



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
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Applicant for Security Clearance )

ISCR Case No. 20-00118

**Appearances**

For Government: Nicole A. Smith, Esq., Department Counsel  
For Applicant: *Pro se*

12/17/2021

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**Decision**

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MASON, Paul J., Administrative Judge:

The lack of documented evidence to confirm that any of the listed debts have been paid disqualifies Applicant's security clearance application. The financial considerations guideline has not been mitigated. Eligibility for a security clearance is denied.

**Statement of Case**

Applicant signed an Electronic Questionnaire for Investigations Processing (e-QIP, Item 3) on October 8, 2018. After being unable to make an affirmative finding regarding Applicant's security clearance eligibility, the Department of Defense Counterintelligence Security Agency (DCSA), issued a Statement of Reasons (SOR) June 9, 2021, detailing security concerns under the guideline for financial considerations (Guideline F). This case is adjudicated in accordance with Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security*

*Clearance Review Program* (January 1992), as amended (Directive); and the adjudicative guidelines (AG) dated June 8, 2017.

On June 16, 2021, Applicant submitted his answer to the SOR. On July 23, 2021, the Government sent Applicant a copy of the Government's File of Relevant Material (FORM), the documentary evidence in support of the allegations of the SOR. The FORM included five items of evidence listed on page 1 and 2 of the FORM. He received the FORM on August 5, 2021. The delivery receipt confirms that the SOR was mailed to Applicant on July 23, 2021. The receipt also confirms that Applicant received the SOR on August 5, 2021. Both dates appear to the left and right of Applicant's signature. Applicant's two email addresses appear above the signature line. The FORM recommended he file a response including objections, or submit explanations or other information within 30 days of receiving the FORM. DOHA received Applicant's response on September 7, 2021. The FORM was assigned to me on October 6, 2021.

### **Findings of Fact**

The SOR lists two student loan debts totaling \$78,501. (SOR 1.a, 1.b) and delinquent child support amounting to \$31,325 (SOR 1.f). There are six remaining delinquent consumer debts identified in SOR 1.c, 1.d, 1.e, 1.g, 1.h, and 1.i, totaling \$8,566. In his answer, Applicant claimed payments were being made to resolve SOR 1.a, 1.b, 1.c, and 1.f. He denied SOR 1.d, 1.e, 1.g, 1.h, and 1.i, contending that these debts were paid or settled.

Applicant is 34 years old; he married in 2016. He has four children, ages 14, 10, 8, and 4. He attended college from 2001 to 2005, 2010 to 2012, and August 2012 to the present. Currently, he is working stateside as a cybersecurity analyst. No additional information is available regarding this employment. His October 2018 e-QIP reflects that he was employed overseas as a technician control II since June 2017. Though he indicated he was unemployed from June 2016 to May 2017, he also indicated he was on active duty in the United States Army from September 2008 to December 2016, receiving an honorable discharge. Though he claims that he was in college from August 2005 to August 2008, his earlier college attendance information (Item 3 at 12-14) does not show he was in college during the period.

SOR 1.a – This student loan account was opened in June 2014 and transferred for collection in December 2015. (Item 4 at 2) Applicant provided no explanation for denying the delinquent account. He provided no documentation that shows payment arrangements he claimed he made.

SOR 1.b – As with SOR 1.a, this student loan account was opened in June 2014 and transferred for collection in October 2015. (Item 4 at 2) As with SOR 1.a, he did not explain why he denied the account, or the steps he took to put payment arrangements in place. His response to the FORM contains a letter dated August 17, 2021, from a student loan servicer, indicating that they had accepted a payment plan for an initial payment of

\$985 due in August 2021, then \$250 a month thereafter until the balance was paid. There is no documentation showing that any payments were made. (Response to FORM at 5)

SOR 1.c – This is a delinquent account with a federal finance agency that administers and manages the accounts of military and civilian employees. (Item 4 at 2) The account was opened in May 2015, and was charged off in June 2015. The current status of the debt does not preclude the government from selling the debt to a collection agency or suing Applicant to obtain a judgment for the outstanding delinquent balance. Applicant provided no independent evidence to substantiate his claim that he was making arrangements to pay the delinquent account.

