



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



In the matter of: )  
)  
) ISCR Case No. 19-03570  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Mary M. Foreman, Esq., Department Counsel  
For Applicant: *Pro se*

11/10/2021

**Decision**

LOUGHRAN, Edward W., Administrative Judge:

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

**Statement of the Case**

On February 12, 2020, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on March 23, 2020, and requested a hearing before an administrative judge. Scheduling of the case was delayed because of the COVID-19 pandemic. The case was assigned to me on May 18, 2021.

The hearing was convened as scheduled on June 16, 2021. Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. The Government also submitted a demonstrative exhibit, which was marked Hearing Exhibit II. Applicant testified and submitted Applicant's Exhibits (AE) A through D, which were admitted without objection. The record was held open for Applicant to submit additional information. He submitted documents that I have marked AE E through G and admitted without objection.

## Findings of Fact

Applicant is a 47-year-old employee of a defense contractor, where he has worked since January 2019. He has a General Educational Development (GED) high school equivalency diploma and trade certifications. He is married for the fourth time after his first three marriages ended in divorce in 2002, 2014, and 2019. His current wife (fourth) was also his second wife. He has two children. (Transcript (Tr.) at 18-23, 31-32; GE 1, 2)

The SOR alleges 28 delinquent debts. The debts consist of 3 past-due or charged-off auto loans; 18 delinquent medical debts totaling about \$4,200; and 7 miscellaneous delinquent debts. However, the two \$2,073 debts alleged in SOR ¶¶ 1.c and 1.x are duplicate accounts. The 6 non-duplicate miscellaneous delinquent debts total about \$4,780. The debts are listed on a February 2017 credit report, a March 2019 credit report, or both credit reports.

Applicant attributed his financial problems to his divorces and an injury at work. He stated that he was working 60 to 80 hours a week when he was injured in 2015. He did not recover fast enough for his employer, who told him that he could resign or they would let him go. He resigned. When he was able to work again, it was at an hourly rate that was half of what he was earning. He moved to another state in 2016 for a job as a DOD civilian employee. He and his third wife lived with her parents. She kicked him out of the house in 2017. He left the government job in 2018 and relocated to his current location, which was essentially his home. (Tr. at 16-17, 22-25; Applicant's response to the SOR; GE 1, 2)

In addition to the three defaulted auto loans alleged in the SOR, Applicant's credit report from February 2017 lists nine paid auto loans taken out between 2009 and 2014. The high credit on the loans was reported as ranging from \$20,632 to \$54,619. One of the loans was a joint account; the rest were individual accounts. It is unclear how many of the loans were for purchased vehicles and how many were refinanced loans on vehicles already owned. The credit report also lists a current joint auto loan that was taken out in 2016 for about \$23,703. That auto loan is reported on the March 2019 credit report as paid in 2018. That credit report lists two additional auto loans: a \$10,840 individual auto loan that was opened in 2017, and was \$656 past due; and a \$15,421 individual auto loan that was opened in 2019. That loan was current. Applicant stated that the \$10,840 loan was for a motorcycle. He stated that he became current on the loan, and then sold the motorcycle to his brother, who paid off the loan.<sup>1</sup> (Tr. at 45-46; GE 3, 4)

The auto loans alleged in the SOR will be addressed in the order they were taken out. SOR ¶ 1.y alleges a \$985 balance due on a loan for a vehicle that had been repossessed. The 2017 credit report lists it as a voluntary surrender on an individual

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<sup>1</sup> None of the auto loans in this paragraph were alleged in the SOR, and only one of them was reported as past due. They are addressed in the decision solely to place the debts that were alleged in the SOR in context.

loan of about \$32,000 that was opened in 2011, with a date of last action of October 2014. Applicant stated that the vehicle was awarded to his at-the-time second wife (now current wife) in their divorce, but she did not maintain the payments, and it was repossessed. There is no evidence of any payments made toward the deficiency. (Tr. at 26-28; Applicant's response to the SOR; GE 3, 4).

