his savings depleted, money became tight, and he acquired debt. That incident occurred nearly a decade ago and debt still exists. At least two debts acquired as a result of the strike became delinquent. Rather than addressing those accounts before or after they were referred for collection, he has chosen to let them be removed by the credit reporting agencies as dated material after seven years. While Applicant believes two

accounts are related to adverse judgments against his wife, he provided no documentation linking those judgments with the accounts at issue. In sum, Applicant has provided no documentary evidence showing he has actively tried to address the accounts at issue. Consequently, financial considerations security concerns remain unmitigated.

### **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.e	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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Arthur E. Marshall, Jr.  
Administrative Judge