



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



In the matter of: )  
)  
) ISCR Case No. 20-00897  
)  
Applicant for Security Clearance )

**Appearances**

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

05/27/2022

**Decision**

COACHER, Robert E., Administrative Judge:

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

**Statement of the Case**

On September 11, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued Applicant a statement of reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DCSA CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective on June 8, 2017.

Applicant answered the SOR (undated), and requested a hearing before an administrative judge. The scheduling of this hearing was delayed because of the COVID-19 pandemic. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on January 28, 2022, and the hearing was convened as scheduled on February

15, 2023, using video teleconferencing capabilities. The Government offered exhibits (GE) 1 through 4, which were admitted into evidence without objection. The Government's exhibit list was marked as a hearing exhibit (HE I). Applicant testified, but he did not offer any exhibits at the hearing. The record remained open after the hearing, and Applicant timely submitted exhibits (AE) A-F, which were admitted without objection. DOHA received the hearing transcript (Tr.) on February 23, 2022.

### **Findings of Fact**

In his SOR answer, Applicant admitted all of the allegations, with explanations, except for SOR ¶ 1.h, which he denied. His admissions are adopted as findings of fact. After a review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is a 35-year-old employee of a federal contractor performing the duties of a laboratory technician. He began working at his present job in May 2019. He served in the Marine Corps from 2011-2016 as a radio technician and he received an honorable discharge. He now serves in his state's National Guard (NG). He joined the NG in November 2018 as a helicopter mechanic. He deployed with his NG unit in 2021. He holds a bachelor's degree. He is married and has six children, including two step-children. Three of the children still reside with him and his wife. (Tr. 6, 17-18, 22, 30; GE 1)

The SOR alleged eight delinquent accounts (two debts arising from repossessed cars, a debt from an unexpired lease, four telecommunications debts, and a medical debt) totaling approximately \$40,200. The debts are established by credit reports from September 2019 and December 2020; Applicant's personal subject interview (PSI) with an investigator in September 2019; and his SOR admissions. (SOR ¶¶ 1.a – 1.h) (GE 2-4; Answer to SOR)

Applicant's financial difficulties began after he was discharged from the Marine Corps in 2016. He was attending school, taking short-term jobs, and using his G.I. Bill benefits to support his family. During this time, his wife was unable to work because she cared for their young children. As a result, Applicant got behind on his debts. (GE 2)

The status of the SOR debts is as follows:

**SOR ¶ 1.a-\$17,186.** This debt resulted from the deficiency balance owed after the repossession and sale of Applicant's car. His last payment was in 2015, and it was repossessed in 2017. Applicant recently contacted the creditor about payment terms and was told the creditor would settle the debt for approximately \$7,819 paid over 24 months with a monthly payment of approximately \$325. Appellant did not provide any documentation showing that he accepted the plan or that he made any payments under a plan. This debt is unresolved. (Tr. 23, 25; GE 2-3; AE B)

**SOR ¶ 1.b-\$13,875.** This debt resulted from the deficiency balance owed after the repossession and sale of another of Applicant's cars. His last payment was in 2017. Applicant recently contacted the creditor about payment terms and was told the creditor

would settle the debt for approximately \$11,484 with monthly payments of \$20. Appellant did not provide any documentation showing that he accepted the plan or that he made any payments under a plan. This debt is unresolved. (Tr. 26; GE 2-3; AE B)

**SOR ¶ 1.c-\$5,554.** Applicant incurred this unexpired-lease debt when he vacated an apartment before the lease was up in 2016 because he could not avoid the rent amount. Applicant recently contacted the creditor about payment terms and was told the creditor would accept three equal payments of approximately \$1,851 to resolve the debt. Appellant did not provide any documentation showing that he accepted the creditor's proposal or that he made any payments. This debt is unresolved. (Tr. 29-30; GE 2-3; SOR answer; AE B)

**SOR ¶¶ 1.d-\$879.** Applicant admitted this telecommunications debt. He claimed he gave his wife a debit card to pay this bill, but she used the card for other things. The debt was turned over to a collection agency in 2016. He claims there is no longer a balance on this account, but he failed to present documentation showing payment. (GE 2-3; SOR answer; AE B)

**SOR ¶ 1.e-\$155.** Applicant admitted this telecommunications debt. He documented paying this debt in full on January 20, 2021. He had not made any payments on the account previously. This debt is resolved. (Tr. 28; GE 2-3; SOR answer, AE B-C)

**SOR ¶ 1.f-\$979.** Applicant admitted this telecommunications debt. He claimed that the creditor offered to allow him to make five payments on the debt, or to pay a one-time lesser settlement amount. He failed to present documentation that he took advantage of either option. This debt is unresolved. (GE 2-3; SOR answer; AE B)

**SOR ¶ 1.g-\$1,539.** Applicant admitted this telecommunications debt. He documented making one payment of \$235 on February 17, 2021, and a second payment of \$540 on March 1, 2021. He did not document any agreement reached with the creditor concerning a settlement, or an acknowledgement from the creditor that the two payments made settled the debt. This debt is unresolved. (Tr. 28; GE 2-3; SOR answer, AE B, D)

**SOR ¶ 1.h-\$125.** Applicant denied this medical debt. Applicant documented paying this debt in full on January 21, 2021. This debt is resolved. (GE 3; SOR answer; AE B, E)

Applicant testified that his annual income is approximately \$56,000 and that his wife's current income is between \$60,000 and \$70,000 annually. He and his family currently reside with his in-laws, but they are trying to purchase a home using his Department of Veterans Affairs benefits. He typically has approximately \$100 to \$200 left over at the end of the month after paying all his bills. He has approximately \$11,000 in his retirement account. He admitted that he currently lives paycheck to paycheck. He has received financial counseling through the NG. (Tr. 27, 30-34, 43)

Applicant's current supervisor wrote a letter supporting him stating that he is trustworthy, reliable, and hard working. His supervisor also recommended that Applicant retain his security clearance. (AE F)

## 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 incurred eight delinquent debts, the majority of which remain unpaid. I find both disqualifying conditions are raised.

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:

- (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's debts are recent because they are ongoing and, although he paid two of the smaller debts and made two payments towards another debt, he failed to document any payments toward the remaining debts. AG ¶ 20(a) is not applicable.

Applicant's underemployment and his wife's unemployment were circumstances beyond his control. However, he did not act responsibly concerning the debts when he failed to attempt to resolve them in a timely fashion. The two debt payments he made were after the issuance of the SOR. AG ¶ 20(b) is not fully applicable.

Applicant presented some evidence of financial counseling. However, his track record to date does not support a good financial picture and his admission about living paycheck to paycheck does not bode well for the future. While he did resolve two small debts and make one payment toward a larger debt, these actions are too little, too late. Applicant's financial problems are not under control. AG ¶ 20(c) does not apply. AG ¶ 20(d) applies only to SOR ¶¶ 1.e and 1.h.

### **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, including his deployment, his underemployment and his wife's unemployment, and his supervisor's letter of support. However, I also considered that he has not adequately addressed the majority of his delinquent debt. He has not established a meaningful track record of debt management, which causes me to question his ability to resolve his debts in the future.

Overall, the record evidence leaves me with question and doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the financial considerations security concerns. I considered the exceptions under Security Executive Agent Directive (SEAD) 4, Appendix C, dated June 8, 2017, and determined they are not applicable in this case.

### **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-1d, 1.f-1.g:	Against Applicant
Subparagraphs: 1.e, 1.h:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, 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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Robert E. Coacher  
Administrative Judge