



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



In the matter of: )  
)  
) ISCR Case No. 21-02214  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Allison Marie, Department Counsel  
For Applicant: *Pro se*

November 21, 2022

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On November 12, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations and Guideline E, Personal Conduct. The action was taken under Executive Order (EO) 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 (AG) effective for cases after June 8, 2017.

Applicant answered the SOR on March 18, 2022. He requested that his case be decided by an administrative judge on the written record without a hearing. (Item 1.) On June 21, 2022, Department Counsel submitted the Government’s written case. At that time, the Government moved to amend the SOR to withdraw allegations 1.k., 1.m., and 1.n. Said amendment was granted. A complete copy of the File of Relevant Material

(FORM), containing eight Items, was mailed to Applicant and received by him on July 6, 2022. The FORM notified Applicant that he had an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of his receipt of the FORM. Applicant submitted no response to the FORM. Applicant did not object to Government Items 1 through 8, and they are admitted into evidence, referenced hereinafter as Government Exhibits 1 through 8.

### **Findings of Fact**

Applicant is 48 years old, and is divorced with three children. He has an Associate's degree and military training. He is employed by a defense contractor as a Marine Painter. He is seeking to obtain a security clearance in connection with his employment.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information.

The SOR, as amended, alleged that Applicant incurred eleven delinquent debts or financial concerns owed to creditors on accounts including auto, utility, consumer debt, and a mortgage that went into foreclosure, among other debts that were charged off or placed for collection, totaling approximately \$40,000. Applicant filed for Chapter 13 bankruptcy in 2016, that was dismissed. In his answer, Applicant admits all of the allegations under this guideline except 1.b. and 1.g. Those two allegations he denies, but only to provide that he owes an amount less than what was initially alleged. The Government does not dispute the reduced balances and the corrections have been made. Credit reports of the Applicant dated June 16, 2020; March 2, 2021; and June 16, 2022, confirm this indebtedness. (Government Exhibits 6, 7 and 8.)

Applicant served in the United States Navy from 1993 to 2006. After receiving an honorable discharge, he was granted a security clearance in 2008. He began working for his current employer in 2013. Since then, there have been no noted interruptions in his employment. Applicant has known about his delinquent debt since at least 2020 when he underwent his security clearance reinvestigation. There is no evidence in the record that Applicant has made any effort to pay or resolve the accounts alleged in the SOR. Most of the debts listed in the SOR continue to appear on Applicant's credit reports.

The following delinquent debts are of security concern:

a. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$11,462. Credit reports of Applicant indicate that the debt

remains owing. (Government Exhibits 6, 7, and 8.) Accordingly, this allegation is found against Applicant.

b. A delinquent debt is owed to the Navy Federal Credit Union for an account that was charged off in the approximate amount of \$6,662.15. Credit reports of Applicant indicate that the debt remains owing. (Government Exhibits 6, 7, and 8.) Accordingly, this allegation is found against Applicant.

c. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$1,160. Credit reports of Applicant indicate that the debt remains owing. (Government Exhibits 6, 7, and 8.) Accordingly, this allegation is found against Applicant.

d. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$1,011. Credit reports of Applicant indicate that the debt remains owing. (Government Exhibits 6, 7, and 8.) Accordingly, this allegation is found against Applicant.

e. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$555. Credit reports of Applicant indicate that the debt remains owing. (Government Exhibits 6, 7, and 8.) Accordingly, this allegation is found against the Applicant.

f. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$488. Credit reports of the Applicant indicate that the debt remains owing. (Government Exhibits 6, 7 and 8.) Accordingly, this allegation is found against the Applicant.

g. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$16,707, for the balance due on a vehicle that was repossessed. Credit reports of the Applicant indicate that the debt remains owing. (Government Exhibits 6, 7 and 8.) Accordingly, this allegation is found against the Applicant.

h. A delinquent mortgage account was foreclosed upon in 2016. (Government Exhibits 3 and 5.)

i. A delinquent debt is owed for an account that was placed for collection in the approximate amount of \$954. Credit reports of the Applicant indicate that the debt remains owing. (Government Exhibits 6, 7 /and 8.) Accordingly, this allegation is found against the Applicant.

j. Applicant filed for Chapter 13 Bankruptcy in about September 2016. This Bankruptcy was dismissed in about June 2017. (Government Exhibits 3 and 5.)

l. A delinquent debt is owed to a creditor for an account that was charged-off in the approximate amount of \$1,185. Credit reports of the Applicant indicate that the debt

remains owing. (Government Exhibits 6, 7, and 8.) Accordingly, this allegation is found against Applicant.