Applicant and his third wife borrowed about \$55,000 on an auto loan in 2014. He stated that the vehicle was repossessed in about 2016 after he lost his job due to an injury. The deficiency balance due on the loan is about \$25,000 (SOR ¶ 1.b). Neither Applicant nor his third wife have made any payments toward the deficiency. (Tr. at 26-28)

Applicant and his third wife borrowed about \$30,000 on an auto loan in 2018. The March 2019 credit report lists the loan as a joint account that was \$2,202 past due, with a balance of \$33,364 (SOR ¶ 1.a). He stated that the vehicle was his third wife's car. He did not think that his 2002 car would make the trip when he relocated to another state in 2018. She let him use the car for the trip, but it was apparently returned to his third wife. The current status of the car and the loan is uncertain. (Tr. at 28-33; Applicant's response to SOR; GE 2, 4)

Applicant stated that many of the medical debts were for his third wife and his third wife's children. They were Applicant's stepchildren at the time. Since the divorce, the children are no longer related to Applicant. He stated that some of the medical debts were related to his 2015 work-related injury. (Tr. at 37-38; Applicant's response to SOR; GE 2-4)

Applicant contracted with a credit-repair company in 2019 or early 2020 to assist him in disputing items on his credit report. He stated that the company also provided counseling on how to resolve his financial problems. They recommended, and he stated that he is following, the "snowball" method of paying the smallest debts first and then moving on to the next largest debt. He stated that he is paying or paid several of the debts alleged in the SOR. He was informed of the importance of providing documentation, but he failed to provide any documented proof of payments, either during the hearing or post-hearing. (Tr. at 16, 27, 33-43; AE A, E, F)

Applicant stated that his wife is attempting to find a better job, and he is looking for a part-time job. He stated that he and his wife both have vehicles, and they each pay the loan on their vehicle. After the hearing, Applicant submitted a "consumer-debt-to-income worksheet." It shows that he is paying \$870 per month on a loan for a truck, with a balance of \$34,556; and \$246 per month on a loan for a motorcycle, with a balance of \$4,671. He stated that he was unable to obtain documentation of payments toward any of the SOR debts. (Tr. at 17, 43; AE E, G)

Applicant submitted documents and letters attesting to his excellent job performance and strong moral character. He is praised for his trustworthiness, work ethic, generosity, honesty, professionalism, and integrity. (AE B-D)

## Policies

This case is adjudicated under Executive Order (EO) 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), which became effective on June 8, 2017.

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 to be 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, administrative judges apply the guidelines 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 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."

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 the applicant or proven by Department Counsel." The applicant 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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

The security concern for financial considerations 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

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

Applicant's financial history, which includes multiple delinquent debts, is sufficient to raise the above disqualifying conditions.

SOR ¶¶ 1.c and 1.x allege duplicate accounts. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005). SOR ¶ 1.x is concluded for Applicant.

The SOR alleges 18 delinquent medical debts totaling about \$4,200. The \$404 debt alleged in SOR ¶ 1.bb is the only medical debt that identifies the creditor. That debt is listed on the February 2017 credit report, but not the March 2019 credit report. I believe Applicant owes some medical debts, but I am not convinced that he owes any of the specific medical debts alleged in the SOR. I am concluding all of the medical-debt allegations for Applicant, but I will continue to consider that Applicant owes some medical debts in assessing his overall financial status and when applying mitigation.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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;

(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 attributed his financial problems to his divorces and an injury at work. After his third wife kicked him out of the house, he left his government job and moved back to his home location.

Applicant contracted with a credit-repair company in 2019 or early 2020 to assist him in disputing items on his credit report. He stated that he is following the "snowball" method of paying the smallest debts first and then moving on to the next largest debt. He stated that he is paying or paid several of the debts alleged in the SOR. He was informed of the importance of providing documentation, but he failed to provide any documented proof of payments, either during the hearing or post-hearing. The Appeal Board has held that "it is reasonable for a Judge to expect applicants to present documentation about the satisfaction of specific debts." See ISCR Case No. 09-07091 at 2 (App. Bd. Aug. 11, 2010) (quoting ISCR Case No. 04-10671 at 3 (App. Bd. May 1, 2006)).

There is insufficient evidence for a determination that Applicant's financial problems will be resolved within a reasonable period. I am unable to find that he acted responsibly under the circumstances or that he made a good-faith effort to pay his debts. His financial issues are recent and ongoing. They continue to cast doubt on his current reliability, trustworthiness, and good judgment. I find that the security concerns arising out of Applicant's delinquent debts are not mitigated.

### **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 relevant 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 guidelines and the whole-person concept. I have incorporated my comments under Guideline F in my whole-person analysis. I also considered Applicant's favorable character evidence.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations security concerns.

### **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.d:	Against Applicant
Subparagraphs 1.e-1.f:	For Applicant
Subparagraphs 1.g-1.h:	Against Applicant
Subparagraphs 1.i-1.x:	For Applicant
Subparagraphs 1.y-1.aa:	Against Applicant
Subparagraph 1.bb:	For Applicant

### **Conclusion**

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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Edward W. Loughran  
Administrative Judge