



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



In the matter of: )  
)  
) ISCR Case No. 20-03022  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Patricia Lynch-Epps, Esq., Department Counsel  
For Applicant: *Pro se*

09/07/2021

**Decision**

LYNCH, Noreen A., Administrative Judge:

This case alleges security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

**Statement of the Case**

On December 18, 2020, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guideline F. The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

Applicant answered the SOR, and requested a hearing before an administrative judge. (Answer.) The case was assigned to me on May 7, 2021. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on July 6, 2021, scheduling the hearing for August 10, 2021. The hearing was convened as scheduled. The Government offered Exhibits (GE) 1 through 3, which were admitted. Applicant testified on his own behalf. He submitted 28 documents at the hearing, Applicant Exhibits (AE) A through AF, which I marked, and accepted into the record without objection. DOHA received the transcript of the hearing (Tr.) on August 19, 2021.

## Findings of Fact

Applicant, age 31, is married and has no children. He obtained his high school diploma in 2008. He completed his undergraduate degree in 2014. He did not serve in the military. Applicant completed his security clearance application on January 24, 2020. This is his first request for a security clearance. He is employed with a technology company since January of last year. (Tr. 13-14) Applicant has his own consulting company in the Bahamas, which he started in 2016. (GE 1). (GE 1, Tr. 15) He is a development engineer, among other things. (Tr. 23)

The SOR alleges that Applicant has delinquent debt in the approximate amount of \$41,849. The debts include consumer loans, a vehicle repossession and collection accounts. Applicant admitted the allegations in the SOR ¶1.a-h. without explanations. Applicant noted that he has had various periods of unemployment over the years and some firings because he left a project in 2018, so that he could be with his wife in the Bahamas for their official wedding. They were married in 2016 in a simple ceremony in the United States. (Tr. 24) His salary at that time was about \$135,000 or \$140,000. He is currently earning \$60,000 to \$70,000. (Tr. 16)

Applicant acknowledged his financial hardship started in 2018, when he returned from his wedding abroad. (Tr. 16) He was unemployed from October 2019 to January 2020. In the interim, he was fired from a position from July 2019 to October 2019. (GE 1) His SF86 reflects other firings from employment as early as 2010. (GE 1)

During Applicant's investigative April 2020 subject interview, he stated that he knows that he has various debts and will pay them once he is financially able. He had not made any payment plans at that time either. (GE 2) Applicant basically stated the same thing about each debt. The one debt he acknowledged was a loan in 2016, a \$40,000 loan for his official wedding in the Bahamas. He noted that his wife will one day be the Prime Minister of the Bahamas. (Tr. 76) As to some other debts, he would research them and when he is financially stable he would pay them. (GE 2)

As to SOR 1.a, a debt in the amount of \$6,475 for the balance on a vehicle that was repossessed in 2019. He bought the high-end vehicle in 2016. Applicant tried to negotiate with the credit union for pennies on the dollar, but they did not agree. (Tr. 29) Applicant submitted a letter, dated July 15, 2021, setting up a payment plan for \$300 a month. (AE K) He stated that he was going to pay at some point, but because this was important for his security clearance, he would go ahead at that time and begin to resolve the debt. (Tr. 35) In the letter another loan is referred to and that would be SOR 1.d to the same credit union for \$100 a month. (Tr. 36) The charge-off amount was \$14,077. (AE K) He submitted proof of a payment of \$100 and \$300 from Applicant's account in 2021. (AE O).

As to SOR 1.b, a past-due account from 2017, in the amount of \$645, Applicant provided information that he has a balance of \$2,929.67 as of July 2021. This is for tires and wheels for his vehicle. He stated that it was resolved in 2019 because the company took his car. (Tr. 40) Applicant elaborated that he used to work in debt collection and

knew that generally if you left something long enough, you can just pay pennies on the dollar. (Tr. 40-41) He offered EX Q showing the same balance and that he had made three payments of \$31. In July and August 2021. The letter stated that he has 93 of 96 payments remaining, with a final payment due in April 2029. (AE Q) He could not provide any proof of payment. (Tr. 43)

As to SOR 1.c, a charged off account in 2019, in the amount of \$15,443. Applicant opened this credit card account in 2014. He stated that it was probably used for travel or his wedding. (Tr.44) He stated that it was resolved in 2019, but he knew it was just “shut off.” He took no actions to resolve it. (Tr. 45) He submitted (AE M) to show that he made a payment of \$100 in June 2021. The current balance is \$15,243.

