



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 20-00666  
)  
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Applicant for Security Clearance )

**Appearances**

For Government: David F. Hayes, Esq., Department Counsel  
For Applicant: *Pro se*

08/23/2021

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On February 17, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued Applicant a statement of reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DCSA acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective June 8, 2017 (AG).

On March 8, 2021, Applicant answered the SOR, and elected to have his case decided on the written record, in lieu of a hearing. Department Counsel submitted the Government's File of Relevant Material (FORM) on April 8, 2021. The evidence included

in the FORM is identified as Items 2-5 (Item 1 includes pleadings and transmittal information). The FORM was mailed to Applicant, who received it on May 15, 2021. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. He did not submit any evidence, or file objections to the Government's evidence. The Government exhibits are admitted into evidence without objections. The case was assigned to me on August 3, 2021.

### **Findings of Fact**

Applicant admitted nine of the SOR allegations (SOR ¶¶ 1.b-1.d and 1.f-1.f), with explanations, and denied two allegations (SOR ¶¶ 1.a and 1.e). The admissions are adopted as findings of fact. After a careful review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is 29 years old. He has worked for a federal contractor since June 2018. He has worked as an aircraft mechanic since April 2013. He received an associate's degree in 2012. He married in 2010, divorced in 2017, and has two children, ages 8 and 17. (Item 2)

The SOR alleged 11 delinquent debts totaling approximately \$45,290. The debts are comprised of collections and charged-off accounts. The debts are established by credit reports from December 2019 and April 2021, and his SOR admissions. (Items 2, 4-5)

Applicant attributes his financial problems to his divorce in 2017. He also asserted that he would pay the debts when he is a better financial position. (Items 1-3)

The status of the SOR debts is as follows:

**SOR ¶ 1.a-\$571 collection.** This is a cable account that was assigned to collections in June 2018. Applicant claimed this debt was paid in September 2020, but he failed to document such payment. This debt is unresolved. (Items 1, 4-5)

**SOR ¶ 1.b-\$494 charge off.** This is an account with a financial institution charged off in March 2012. Applicant admitted this account and stated that he and his ex-wife have yet to agree on the payment of this debt. This debt is unresolved. (Items 1, 4-5)

**(SOR ¶ 1.c)-\$280 collection.** This is a utility account assigned to collections in October 2017. Applicant admitted this account and stated that he and his ex-wife have yet to agree on the payment of this debt. This debt is unresolved. (Items 1, 4-5)

**(SOR ¶ 1.d)-\$1,215 collection.** This is a telecommunications account assigned to collections in February 2018. Applicant admitted this account and stated that he and his ex-wife shared this debt. He failed to provide any documentation on what plans they made to pay or dispute the debt. This debt is unresolved. (Items 1, 4-5)

**(SOR ¶ 1.e)-\$294 collection.** This is a utility account that was assigned to collections in May 2018. Applicant claimed this debt was paid in September 2020, but he failed to document such payment. This debt is unresolved. (Items 1, 4-5)

**(SOR ¶ 1.f)-\$376 collection.** This is an insurance account assigned to collections in June 2017. Applicant admitted this account and stated that it would be paid by April 2021. He did not provide any documentation showing such payment. This debt is unresolved. (Items 1, 4-5)

**(SOR ¶ 1.g)-\$2,875 charge off.** This is a consumer account charged off in November 2015. Applicant admitted this account and stated that he would set up a payment plan this year. He did not provide any documentation showing his communication with the creditor about establishing a payment plan. This debt is unresolved. (Items 1, 4-5)

**(SOR ¶¶ 1.h, 1.i)-\$12,183; \$20,982 collections.** These are two student loans that were assigned as collections in March 2016. Applicant admitted these accounts and stated he would set up payment plans by April 2021. He did not provide any documentation showing his communication with the creditor about establishing a payment plan. He did not provide documentation of payment. These debts are unresolved. (Items 1, 4-5)

**(SOR ¶ 1.j)-\$217 collection.** This is a consumer debt assigned to collections in December 2018. Applicant admitted this account and stated that it would be paid by March 12, 2021. He did not provide any documentation showing such payment. This debt is unresolved. (Items 1, 4-5)

**(SOR ¶ 1.k)-\$5,803 charge off.** This is an automobile repossession account assigned to collections in March 2013. Applicant admitted this account and stated that he and his ex-wife shared this debt. He failed to provide any documentation on what plans they made to pay or dispute the debt. This debt is unresolved. (Items 1, 4-5)

Applicant did not provide any documentation showing his current financial status or any consultations with financial counselors.

### **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:

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

Applicant incurred 11 delinquent debts of approximately \$45,000, some of which relate back to 2014. He failed to document payment of any of the debts. 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:

- (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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant has a long history of financial difficulties. The SOR debts are recent and all remain unresolved. He did not provide sufficient evidence to show that his financial

problems are unlikely to recur. While Applicant dealt with financial conditions beyond his control (a divorce in 2017), I find he has not acted responsibly in trying to resolve his debts. He failed to document any efforts by him to negotiate payment plans, or payments to his creditors. Consequently, he has failed to establish a good-faith effort to resolve his delinquent debts. There is no evidence Applicant used a financial counselor. He failed to support his debt disputes concerning his ex-wife with any documentation. AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) do not apply.

### **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 the facts and circumstances surrounding this case, including his divorce in 2017. Nevertheless, Applicant has not established a track record of financial stability.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline F, 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:	AGAINST APPLICANT
Subparagraphs 1.a – 1.k:	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 eligibility for a security clearance. Eligibility for access to classified information is denied.

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Robert E. Coacher  
Administrative Judge