



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



In the matter of: )  
)  
) ISCR Case No. 22-00450  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tara R. Karoian, Esq., Department Counsel  
For Applicant: *Pro se*

12/06/2022

**Decision**

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F, financial considerations. Eligibility for access to classified information is denied.

**Statement of the Case**

On April 5, 2022, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations, and Guideline B, foreign influence. The action was taken 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) effective within the DOD on June 8, 2017.

Applicant answered the SOR on April 8, 2022, and elected to have his case decided on the written record in lieu of a hearing. Department Counsel submitted the Government’s file of relevant material (FORM), and Applicant received it on August 12, 2022. He was afforded an opportunity to file objections and submit material in refutation,

extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 1 through 7. Applicant submitted a response to the FORM, which included a document marked as Applicant Exhibit (AE) A. There were no objections to the Government Items or AE A, and they are admitted into evidence. The case was assigned to me on October 20, 2022.

### **Findings of Fact**

Applicant admitted all of the allegations in SOR. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 64 years old. He is a college graduate. He has worked for a federal contractor since 1982. He married in 1996 and has two children, ages 24 and 22.

The SOR alleges six delinquent debts (§§ 1.a - \$1,384; 1.b - \$30,717; 1.c - \$1,800; 1.d - \$167; 1.e - \$8,758) that Applicant admitted in his SOR answer that he owes.

In Applicant's January 2020 security clearance application (SCA), he disclosed he owed the debt in SOR § 1.b. He said that due to medical bills he had to use this credit card. He stated he had not made a payment on the card since 2015. He had received offers to settle the debt for approximately \$8,000. He stated, "My plan is to hold on for another year or two due to the likely/sadly inheritance that will resolve all debts." He did not disclose any other delinquent debts in his SCA. (Item 3)

In June 2020, a government investigator interviewed Applicant. The investigator addressed the debts with him that are alleged in SOR §§ 1.b, 1.c, and 1.e. He told the investigator that the credit card debt in SOR § 1.b was due to his wife being laid off, medical bills, and deaths in the family that he incurred large travel expenses. He said he intended to pay all of these debts. He said he had been "sloppy" with his debt payments, but felt he had a safety net with his father and would pay the debts in full when his father passed away, and he gets his inheritance. His father was 88 years old at that time. He was also confronted with the smaller debt in SOR § 1.f, which he said he had not been aware of, and he would pay it as soon as he could contact the creditor. (Item 7)

In Applicant's April 2022 answer to the SOR, he stated:

At face value, this is embarrassing for me to see this list of significant old debt and smaller billing discrepancies between myself and the collection agencies/original service companies. Fortunately, I'm at a point in time where I can quickly eliminate all of these debts. (Item 2)

\* \* \*

For the four smaller amounts (line items 1, 3, 4 and 6) I have now and will soon pay them all off. These were either overlooked or disputed bills that I will quickly take care of to clear them from my credit report. (Item 2)

Applicant explained that in the past his parents could financially support him and his siblings as needed throughout their lives. He had to reach out to his father in the past to help him handle large unexpected bills or revenue loss when his wife lost her job. He said that his father considered his financial help as an advance to his son's eventual inheritance. Regarding the two credit cards debts alleged in SOR ¶¶ 1.b and 1.e, Applicant said that due to the amount of these debts, he knew they would not go away, but he did not have the money to pay them. He said that as his father approached his 90<sup>th</sup> birthday, he father disclosed the amount of the inheritance his children would receive. His father has since passed away and his sister is the executor of the father's estate. He stated that the family trust was 80% complete in distributing funds to the children who are the beneficiaries. Applicant said he was "unwinding the various positions the trust account was invested in" and planned to eliminate all of the debt in the SOR. (Item 2)

Applicant further stated in his SOR answer, "I've always known that I would constantly be able to handle my debts by reaching out to my father as needed or eventually receive the inheritance." (Item 2) Therefore, Applicant did not believe he would be vulnerable due to his debts or that his reliability or trustworthiness would be in question. He stated that the debt in SOR ¶ 1.a, a past-due amount on his mortgage, had been paid. Applicant's March 2022 credit report shows the debt is past due. Applicant did not provide any documentary evidence with his SOR answer to show he has paid or resolved any of the alleged debts. (Items 2, 4)

The debts in the SOR are corroborated by Applicant's admissions in his SOR answer, disclosures in his SCA, admissions to the government investigator, admissions in his response to the FORM, and credit reports from March 2022, January 2022, and April 2020. (Items 2, 3, 4, 5, 6, 7)

In Applicant's response to the FORM, he noted that the investigator included in the summary of his interview that there was nothing in Applicant's background, lifestyle or conduct, which could subject him to coercion or blackmail. This comment was not the opinion or findings of the government investigator, but was rather the answer Applicant provided to the investigator in response to the inquiry about his delinquent debts and past. (AE A)

As he said in his SOR answer, Applicant also stated in his response to the FORM that he was current on the past-due payments on his mortgage (SOR ¶ 1.a), but he did not provide documentary proof. He stated that the creditor on the credit card debt in SOR ¶ 1.b had not contacted him or attempted to collect the debt. He said:

I will absolutely pay the full unpaid balance. Due to the unknown tax impact of liquidating the various types of investment I inherited from my father's trust, final remediation has been delayed. That said, this unpaid balance bill be paid in full before year-end. (AE A)