### **Guideline E – Personal Conduct**

The Government alleged that Applicant is ineligible for a clearance because he engaged in conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations that raise questions about his reliability, trustworthiness, and ability to protect classified or sensitive information.

Applicant completed a security clearance application (e-QIP) dated May 5, 2020. In response to Section 26, Financial, he was asked, “In the past seven years have you had any possessions or property voluntarily or involuntarily repossessed or foreclosed? . . . In the past seven years have you defaulted on any type of loan? . . . In the past seven years have you had bills or debt turned over to a collection agency? . . . In the past seven years, have you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed? . . . In the last seven years, have you been evicted for nonpayment? . . . or were your wages, benefits, or assets garnished or attached for any reason? In the past seven years have you been over 120 days delinquent on any debt not previously entered? . . . Are you currently over 120 days delinquent on any debt?” Applicant answered, “NO,” and failed to list that he had been delinquent on debts in the past seven years, as noted in Guideline F above.

On the same application, dated May 5, 2020, Applicant, in response to Section 26 concerning his financial record, was asked, “In the past seven years have you filed a petition under any chapter of the bankruptcy code. Applicant answered, “NO,” and failed to disclose his Chapter 13 Bankruptcy filing in 2016.

Applicant intentionally omitted information about certain debts on his security clearance application. He states that he failed to disclose his 2016 bankruptcy based on advice he received from someone in his company’s security department. (Government Exhibit 5.) This information is not controverted.

### **Policies**

When evaluating an applicant’s suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). 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 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 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. 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 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 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 as to 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. 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 under AG ¶ 19. Three are potentially applicable in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant incurred significant delinquent debt that he has not paid. There is insufficient information in the record to conclude why or how it occurred, or whether he is financially stable, or if he can afford his lifestyle, or if he has the financial resources available to handle his financial obligations. There is no evidence in the record to show that any regular monthly payments of any sort are being made toward his debts. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under Financial Considerations are potentially applicable under AG ¶ 20.

- (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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides

documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The record is void of mitigation. Applicant remains delinquently indebted and presented no evidence to show that he has made any effort to resolve his debts. Furthermore, there is no evidence in the record to show that circumstances beyond the Applicant's control contributed to his financial difficulties. There is no evidence in the record to show how or why Applicant became so delinquently indebted. What is known is that Applicant has been gainfully employed since 2013, and yet remains excessively indebted. None of the mitigating conditions apply. This guideline is found against the Applicant.

### **Guideline E - Personal Conduct**

The security concern for the personal conduct guideline is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

.(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

AG ¶ 17 provides conditions that could mitigate security concerns. I have considered each of the mitigating conditions below:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy,

unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Applicant's credit reports reveal that he is delinquently indebted. He admits that he knew about his delinquent debts at the time he completed the security clearance application. Applicant deliberately concealed his financial delinquencies from the government on this application. There is no excuse for this dishonesty. Deliberately concealing material information from the Government on a security clearance application raises serious questions about one's credibility and trustworthiness. None of the mitigating conditions are applicable. Allegation 2.a., is found against Applicant.

In regard to allegation 2.b., of the SOR, since Applicant relied on wrong advice from someone in his company's security department as to why he marked "NO," in response to the question concerning whether he had filed bankruptcy, this allegation will be found for Applicant.

### **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 considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. Applicant failed to respond to the FORM, and submitted little to no information in mitigation. Accordingly, I conclude Applicant has not mitigated the Financial Considerations and Personal Conduct security concerns.

### **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:

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|--|-------------------|
| Paragraph 1, Guideline F:                  | AGAINST APPLICANT |
| Subparagraphs 1.a., through 1.j., and 1.l. | Against Applicant |
| Subparagraphs 1.k., 1.m., and 1.n.         | Withdrawn         |
| Paragraph 2, Guideline E:                  | AGAINST APPLICANT |
| Subparagraph 2.a.                          | Against Applicant |
| Subparagraph 2.b.                          | 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 or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge