



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



In the matter of: )  
)  
) ISCR Case No. 18-02718  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Jeff Nagel, Esq., Department Counsel  
For Applicant: *Pro se*

01/31/2022

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

**History of the Case**

On April 16, 2021, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. DOD acted 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 effective June 8, 2017 (AG).

Applicant's case was being processed administratively when he lost his sponsorship in April 2018. At that time, his case was dismissed by the Defense Office of Hearings and Appeals (DOHA) for lack of jurisdiction. Subsequently, Applicant gained employment with a contractor, which renewed sponsorship for his clearance. With jurisdiction reestablished, DOHA continued processing Applicant's case (a new,

erroneous, case number of 21-00552 was ascribed to the case and listed on the SOR, but the correct case number is the original one of 18-02718).

Applicant answered the SOR on May 5, 2021 (which contained attachments that were considered as part of his answer), and he requested a hearing before an administrative judge. The scheduling of this hearing was delayed because of the COVID-19 pandemic. DOHA issued a notice of hearing on October 26, 2021, and the hearing was convened as scheduled on November 17, 2021. The Government offered exhibits (GE) 1 through 10, which were admitted into evidence without objection. The Government's exhibit list was marked as a hearing exhibit (HE I). Applicant and his wife testified, and he offered exhibits (AE) 1(a-f) through 14, which were admitted without objection. Applicant's exhibit list was marked as HE II. The record was kept open to allow Applicant to submit additional evidence, which he did in the form of AE 1.g and 15, which were admitted without objection. DOHA received the hearing transcript (Tr.) on November 29, 2021.

### **Findings of Fact**

Applicant admitted all but one of the SOR allegations, with explanations. His admissions are incorporated into these findings of fact. After a review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is a 39-year-old employee of a defense contractor. He has worked for his current employer since 2017. He has been promoted several times while working for this contractor. He served in the U.S. Air Force on active duty for 15 years and was honorably discharged in late 2016 as a staff sergeant (E-5). He was separated because of not making promotion to the next rank, E-6. He was unemployed for about one year after his military separation. He receives service-connected disability payments from the Department of Veterans Affairs (VA) rated at 80 percent. He has an associate's degree. He has been married for 17 years and has two children, ages 19 and 15. (Tr. at 7, 27-30)

The SOR alleged that Applicant had four charged-off debts, a foreclosure, and a judgment totaling approximately \$30,494. (SOR ¶¶ 1.a-1.f) The debts are established by Applicant's admissions, court documents, and entries on several credit reports. Two of the listed SOR debts (SOR ¶¶ 1.a and 1.f) refer to the same underlying debt. I will consider only one debt and find for the Applicant on the duplicate debt (See GE 8, p. 2, entry 1). (GE 3-10; Answer to SOR)

By his own admission, Applicant's financial difficulties were partly caused by his family living outside their means when he was in the Air Force. He essentially lived on the same pay for about 11 years because of his lack of promotion. Additionally, his wife suffers from a bipolar disorder. When he was deployed to a combat zone, she fell into a depressive state and self-medicated by going on spending binges, while simultaneously neglecting the family household finances. His year of unemployment in 2017, after his discharge, also contributed to his financial problems. (Tr. at 28, 31; AE 12)

The status of Applicant's delinquent debts is as follows:

**SOR ¶ 1.a-\$4,948 (same underlying debt as SOR ¶ 1.f).** Applicant incurred this debt in 2012. The creditor for this original debt was a bank. When Applicant became delinquent on the debt he tried to negotiate a payment plan with the bank but it refused to accept anything other than full payment. In November 2019, Applicant entered into a payment plan with the successor collector and documented 19 continuous payments of at least \$225 since then. This debt is being resolved. (Tr. 35, 39; GE 8; AE 8; Answer to SOR).

**SOR ¶ 1.b-\$3,143.** Applicant incurred this debt when the family had their furniture damaged and subsequently purchased new items on credit. No payment arrangements have been established for this debt. Applicant credibly asserted that once some of his other debts are resolved, he will address this debt. (Tr. 39; Answer to SOR)

**SOR ¶ 1.c-\$836.** Applicant incurred this debt from a line of credit in 2009. No payment arrangements have been established for this debt. Applicant credibly asserted that once some of his other debts are resolved, he will address this debt. (Tr. 42; Answer to SOR)

**SOR ¶ 1.d-\$14,812.** Applicant incurred this debt when a vehicle was repossessed, sold, and he was left with a deficiency balance. He negotiated a payment plan with a successor collector in November 2021 and documented making his first \$102 payment under the plan. This debt is being resolved. (Tr. 40-41; AE 14-15)

**SOR ¶ 1.e-\$2,324.** Applicant incurred this debt through a home loan secured by a mortgage. He bought the home when he was stationed at an Air Force base with limited housing. When it was time to rotate to a new assignment, he could not sell the house because the base had downsized its military population and the market was flooded with homes for sale. This led to him ultimately defaulting on the loan and the creditor foreclosed on the property, which was sold through this process, thereby resolving the underlying debt. No deficiency resulted for Applicant. Applicant's latest credit report corroborates that no amount is owed. This debt is resolved. (Tr. 31-32, 35, 42-43; GE 8; AE 8; Answer to SOR)

**SOR ¶ 1.f-\$4,431.** This is the same underlying debt as listed in ¶ 1.a above. This allegation reflects the judgment on the debt that the creditor obtained. This debt is resolved. (Tr. 39, 42-44; GE 8; AE 8; Answer to SOR)

Applicant credibly testified that he is currently in good financial shape. He documented that he is current on his car payments, that he adheres to a monthly budget, and he provided a spreadsheet showing his plan to repay his remaining debts. He also contracted with a debt management company (DMC), which monitors his credit reports and disputes any questionable entries. The DMC also offers him advice on strategies to help his financial wellbeing. His yearly gross income is approximately \$106,000 and he has approximately \$1,400 in savings and \$25,000 in his retirement account. He has not

incurred any new debt, and he is paying all his current bills on time. (Tr. 45-47, 49-52, 54-55, 59; AE 13, 15)

Applicant provided character letters from six current coworkers and one from an Air Force colleague. All attest to his trustworthiness, loyalty, and work ethic. They recommend his clearance approval. (AE 1.a-1.g)

### **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 had multiple delinquent debts that were unpaid or unresolved. Both of the above disqualifying conditions are raised by the evidence.

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:

- (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's financial difficulties came about because of circumstances within his control (not being promoted for 11 years by the Air Force and overspending when he was on a fixed income) and circumstances beyond his control (his wife's bipolar condition leading her to binge-spend while he was deployed, not being able to sell his house due to market conditions, and his year of unemployment after his discharge from the Air Force). Applicant eventually acted responsibly by entering into debt payment plans for the two largest delinquent debts and credibly setting forth his plan to address the other two debts. He documented that the underlying home loan was paid through the foreclosure sale and he has no more responsibility for it. While his financial state is not perfect, that is not the requirement. He has established a track record of steady payments to reduce his delinquent debts. There are clear indications that his debts are being resolved and that he is making good-faith efforts to do so. All of the above mitigating conditions substantially 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 relevant facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment. I considered Applicant's military service, his service in a deployment combat area, and the

strong recommendations of his coworkers. While Applicant could have been timelier in his resolution of his debts, he eventually addressed them, except for two that will be addressed in the future.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated 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: FOR APPLICANT

Subparagraphs: 1.a-1.f: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Robert E. Coacher  
Administrative Judge