Applicant said he would also pay the debt in full for SOR ¶ 1.e by the end of the year, but had to wait to find out the tax implications of his inheritance. SOR ¶¶ 1.b and 1.e are not resolved. (AE A)

Applicant stated in his FORM response that he researched the creditor in SOR ¶ 1.c and said that company clearly had run a fraudulent business. He provided no further explanation. He admitted he owed the debt and did not explain if he had been a victim of fraud. He said that he felt that paying them only enables their fraudulent business, but because the debt had an impact on his security clearance, he would pay it. He did not provide proof that he paid it. (AE A)

Applicant stated he does not know who the creditor is for the debt in SOR ¶ 1.d, but he contacted the account holder in the allegation and was told the debt had been “zeroed out as of 7/18/22.” (AE A) He said he was told the line item would be removed from his credit report and he considered this line item closed. Regarding the debt in SOR ¶ 1.f, he said that he still needs to resolve this debt and would figure out a way to track down the creditor and pay the \$138. These debts are not resolved. (AE A)

## **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 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.

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**

The security concern relating to the guideline 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual’s self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

- (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 has delinquent debts totaling approximately \$42,964 that began accumulating in 2015. He stated he was waiting for his father to pass, and he would use his expected inheritance to pay the debts. Two years after he said this, his father passed away. He has not provided evidence that he has paid the debts alleged in the SOR. He is now waiting so he can determine the tax consequences of his inheritance before paying his delinquent debts. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 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 persons 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 documentary proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant failed to provide documentary proof that he paid any of the alleged delinquent debts. He said his past-due mortgage is now current (SOR ¶ 1.a) and he paid

the debts in SOR ¶¶ 1.c and 1.d, but failed to provide supporting evidence. Applicant disclosed his large credit card debt (SOR ¶ 1.b) in his SCA (January 2020) and said he was waiting for his father to pass to receive an inheritance to pay it. He essentially said the same thing to the government investigator in June 2020 and had disclosed he has not made a payment on this debt since 2015. Then in his 2022 SOR answer, he said his father had passed, and he was waiting for the full distribution of assets. In his answer to the FORM, he said he is now waiting to determine the tax consequences of his inheritance.

I find none of the mitigating conditions apply. Applicant's behavior is recent and his debts remain ongoing and unpaid. Based on his past conduct, I cannot find future issues are unlikely to recur. His conduct casts doubt on his current reliability, trustworthiness, and good judgment.

Applicant told the investigator that his wife lost her job and there were medical payments that contributed to his credit card debts and he had not made a payment on one credit card since 2015. These things were beyond his control. For the application of AG ¶ 20(b), Applicant must have acted responsibly under the circumstances. It has been seven years since these events affected Applicant's finances. His reliance on a future inheritance to resolve his debts is not acting responsibly. In addition, even after his father passed away and he received his inheritance, he still has not resolved his debts. AG ¶ 20(b) does not apply.

Applicant chose to let his creditors wait for their payments until his father passed away and he received his inheritance. Although he said he resolved some of the alleged debts, he did not provide any evidence to support his assertions. Delaying payments for years on debts, based on an event that will happen sometime in the future, the death of his father, is not a good-faith effort to pay overdue creditors. Further, Applicant's father is now deceased and he has yet to show any progress on resolving his debts. There is no evidence of financial counseling. AG ¶¶ 20(c) and 20(d) do not apply.

Applicant admitted he owed the debt in SOR ¶ 1.c. He said he paid it, but did not provide proof. He said he was reluctant to pay it because he thought the company was involved in fraudulent business practices. He provided no evidence that he was defrauded. AG ¶ 20(e) does not apply.

There is insufficient evidence for a determination that Applicant's financial problems will be resolved within a reasonable period. I am unable to find that he acted responsibly under the circumstances or that he made a good-faith effort to pay his debts. His financial issues are recent and ongoing. They continue to cast doubt on his current reliability, trustworthiness, and good judgment. I find that financial considerations security concerns remain.

## 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 guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the 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.

Applicant made a conscious decision that he would delay paying his creditors while he waited for his father to pass away sometime in the unknown future and use his inheritance to resolve his delinquent debts. He made no effort to make payment arrangements or attempt to settle his debts for years. Even after receiving his inheritance, he still has not paid his larger debts, again delaying his financial obligations. His conduct shows an incredible lack of judgment. His financial track record is one of procrastination and failure to take responsibility for paying his debts.

Applicant has repeatedly stated that he intends to pay his delinquent debts in the future. First, it was after his father died, then he had to wait for the final distribution on assets, and then it was because he had tax consequences to consider. Applicant's intentions to pay debts in the future are not a substitute for a track record of debt repayment or other responsible approaches. See ISCR Case No. 11-14570 at 3 (App. Bd. Oct. 23, 2013).

Applicant said he resolved the debts in SOR ¶¶ 1.a, 1.c and 1.d. I noted he failed to provide documentary proof that the debts are paid. However, even if he did provide those documents and those three debts were mitigated, his past actions by delaying paying his debts until he received an inheritance represents serious concerns about his reliability and good judgment. Applicant failed to meet his burden of persuasion. The record evidence leaves me with serious questions and doubts as to Applicant's eligibility



and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns raised under Guideline F, financial considerations.

**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-1.e:	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 security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Carol G. Ricciardello  
Administrative Judge