As to SOR 1.e, a charged-off account in the amount of \$1,919 for a “rolling pay pal account, he did not remember. However he paid the account on May 14, 2021. (Tr. 52, AE L, H)

As to SOR 1.f, a charged-off account in the amount of \$473, Applicant paid the insurance account in May 2021. He has multiple cars. (Tr. 46) He admitted that he made no earlier efforts to pay. (AE N, H)

As to SOR 1.g, a collection account in the amount of \$358, this was an outstanding energy bill. He said that this is ridiculous worrying about minor “stuff”. (Tr. 56) He paid the bill in August 2021. (AE O. P) He stated that he is trying to “sell you guys weapons here. This is ridiculous.” (Tr. 55) He continued to elaborate that why is the Government worrying about such accounts when he is developing things that are a thousand times worse than nuclear weapons.” (Tr. 57)

SOR 1.h a collection account in the amount of \$232 is for another energy account. Applicant has been aware of it for a long time. (Tr. 59) He paid it on July 15, 2021. (AE R)

Applicant does not have a budget. He stated he always had enough money (Tr. 73), and he has not sought financial counseling. His current employment earns him (after taxes) about \$4,000 (\$50,000 per annum). His wife makes about \$2,400. (Tr. 60) His consulting company is dormant. (Tr. 61) He believes he has about \$1,000 in his checking account. His wife purchased a car and paid for it in full. He was not sure what he spends on food, because some is for business expenses.

The remaining exhibits that Applicant presented (AE S-AF) deal with his patent work for the Government and the current state of global affairs. His plan is to go back to making lots of money because he is not going to sit around and make little amounts of money. (Tr. 73) He stated that he has a “whole list of projects and engineers lined up for the military to get \*s—t\* in gear.” (Tr. 73) He also noted that he is setting up something in another state to import labor from the Bahamas and build a base to run on for a political position there. He wants to stabilize the Bahamas so we can deal with China. (Tr. 76)

Applicant noted that debt does not concern him. (Tr. 77) He wants to support the United States. If paying off debts gets in the way of making investments in a business and making moves ----that comes before debt. (Tr. 77) He started addressing accounts and debts in 2019 or 2021 ..... because you also have the last name which “messes me.” (Tr. 84, See pages 87 to 88 for more information on his global or domestic projects.)

## **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 (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant’s national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, “Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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 the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who seeks access to classified information enters into enter 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of EO 10865, “Any determination under this order adverse to an applicant shall be a determination 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)**

The concern under this guideline is set out 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 . . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions, corroborated by his credit reports, establish two disqualifying conditions under this guideline: AG ¶ 19(a) (“inability or unwillingness to satisfy debts”), and AG ¶ 19(c) (“a history of not meeting financial obligations”).

The security concerns raised in the SOR may be mitigated by any of the following potentially applicable factors:

AG ¶ 20(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;

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 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

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

Applicant admitted his debts alleged in the SOR, and that they were not of concern to him given the fact that he knew he could pay everything when he had a good paying job. He took out a loan for \$40,000 for a wedding and did not worry when it would be paid. He has started paying on his debts and a few small ones are resolved. After the issuance of the SOR, Applicant began to contact some of the creditors and or dispute the accounts. He knew if he waited long enough, he could pay pennies on the dollar based on his experience as a debt collector.

He would leave a job or be fired if he had a personal priority. While he has been unemployed, he did not act responsibly once he obtained full-time employment. He admitted that he tried to negotiate with his creditors. He presented some mitigation but waiting to pay is not a substitute for good-faith efforts to repay debt. He has been gainfully employed since January 2020. He spent his money on things that were not necessary. He showed poor judgment and responsibility and put his efforts into engaging his own companies. Sufficient time has not lapsed to establish a history of good-faith efforts. AG ¶ 20(a) is not established. Applicant's delinquent debts remain unresolved except for a few initial payments recently.

AG ¶ 20(b) is not established. Applicant did not present any credible explanation for the delinquent debts or that circumstances beyond his control caused the delinquent debts. He did not act responsibly to address the resulting debts.

AG ¶ 20(c) and 20(d) are not established. Applicant did not receive any financial counseling, nor are there clear indications that his financial situation is under control. Only recently did he begin to address the debts when he realized that a security clearance and employment were in jeopardy. He reiterated that he has plenty of things that he is working on for the military at the moment, but did not meet his evidentiary burden demonstrating his finances are in good order. Any doubts must be resolved in favor of the Government.

Applicant failed to meet his burden to mitigate the financial concerns set out in the SOR. For these reasons, I find SOR ¶¶ 1.a through 1.h against Applicant.

### **WHOLE PERSON Concept**

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall common sense judgment based upon careful consideration of the applicable guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guideline F, and evaluating all the evidence in the context of the whole person, including his open disdain for the security clearance process and priority for his own various companies and projects, I conclude that Applicant did not mitigate the security concerns raised by his financial indebtedness. Accordingly, Applicant has not carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): AGAINST APPLICANT

Subparagraphs 1.a – 1.i: Against Applicant

### **Conclusion**

I conclude that it is not clearly consistent with the national interest to continue Applicant's eligibility for access to classified information. Clearance is denied.

Noreen A. Lynch  
Administrative Judge