



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



In the matter of: )  
)  
) ISCR Case No. 21-02196  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government:  
Brian Farrell, Esquire, Department Counsel

For Applicant:  
*Pro se*

August 4, 2022

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**Decision**

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GLENDON, John Bayard, Administrative Judge:

**Statement of the Case**

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on September 19, 2019. (Item 3.) On October 30, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F (Financial Considerations). (Item 1.) The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines effective within the Department of Defense after June 8, 2017.

Applicant answered the SOR in writing (Answer) on February 22, 2022, and requested his case be decided on the written record in lieu of a hearing. (Item 2.) In his Answer Applicant admitted 11 of the 13 allegations in the SOR, with explanations, and denied two allegations. On March 15, 2022, Department Counsel submitted the Department's written case. A complete copy of the file of relevant material (FORM), including Items 1 to 8, was provided to Applicant, who received the file on March 26, 2022.

Applicant was given 30 days from receipt of the FORM to raise objections and submit material in refutation, extenuation, or mitigation. Applicant did not reply to the FORM or submit any documentation. Department Counsel's Items 1 through 8 are admitted into evidence. The case was assigned to me on June 15, 2022. Based upon a review of the pleadings and the Government's evidence, national security eligibility for access to classified information is denied.

### **Findings of Fact**

Applicant is 38 years old and has never married. He has two children, ages 11 and 12. He enlisted in the U.S. Navy in 2003 at age 20. He received an Honorable discharge in August 2012. After separating from the Navy, Applicant took some college courses in 2013 and was unemployed until January 2014. Since February 2014, he has worked for a Government contractor as a specialist. He was granted national security eligibility in 2002 and 2014. He seeks to retain his eligibility and a security clearance in connection with his employment. (Item 3 at Sections 13A, 15, 17, 18, 25.)

### **Paragraph 1 (Guideline F, Financial Considerations)**

The Government alleged in this paragraph of the SOR that Applicant is ineligible for clearance because he is financially overextended and therefore potentially unreliable, untrustworthy, or at risk of having to engage in illegal acts to generate funds. The SOR lists 13 debts that are charged-off or in collection. The total amount of the debts is approximately \$19,000. The existence and amount of these debts is supported by Applicant's admissions in his Answer to all but two SOR allegations (SOR 1.g and 1.m), and by credit reports in the record dated March 15, 2022; May 6, 2021; and February 14, 2020. The debts are also confirmed by Applicant's answers to interrogatories and comments made during an interview with an investigator from the Office of Personnel Management (OPM) held on May 12, 2020. (Items 4, 5, 6, 7, and 8.)

Applicant advised that his financial delinquencies consisted of unpaid student loans and some additional debts that arose due to his addiction to gambling. He wrote that the mother of his children demanded that he stop gambling and he has complied. Before he stopped gambling, he was unable to pay all of his bills, including the consumer debts listed in the SOR. (Answer at 1-2; Item 4 at 8; Item 8 at 8.)

The details of the 13 debts are as follows:

1.a. Retail store credit account charged off in the approximate amount of \$4,515. Applicant has made no attempt to pay this debt. This debt is not resolved. (Item 4 at 2; Item 5 at 5; Item 6 at 2; Item, 7 at 7.)

1.b. Student loan account in collection in the approximate amount of \$4,135. In his Answer, Applicant wrote that he “forgot to get a forbearance for [this student loan].” He has made no attempt to repay this loan. This debt is not resolved. (Item 2 at 1; Item 4 at 2; Item 5 at 4; Item 6 at 2; Item 7 at 7.)

1.c. Student loan account in collection in the approximate amount of \$3,416. In his Answer, Applicant wrote that he “forgot to get a forbearance for [this student loan].” He has made no attempt to repay this loan. This debt is not resolved. (Item 2 at 1; Item 4 at 3; Item 5 at 4; Item 6 at 2; Item 7 at 8.)

1.d. Student loan account in collection in the approximate amount of \$1,909. In his Answer, Applicant wrote that he “forgot to get a forbearance for [this student loan].” He has made no attempt to repay this loan. This debt is not resolved. (Item 2 at 1; Item 4 at 3; Item 5 at 5; Item 6 at 2; Item 7 at 8.)

1.e. Student loan from the U.S. Department of Veterans Affairs in collection in the approximate amount of \$644. He has made no attempt to repay this loan. This debt is not resolved. (Item 4 at 3; Item 6 at 3, 4; Item 7 at 9.)

