



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



In the matter of: )  
)  
) ISCR Case No. 20-02034  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andre M. Gregorian, Esq., Department Counsel  
For Applicant: *Pro se*

05/17/2022

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**Decision**

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LOUGHRAN, Edward W., Administrative Judge:

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

**Statement of the Case**

On November 4, 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 December 7, 2020, and requested a hearing before an administrative judge. The case was assigned to another administrative judge on December 15, 2021, and reassigned to me on February 3, 2022.

The hearing was convened as scheduled on February 10, 2022. Government Exhibit (GE) 1 was admitted in evidence without objection. GE 2 through 4 were admitted in evidence over Applicant’s objection. The objection to GE 5 was sustained. Applicant testified, called a witness, and submitted Applicant’s Exhibits (AE) A through J, which were admitted without objection. The record was held open for Applicant to

submit additional information. He submitted an email and an attached document that I have marked AE K and L and admitted without objection.

### **Findings of Fact**

Applicant is a 37-year-old employee of a defense contractor, where he has worked since January 2020. He has two associate's degrees that he earned in 2006 and a bachelor's degree that he earned in 2010. He has never married, and he has no children. (Tr. at 12-13, 30; Applicant's response to SOR; GE 1)

Applicant has a history of financial problems, which he attributed to periods of unemployment and underemployment. (Tr. at 28-41, 45; Applicant's response to SOR; GE 1) The SOR alleges nine delinquent debts totaling about \$61,660. The debts include a payday loan (SOR ¶ 1.a - \$587), three defaulted student loans (SOR ¶¶ 1.b - \$21,609; 1.c - \$15,211; and 1.f - \$11,909), the deficiency balances owed on two auto loans after one vehicle was stolen, and the other vehicles was repossessed and sold (SOR ¶¶ 1.d - \$1,731 and 1.e - \$9,246), and three miscellaneous accounts (SOR ¶¶ 1.g - \$480; 1.h - \$431; and 1.f - \$457). Applicant owed all of the debts at one time, but all but two have been paid or settled. Specific debts are addressed below.

Applicant paid the delinquent \$587 payday loan (SOR ¶ 1.a) in November 2020. He settled the \$1,731 deficiency balance owed on an auto loan (SOR ¶ 1.d) for \$596, with the payment made in November 2020. He settled the \$9,246 deficiency balance owed on an auto loan (SOR ¶ 1.e) for \$4,500, with payments completed by February 2021. (Applicant's response to SOR; AE A, E, I)

Applicant settled the \$11,909 defaulted student loan (SOR ¶ 1.f) for \$5,000. He paid \$2,500 in November 2020 and another \$2,500 in January 2021 as settlement in full. He settled the \$480 loan (SOR ¶ 1.g) for \$300, which was paid in November 2020. He settled the \$431 and \$457 debts (SOR ¶¶ 1.h and 1.i) to the same credit union for \$877, with the payment in November 2021. (Applicant's response to SOR; AE B, D, F)

SOR ¶¶ 1.b and 1.c allege \$21,609 and \$15,2118 defaulted student loans owed to the U.S. Department of Education. Applicant asserted that he unsuccessfully attempted to defer the loans or have them placed in forbearance when he was unemployed. He stated that his paychecks were eventually garnished, and his income tax refunds were seized for the loans. He established a \$5 per month payment plan, but he said that the collections branch failed to keep track of the payments. (Tr. at 42-43; Applicant's response to SOR)

In January 2020, Applicant applied for a borrower defense discharge of his federal student loans. (Tr. at 56; Applicant's response to SOR; AE C) He stated in his response to the SOR:

Due to nefarious actions by the Department of Education, which was issuing blanket denials of Borrower Defense applications without considering the claims, a law suit was filed and there is currently litigation

to determine how the processing of the Borrower Defense Applications will be treated by the Department of Education.

