



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

In the matter of: )  
)  
) ISCR Case No. 20-03662  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*

01/12/2022

**Decision**

RIVERA, Juan J., Administrative Judge:

Applicant’s evidence is insufficient to establish that he has been financially responsible addressing his delinquent accounts. He failed to establish he has taken good-faith efforts to resolve his debts and that his financial situation is under control. Clearance is denied.

**Statement of the Case**

Applicant submitted his most recent security clearance application (SCA) on January 16, 2020, seeking clearance eligibility required for his employment with a federal contractor. He was interviewed by a government background investigator on March 4, 2020, and submitted documents in mitigation, explanation, or extenuation following the interview. After reviewing the information gathered during the background investigation, the Defense Counterintelligence and Security Agency, Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) on February 4, 2021, alleging security concerns under Guideline F (financial considerations). Applicant answered the SOR on February 9, 2021, and requested a decision based on the written record in lieu of a hearing.

A copy of the Government's file of relevant material (FORM), containing the evidence supporting the security concerns, was provided to Applicant on September 10, 2021. He received the FORM on October 6, 2021, and was given 30 days after receipt of the FORM to raise objections, to submit evidence in extenuation and mitigation, and to submit evidence of his efforts to resolve his financial problems. He did not submit an answer to the FORM. The case was assigned to me on December 2, 2021. Without objections, I admitted and considered the Government's proposed evidence and Applicant's documentary evidence submitted in response to the SOR.

### **Findings of Fact**

The SOR alleges five delinquent accounts including: three charged-off credit accounts for \$10,542 (SOR ¶¶ 1.a through 1.c); and two accounts in collection, totaling around \$1,272 (SOR ¶¶ 1.d and 1.e). In his answers to the SOR, Applicant admitted SOR ¶ 1.a, and denied all of the remaining SOR allegations. His admission is incorporated herein in my findings of fact. After a thorough review of the record evidence, I make the following additional findings of fact:

Applicant is 50 years old. He graduated from high school in 1989, and shortly thereafter enlisted in the U.S. Army. Apparently, he served about a year on active duty and was then transferred to the Inactive Reserve where he served until 1997. He stated that he received an honorable discharge. While in the service, Applicant was granted eligibility for access to top-secret and sensitive compartmented information (SCI).

A federal contractor hired Applicant in 2006, and he has been working for subsequent federal contractors to present as a contract security supervisor. He also worked part-time for another federal contractor between 2009 and 2014. He was granted eligibility for access to secret information in 2009 and to top-secret in 2011. His access to classified information has been continued to present. His employment history indicates no periods of unemployment or underemployment. Applicant married his wife in 2008. They have six children, ages 31, 30, 27, 15, 11, and 10. He previously married in 1989 and became a widower in 1994.

All of the SOR debts are established by the credit reports in evidence, Applicant's SOR admission, and his statement to investigators during his March 4, 2020 interview. (FORM, Items 6-8; Item 5) The status of the accounts alleged in the SOR follows:

SOR ¶ 1.a (\$6,264) is a credit card account Applicant opened in 2010. He made his last payment on the account in about 2018, and after many collection efforts, the creditor charged-off the account. Applicant submitted no additional information on this account or any evidence of his intent (if any) to resolve this debt in the future.

SOR ¶¶ 1.b (\$2,936); 1.c (\$1,342); and 1.d (\$733) alleged charged-off credit card accounts owed to the same credit provider. In his SOR answer, Applicant denied the three allegations. However, in his March 2020 statement, he admitted having some accounts with the provider and claimed the accounts became delinquent because he

had to provide financial help to his parents and grandparents. He provided no documentary evidence to corroborate the need for him to provide financial support to relatives, the period when the support was provided, or the extent of the financial support.

State court records show that the credit provider successfully filed at least two collection actions against Applicant. In 2017, it filed a collection action for \$3,580, and obtained a consent judgment for \$2,860 in January 2020. The judgment was satisfied in September 2020. (FORM, Item 9) Apparently, some of Applicant's property was garnished to satisfy part of the judgment. (FORM, Item 9)

In December 2017, the creditor filed a collection action for \$1,518, and obtained a consent judgment for \$1,288 in January 2020. A lien was recorded against Applicant in October 2020, and a garnishment of wages was granted in May 2021. (FORM, Items 10 and 11) Applicant submitted no evidence to show that this judgment has been satisfied.

SOR ¶ 1.d (\$733) alleged an account in collection by a collection company on behalf of the same credit provider alleged in SOR ¶¶ 1.b and 1.c. In his SOR answer, Applicant denied the allegation. However, in his March 2020 statement, he admitted having some accounts with the provider and claimed the accounts became delinquent because he had to provide financial help to his parents and grandparents. He provided no documentary evidence to corroborate the financial support provided. The account is established by the record evidence. Applicant submitted no evidence to show that the account has been paid or otherwise resolved.