SOR 1.d – This account was opened in May 2015 and charged off a month later. (Item 4 at 2) In his response to the FORM, Applicant provided a five-page exhibit containing four letters from four different collection agencies showing that a specific account was paid or settled. Because none of the account numbers in the two credit reports (items 4, 5) match the account numbers in the four different collection letters of Applicant's five-page exhibit, I am unable to determine whether any of the collection letters apply to the listed accounts in SOR 1.d (Item 4 at 2), 1.e (Item 4 at 2), 1.g (Item 5 at 18), 1.h, (Item 5 at 18) and 1.i. (Response to FORM at 1-4)

SOR 1.f – This past-due child support account was opened in May 2014, and was transferred for collection in October 2018. (Item 5 at 5) Applicant indicated in his security clearance application that he was making monthly payments, but he furnished no evidence to support his claim that payment arrangements, i.e., bank statements or statements from the state child services agency, or cancelled checks, were made to pay the delinquent child support. His unemployment from January 2016 to May 2017 occurred over four years ago. The extra interest that Applicant noted in his answer to the SOR, usually is added when child support has not been paid or payments are irregular.

In sum, while Applicant is credited with paying off or settling four delinquent accounts, there is no way to verify these settlement letters apply to any of the accounts identified in SOR 1.d, 1.e, 1.g, 1.h, and 1.i. He presented no documented information about the status of the child support account identified in SOR 1.f. Without information explaining his financial habits, there is no way to determine how he manages his financial responsibilities. Since June 2014, Applicant has accumulated more than \$118,000 in delinquent student loan debt, child support debt, and consumer debt. (Items 3 and 4)

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are flexible rules of law, apply together with common sense and the general factors of 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 evidence to rebut, explain, extenuate, or mitigate facts that he admits or denies. The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

## **Analysis**

### **Financial Considerations**

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. 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.

An individual's consumer debt becomes a government concern when credit reports show he is not paying his debt according to previously agreed contractual terms or court order.

AG ¶ 19. Conditions that could raise a security concern and may be disqualifying include:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligation.

Applicant has a history of financial problems that is substantiated by his June 2021 answer to the SOR and the 2018 and 2019 credit reports. The total amount of debt is more than \$118,000. AG ¶¶ 19(a) and 19(c) apply. AG ¶ 19(b) does not apply because Applicant provided documentation verifying that he paid or settled four debts. The problem

is that there is no way to prove that any of the paid or settled debts are those listed in the SOR.

AG ¶ 20. Conditions that could mitigate security concerns include:

(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; and

(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.

Though several listed debts are dated, several others are less than three years old. Applicant's failure to supply evidence of the status of the student loan debt identified at SOR 1.a and 1.b, and the delinquent child support debt at SOR 1.f, indicate that his financial problems will likely continue in the future. AG ¶ 20(a) does not apply.

Applicant receives some mitigation for his unanticipated unemployment from January 2016 to May 2017. However, he has not presented any evidence to indicate employment disruption since May 2017. He has not provided evidence of unexpected medical problems. Instead of showing signs of regaining control over his financial responsibilities, he has accumulated additional debt in the interim. While he has paid off or settled some debts, there is no proof that he has satisfied, or is in a payment plan for any of the listed debts. The mitigation that Applicant receives due to the unforeseen unemployment is undermined by the absence of documented evidence that shows any of the listed debts were paid or settled. Applicant receives minimal mitigation under AG ¶ 20(d) for similar reasons. AG ¶ 20(c) is unavailable for mitigation as there is no evidence of financial counseling to conclude that Applicant's financial problems are under control.

### **Whole-Person Concept**

I have examined the evidence under the guideline for financial considerations in the context of the nine general factors of the whole-person concept 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 common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant is 34 years old. He has been married since December 2016, and has four children. He has several college credits but no diploma. He served in the Army from September 2008 until his honorable discharge in December 2016.

Weighing against the favorable evidence of Applicant's educational background and his positive service to the Army, is the large amount of delinquent debt he has accumulated with no plan to repay the debt. Under the DOHA Appeal Board's jurisprudence, an applicant can overcome the Government's prima facie case of financial problems by furnishing evidence of a "meaningful track record" of debt reduction through repayment over a reasonable period. See, ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 2007). Applicant has produced evidence of debt reduction by payment or settlement of four delinquent debts. But he has not supplied unequivocal evidence that proves he paid or settled the listed consumer debt. Nor has he put forth a plan, or taken documented steps in furtherance of the plan, to address the two delinquent student loan debts and the delinquent child support account. Having weighed the evidence from a commonsense point of view, the financial considerations guideline has not been mitigated.

### **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.i:	Against Applicant

## **Conclusion**

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

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Paul J. Mason  
Administrative Judge