



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



In the matter of: )  
)  
) ISCR Case No. 20-01222  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicholas Temple, Esq., Department Counsel  
For Applicant: *Pro se*

06/24/2022

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**Decision**

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DAM, Shari, Administrative Judge:

Applicant mitigated the security concerns raised under the Financial Considerations guideline. National security eligibility is granted.

**Statement of the Case**

On February 20, 2019, Applicant completed and submitted a security clearance application (SCA). On October 27, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant, detailing security concerns under Guideline F (Financial Considerations). Applicant submitted an undated answer to the SOR and requested a hearing (Answer).

On June 11, 2021, the case was assigned to me. On April 5, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for April 27, 2022. The hearing was held as scheduled using Microsoft Teams video teleconference.

During the hearing, Department Counsel offered Government Exhibits (GE) 1 through 7 into evidence. Applicant did not object to the exhibits and they were admitted. Applicant did not submit any exhibits during the hearing. The record remained open until May 27, 2022, to give Applicant an opportunity to submit documents. He submitted an

exhibit that I marked as Applicant Exhibit (AE) A, which consisted of eight pages. It was admitted without objection. I received the transcript of the hearing (Tr.) on May 27, 2022.

### **Findings of Fact**

In his SOR Answer, Applicant admitted the SOR allegations in ¶¶ 1.a and 1.b. He denied the SOR allegations in ¶¶ 1.c through 1.j, and stated that the alleged debts were paid.

Applicant is 33 years old. He married his wife in 2013. They have four children. He served on active duty in the Army from June 2008 to March 2017. He received a secret security clearance in 2008. He was a specialist, E-4, when he was honorably discharged. He immediately enlisted in the National Guard and was placed on yearly orders until he started his current position in November 2017 with a defense contractor. He is a field service representative. After beginning his job, he returned to reserve duty with the National Guard. He is a staff sergeant, E-6. His wife was on active duty in the Army for ten years, during the same time period as Applicant. (Tr. 17-21; GE 1 at 32)

When Applicant and his wife were discharged from the Army in March 2017, they had a combined annual income of about \$96,000. After leaving, his wife started nursing school and stopped working. They then lived on his National Guard income, which was about \$30,000. She is still in school, and he continues to support the family on his current salary of about \$49,000. (Tr. 20-23)

Based on credit bureau reports (CBR) from March 2019, November 2019, January 2021, and April 2022, the SOR alleged ten delinquent debts, which totaled \$41,335 and became delinquent between 2014 and 2019. (GE 2, 3, 4, 7) The status of each debt is listed below:

1.a. The \$14,572 charged-off account is owed to NF credit union for a \$22,000 personal loan Applicant and his wife took out in 2016 to purchase a used car. They made payments up to the time he left active duty in March 2017. He still has the car. He acknowledged that this is his debt. The debt no longer appears on his CBR, so he has been unable to locate the creditor to work out a settlement. (Tr. 23-26) The debt is unresolved.

1.b. The \$13,127 charged-off account is owed to NF for a loan he took out in 2012 to purchase a 2007 truck. In late 2014, he sold it to another service member, who wrote him a check for the balance due on his loan. That check bounced and he became responsible for the loan balance. He reported the theft to the police. He has been unable to locate the service member or the necessary documents from the sale of the truck, which are necessary to bring charges. (Tr. 26-32; GE 2 at 3) This debt is unresolved.

1.c. The \$4,632 charged-off account was owed to CO for a car loan. After the car was voluntarily repossessed, it was immediately sold. Applicant negotiated a settlement for the balance owed and paid it in 2018. (Tr. 33-34; GE 7 at 6) This debt is resolved.

1.d. The \$4,080 charged-off account was owed to PI for a personal loan that Applicant took out to buy a motorcycle. The debt was paid in March 2021. (Tr. 35-36; AE A at 5) This debt is resolved.

1.e. The \$3,391 cell phone bill was paid on May 10, 2022. (Tr. 36-37; AE A at 6) This debt is resolved.

1.f. The \$652 credit card debt was paid on May 15, 2022. (Tr. 38-39; AE A 7) This debt is resolved.

1.g. The \$341 debt was owed to a company for automobile insurance. It was paid in February 2021. (Tr. 39; GE 7 at 2) This debt is resolved.