SOR ¶ 1.e (\$539) alleged a medical account in collection. In his March 2020 statement, Applicant admitted that he incurred the medical expense in 2014. He believed his insurance would have paid the debt, but then discovered it was not paid. Applicant submitted no evidence of his efforts to contact the creditor or to repay the debt. He disputed this debt, and the debts alleged in SOR ¶¶ 1.b, 1.c, and 1.d in January 2020. He submitted no reasonable basis to justify the disputes.

Applicant submitted no evidence about his efforts to pay his debts, or of any contacts with his creditors to establish payment arrangement. He presented no evidence to show he has participated in financial counseling or has a working budget. He did not present evidence of his and his wife's current financial situation (gross monthly income, deductions, monthly expenses, and monthly net remainder).

Except for the accounts alleged in SOR ¶¶ 1.a (\$6,264) and 1.c (\$1,342), Applicant's September 2021 credit report shows no additional delinquencies. He paid a \$36 medical account in collection in September 2021, and has a credit card with a \$3,070 balance that is over his \$2,700 credit limit, but it is not past due. The 2021 credit report also shows that he is current (pays as agreed) on his auto loan with a monthly payment of \$651, and on his monthly mortgage payments for \$446 and \$1,990. Without

any documentary evidence of his current financial situation, it is not possible for me to assess whether or not he is financially overextended

## Policies

The SOR was issued under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), applicable to all adjudicative decisions issued on or after June 8, 2017.

Eligibility for access to classified information may be granted “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

The AGs list disqualifying and mitigating conditions for evaluating a person’s suitability for access to classified information. Any one disqualifying or mitigating condition is not, by itself, conclusive. However, the AGs should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Each decision must reflect a fair, impartial, and commonsense consideration of the whole person and the factors listed in SEAD 4, App. A ¶¶ 2(d) and 2(f). All available, reliable information about the person, past and present, favorable and unfavorable, must be considered.

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant’s security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. The applicant bears the heavy burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of those who must protect national interest as their own. The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant’s suitability for access in favor of the Government. “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; SEAD 4, ¶ E(4); SEAD 4, App. A, ¶¶ 1(d) and 2(b). Clearance decisions are not a determination of the loyalty of the applicant concerned. They are

merely an indication that the applicant has or has not met the strict guidelines the Government has established for issuing a clearance.

## **Analysis**

### **Financial Considerations**

AG ¶ 18 articulates the security concern relating to financial problems:

Failure or inability 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 . . . .

Applicant's financial problems are documented in the record. Between 2010 and 2020, he acquired five delinquent accounts, three of which were charged off and two were in collection. The creditor of three of the accounts filed two collection suits and obtained two judgments against Applicant. Applicant presented no evidence of any good-faith efforts on his part to pay, settle, or resolve his debts, except for disputing the accounts without articulating a reasonable basis for the disputes.

AG ¶ 19 provides disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts;" and "(c) a history of not meeting financial obligations." The record established these disqualifying conditions, requiring additional inquiry about the possible applicability of mitigating conditions.

The following mitigating conditions under AG ¶ 20 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; and

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

Applicant claimed his financial situation was aggravated because he had to provide financial help to his parents and grandparents. He implied that his income alone was insufficient to pay his accrued debts, living expenses, and assist his family. Notwithstanding, he failed to submit documentary evidence to corroborate his claims of providing support to his family. Even if his financial problems could be attributed to, or were aggravated by, circumstances beyond his control (providing financial assistance to his parents), Applicant's evidence is insufficient to show he has been financially responsible under his circumstances. Applicant failed to submit evidence of his contacts with his creditors or of any payments made since he acquired the debts. He failed to establish his good-faith efforts to resolve his delinquent debts and that his financial situation is under control.

Clearance decisions are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of every debt or issue alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve issues or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts or issues alleged in an SOR be resolved first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts, or resolution of such issues, one at a time.

In this instance, the evidence is insufficient to demonstrate Applicant's current financial responsibility, and that his financial problems are being resolved and are under control. Mere promises to resolve financial issues in the future, without further confirmed actions, are insufficient. In this case, Applicant did not make any offers to resolve any of the accounts in the future. Additionally, he presented no evidence to show he has participated in financial counseling or has a working budget. He did not present evidence of his current financial situation (gross monthly income, deductions, monthly expenses, and monthly net remainder). The financial considerations security concerns are not mitigated.

### **Whole-Person Concept**

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, and under the whole-person concept. Security Executive Agent Directive (SEAD) 4, App. A, ¶¶ 2(a) and 2(d). I have incorporated my comments under Guideline F in my whole-person analysis. Some of

these factors were addressed under that guideline, but some warrant additional comment.

Applicant, 50, served nine years in the Army and the Reserves and held high-level clearances during his service. He has been employed with federal contractors since 2006. He also has held high-level clearances with the federal contractors. Notwithstanding, his evidence is insufficient to establish that he has been financially responsible addressing his delinquent accounts. He failed to establish he has taken good-faith efforts to resolve his debts and that his financial situation is under control.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. Financial considerations security concerns are not mitigated at this time.

### **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.e:	Against Applicant

### **Conclusion**

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

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JUAN J. RIVERA  
Administrative Judge