Documents provided by Applicant show the two defaulted student loans alleged in the SOR and two additional student loans that were not alleged in the SOR. The principal owed on the four loans is \$50,860 and the interest owed is \$12,163, for a total of \$63,023. (Tr. at 49-51; AE G)

Applicant's student-loan payment records show seven payments of \$145 between October 2013 and July 2014, followed by monthly \$5 payments from October 2014 through March 2015. However, the \$5 payments in January, February, and March 2015 were reversed. Another \$5 payment was made in May 2015. His wages were garnished a total of \$2,152 between April and October 2016. All of those payments were applied to interest and fees, with none going to the principal. (Tr. at 43, 46; AE H)

Applicant resumed making \$5 monthly payments in December 2016, which continued through November 2017. He made a single \$5 payment in July 2018. In February 2019, \$1,095 was withheld from his federal income tax refund and applied to the loans. He made five payments of \$5 between August and December 2019, however two of those payments were reversed. He made a \$100 payment in January 2022. (Tr. at 46-48; AE H, K, L)

Applicant stated that he borrowed about \$37,000 in student loans, and he does not understand how he now owes about \$63,000. He did not appear to have a handle on the concept of compound interest and how if more than the interest is not paid, the loan can balloon to much more than what was borrowed. He admitted that he was "not a math guy." Even though he does not completely agree with the amount owed, he entered into a \$463 per month payment agreement in January 2022. He made a \$465 payment in February 2022. He intends to honor the agreement. He realizes now that if he does not start addressing the loans with payments going toward the principal, absent action from the federal government or a favorable result from the lawsuit, the loans will continue to grow. (Tr. at 50-68; Applicant's response to SOR; AE K, L)

Applicant paid several debts that were not alleged in the SOR. Applicant's January 2022 credit report listed four accounts that were a total of \$567 past due. He owed the IRS about \$1,200 for tax year 2019, but he has been paying the IRS and reduced the amount owed to about \$400. He acknowledged that he made some financial mistakes, but he has learned valuable lessons. His finances are the best they have been in years. He has a good job that pays well. He plans to bring his accounts current and continue to pay his other accounts, including his taxes and student loans. He has not received financial counseling. (Tr. at 69-79, 84; GE 2-4)

Applicant called a witness, and he submitted documents and letters attesting to his excellent job performance and moral character. He is praised for his trustworthiness, work ethic, honesty, reliability, loyalty, professionalism, competency, dependability, and integrity. (Tr. at 22-27; Applicant's response to SOR; AE J)

## 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 has a history of financial problems, including defaulted student loans, unpaid auto loans, and delinquent debts. AG ¶¶ 19(a) and 19(c) are applicable.

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; and

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

Applicant owed all of the debts at one time, and all but two student loans have been paid or settled. He started resolving the SOR debts in November 2020, which is about the time that the SOR was issued. He also paid non-SOR debts before the SOR was issued.

Like many Americans, Applicant did not have a good handle on his student loans and the relentless power of compound interest. His payment history shows payments since October 2013, but some were as low as \$5; some were reversed; some were by garnishment; and one was from an income tax refund. He instituted a \$463 per month payment agreement in January 2022, and he made the first payment in February 2022.

Applicant's finances are not perfect, but perfection is not required. He let four accounts become \$567 past due. He owed the IRS about \$1,200 for tax year 2019, but he has been paying the IRS and reduced the amount owed to about \$400. He acknowledged that he made some financial mistakes, but he has learned valuable lessons. His finances are the best they have been in years. He has a good job that pays well. He plans to bring his accounts current and continue to pay his other accounts, including his taxes and student loans.

Applicant has a plan to resolve his financial problems, and he took significant action to implement that plan. He acted responsibly under the circumstances and made a good-faith effort to pay his debts. His finances do not cast doubt on his current judgment, reliability, trustworthiness, and ability to protect classified information. Security concerns about Applicant's finances are 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 without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.<sup>1</sup>

### **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.i:	For Applicant

### **Conclusion**

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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Edward W. Loughran  
Administrative Judge

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<sup>1</sup> The adjudicative guidelines give me the authority to grant conditional eligibility "despite the presence of issue information that can be partially but not completely mitigated, with the provision that additional security measures shall be required to mitigate the issue(s)." I have not done so as I have concluded the issues are completely mitigated, and it is unnecessary to further monitor Applicant's finances.