1.h. The \$232 medical bill was paid in February 2021. (Tr. 39; GE 7 at 2) This debt is resolved.

1.i. This \$163 debt is a duplicate of the credit card debt listed in ¶ 1.f, but references a lesser balance because Applicant had made payments on the debt. It was resolved in May 2022, as noted above. (Tr. 40-41)

1.j. The \$145 medical debt was paid in February 2021. (Tr. 41-42; GE 7 at 2) This debt is resolved.

Applicant has two debts that were not alleged in the SOR. A delinquent account for \$1,354, which is owed to OPP for a personal loan he took out in October 2019 to cover work expenses. It was reported as charged-off in March 2022. He made payments on it in January and February 2022 according to his April 2022 CBR. (Tr. 43; AE 7 at 4) In April 2022, a college reported a delinquent debt of \$3,984 for a training class he took. (GE 7 at 2) He established a payment plan with the college and has made four bi-weekly payments of \$250 on the debt. (Tr. 44) Both are being resolved.

Applicant has not participated in credit or budget counseling. (Tr. 50) He said his wife helps with their finances and he is more confident about his financial situation because of his current position. (Tr. 46) In his post-hearing submission, he said he contacted Military One Source and would be working with them for assistance with his budget. (AE A at 8)

## **Policies**

The national security eligibility action was taken under Executive Order 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), which became effective within DOD on June 8, 2017.

When evaluating an applicant's national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG 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(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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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 as to obtaining 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 as to potential, rather than actual, risk of compromise of classified information.

Finally, as emphasized in Section 7 of EO 10865, 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 concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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 lists several conditions that could raise security concerns under AG ¶ 19. The following two are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant accumulated delinquent debts between 2014 and 2019, two of which he has been unable to pay or resolve. The evidence establishes both disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following five 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 has two old delinquent debts relating to automobile purchases, which he made while serving in the Army and prior to his discharge in 2017. They total about \$28,000 and remain unresolved. Since then, two other debts were charged off in early 2022, which total about \$5,300. While he has resolved the majority of the SOR-alleged debts, the recent debts raise some question about his financial reliability. The evidence establishes limited mitigation under AG ¶ 20(a). There is evidence that some debts are attributable to a significant decrease in his family income when he and his wife left the Army in March 2017. In addition, a check he received for the sale of a truck in 2014 bounced, resulting in an unanticipated debt. Those were some circumstances beyond his control. However, there is insufficient evidence to establish full mitigation under AG ¶ 20(b) because he did not begin addressing his debts until 2018.

Applicant has not participated in credit counseling, however, his wife is managing their finances. Based on his resolution of a car loan in 2018, five debts in 2021, and two debts that he began addressing through payment plans soon after they became delinquent in early 2022, there is evidence that his debts are coming under control. To date, he has resolved \$13,636 of his debt and is resolving his recent debt of \$5,300. The evidence establishes some mitigation under AG ¶¶ 20(c) and 20(d).

Applicant intends to pay the creditor in SOR ¶ 1.a when he is able to locate it. He would like to pursue criminal charges against the service member who stole his truck, but has been unable to find him, and he has not made an arrangement to resolve the debt with the creditor in SOR ¶ 1.b.

### **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.

According to AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant is a 33-year-old soldier, who served on active duty in the Army from 2008 to 2017. He then transferred to the National Guard, where he continues to serve as a staff sergeant. He has been working for a defense contractor since November 2017, over four years. His wife also served in the Army and now attends nursing school. Their financial problems increased after they left military service in March 2017 and Applicant became the sole provider.

Applicant made sufficient progress resolving his delinquent debts. He paid and resolved eight of the ten alleged SOR debts, and is resolving two debts that became delinquent in early 2022. He intends to resolve the large NF automobile loan when he locates the current creditor. He would like to file criminal charges against the soldier who stole his truck, however, he is aware he remains responsible for the debt. His outstanding four debts total approximately \$33,000, of which he is resolving two that total about \$5,000. After listening to his credible testimony, I have no doubts that he appreciates the importance of financial responsibility and will continue to resolve his outstanding debts and monitor his finances with his wife's assistance. He mitigated the security concerns raised under the guideline for financial considerations.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a through 1.j:	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 access to classified information. National security eligibility is granted.

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Shari Dam  
Administrative Judge