1.f. Student loan account in collection in the approximate amount of \$631. In his Answer, Applicant wrote that he “forgot to get a forbearance for [this student loan].” He has made no attempt to repay this loan. This debt is not resolved. (Item 2 at 1; Item 4 at 3-4; Item 5 at 4; Item 6 at 3; Item 7 at 10.)

1.g. Cable TV/Internet account in collection in the approximate amount of \$560. Applicant claimed in his Answer that he never had an account with this service provider. In his response to the Government’s interrogatories, he claimed he resolved this debt by returning the equipment, but the debt was never removed from his account. He is unable to provide any supporting documentation. This debt appears on Applicant’s credit report, dated February 14, 2020, as unpaid. This is not resolved. (Item 2 at 1; Item 4 at 4; Item 7 at 10.)

1.h. Credit-card account charged off in the approximate amount of \$537. Applicant opened this account in 2015 and defaulted in the same year. He has made no attempt to pay this debt. This debt is not resolved. (Item 5 at 3; Item 6 at 3; Item 7 at 11.)

1.i. Account charged off in the approximate amount of \$168. Applicant has made no attempt to pay this debt. This debt is not resolved. (Item 4 at 4-5; Item 5 at 9; Item 6 at 3; Item 7 at 12.)

1.j. Online retail account charged off in the approximate amount of \$599. Applicant has made no attempt to pay this debt. This debt is not resolved. (Item 4 at 5; Item 5 at 9; Item 6 at 3-4; Item 7 at 10.)

1.k. Fitness club account in collection in the approximate amount of \$664. Applicant has made no attempt to pay this debt. This debt is not resolved. (Item 7 at 9.)

1.l. Utility account in collection in the approximate amount of \$431. Applicant has made no attempt to pay this debt. This debt is not resolved. (Item 4 at 5; Item 7 at 11.)

1.m. Gambling loan account charged off in the approximate amount of \$412. Applicant claims that this debt was involuntarily paid by the garnishment of his wages. He has submitted no evidence of payment. The account appears on the credit report dated February 14, 2020. This debt is not resolved. (Answer; Item 7 at 11.)

Applicant submitted no documentation or additional information concerning his debts or current income. Also, he provided no information detailing his plans for resolving his past-due indebtedness or demonstrating other indicia of trustworthiness.

## **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **Paragraph 1 (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.

AG ¶ 19 describes three conditions that could raise security concerns and may be disqualifying in this case:

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

Applicant has incurred about \$19,000 in past-due accounts over the last several years. Five of the SOR debts are for delinquent student loans totaling almost \$11,000. Those debts became delinquent in 2014, and Applicant has made no effort to resolve them. He conceded that the debts that are not student loans are due to his gambling addiction. He claimed that he paid one of the debts alleged in the SOR through the garnishment of his wages (SOR 1.m – \$412) and has resolved another debt (SOR 1.g – \$560), but he provided no documentation. The SOR debts establish *prima facie* support for the application of the foregoing disqualifying conditions, and shift the burden to Applicant to mitigate the Government's security concerns.

The guideline includes three conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's financial difficulties:

- (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, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

The record evidence does not establish that any of the above mitigating conditions apply to debts set forth in the SOR. Aside from his acknowledged history of gambling addiction, Applicant has not offered any evidence or explanation for his failure to pay his debts when due. Significantly, he failed to pay these debts and increased his risk of coercion or duress while he held a security clearance. He did not provide any evidence showing that he is engaging in a good-faith effort to responsibly resolve his debts, as would be expected of someone entrusted with the privilege of holding national security eligibility. Several of Applicant's large delinquencies are student loans owed to the U.S. Government that he has practically ignored. Also, he did not submit any financial information from which I can make a finding that he is capable of resolving these debts in a reasonable, responsible, and timely fashion. Paragraph 1 is found against Applicant.

## Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's potential for national security eligibility 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 national security 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 considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant has not mitigated the security concerns raised by his past-due indebtedness. Overall, the record evidence leaves me with substantial questions and doubts as to Applicant's suitability for national security eligibility and a security clearance at the present time.

## 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:

AGAINST APPLICANT

Subparagraphs 1.a through 1.m:

Against 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 or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

**JOHN BAYARD GLENDON**  
Administrative Judge