



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00058
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Brian Farrell, Esq., Department Counsel  
For Applicant: *Pro se*

03/29/2023

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**Decision**

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PRICE, Eric C., 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**

Applicant submitted a security clearance application (SCA) in November 2018. (Item 3) On February 18, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. (Item 1) The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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 responded to the SOR and elected to have his case decided on the written record in lieu of a hearing. (Item 2) Department Counsel submitted the Government’s written file of relevant material (FORM), dated July 28, 2022, including

items 1 through 11. Applicant was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant acknowledged receipt of the FORM on August 25, 2022, but submitted no response. There were no objections by Applicant, and Items 1 through 11 are admitted into evidence.

### Findings of Fact

Applicant is 48 years old. He has been taking college courses online since October 2010 and earned an associate degree in 2012. He is married and has two children (ages 17 and 12). He has been employed as desktop support for a defense contractor since September 2017. He worked in desktop support for two other contractors from June 2017 to September 2017. He was unemployed from July 2008 to October 2008, March 2010 to March 2011, September 2011 to October 2011, May 2012 to September 2012, December 2012 to October 2013, June 2015 to August 2015, and from August 2016 to June 2017. (Items 3, 11)

The SOR alleges 20 delinquent debts, totaling approximately \$70,992 including 10 delinquent student loan accounts totaling \$67,464. Applicant admitted the allegations in SOR ¶¶ 1.a-j and 1.l-1.n, with explanation. He denied the allegations in SOR ¶¶ 1.k and 1.o-1.t, with explanation. (Item 2)

In his SCA and January 2018 background interview Applicant attributed some of his financial difficulties to unemployment including being illegally fired because of disability and medical conditions that negatively affect his concentration, memory, and sometimes caused him to fall asleep. (Item 1 at 17-21, 49-50; Item 11 at 3-4, 6-8).

The evidence concerning debts alleged in the SOR is summarized below.

**SOR ¶ 1.a-1.j: student loans placed for collection totaling approximately \$67,464.** Applicant admitted each allegation noting that “[t]his is for my college education, most people have school loans, and I actually planned on going back to finish my Bachelor’s. That should suspend this until I finish.” (Item 2 at 2) The student loan accounts were opened in November 2012 (SOR ¶ 1.a), July 2011 (SOR ¶¶ 1.b and 1.f), December 2013 (SOR ¶¶ 1.c-1.d), November 2011 (SOR ¶ 1.e), November 2010 (SOR ¶¶ 1.g and 1.i), January 2013 (SOR ¶¶ 1.h and 1.j). The November 2018 credit report lists 10 student loan accounts as past due for more than 120 days. Applicant’s January 2018 background interview does not reflect any discussion of his delinquent student loans. (Item 11) The January 2020 credit report reflects 10 student loan collection accounts totaling \$68,715. (Item 6 at 2) The March 2020 Credit report reflects five student loan collection accounts totaling \$43,460. The February 2022 credit report reflects all student loans alleged in the SOR as collection accounts totaling \$67,464. That credit report also lists April 2018 dates of last activity, first major delinquencies reported in April 2019, and last payment dates of May 2020 for all SOR student loan accounts. (Item 4 at 4-7) These debts are not resolved.

**SOR ¶ 1.k: delinquent on 2017 judgment for \$754 with \$135 balance.** Applicant denied the allegation, stating that he thought this judgment was paid and that he would contact the creditor. (Item 2 at 2) A default judgment was entered in the amount of \$754 plus \$56 in costs in July 2017. (Item 8 at 1-2) An account with the same creditor and collection company with a high balance of \$754 and past due balance of \$135 is reflected in the February 2022 credit report. (Item 4 at 7) This debt is not resolved.

**SOR ¶ 1.l: credit account charged off for \$544.** Applicant admitted the allegation. He stated that “I have no idea what this is regarding, and it will probably drop off soon.” (Item 2 at 2) The November 2018, January 2020, and March 2020 credit reports reflect the account as charged off with a balance of \$544. (Item 5 at 2, Item 6 at 1, Item 7 at 7) This debt is not resolved.

**SOR ¶ 1.m: medical account delinquent for \$100.** Applicant admitted the allegation and said that he would “look into this [debt] to pay it off.” (Item 2 at 2) The January 2020 credit report reflects the account as opened in August 2019 and as a collection account with a past due balance of \$100. (Item 6 at 2) This debt is not resolved.

**SOR ¶ 1.n: collection account for \$400.** Applicant admitted the allegation but said that he had received a call about the debt and “paid it, several years ago.” (Item 2 at 2) The November 2018 credit report shows this account as placed for collection with a balance of \$400. (Item 7 at 8) This debt is not reflected in the January 2020 or later credit reports. (Items 4-6) I have resolved this debt in Applicant’s favor because the absence of this debt from the three most recent credit reports, corroborate in part, Applicant’s claim that he paid it. This debt is resolved.

**SOR ¶ 1.o-1.p: delinquent medical accounts for \$2,244 and \$105.** Applicant denied these allegations and said that these debts should have been paid by a grocery store because he “slipped and fell in their [store].” (Item 2 at 2-3) The November 2018 credit report shows these accounts as placed for collection with balance of \$2,244 and \$105, respectively. (Item 7 at 8) These debts are not reflected in the January 2020 or later credit reports. (Items 4-6) I have resolved these debts in Applicant’s favor because the absence of these debts from the three most recent credit reports, corroborate in part, Applicant’s claim that the delinquent accounts were paid. These debts are resolved.

**SOR ¶ 1.q: delinquent on 2017 judgment for \$1,114.** Applicant denied the allegation stating that it has been paid. (Item 2 at 3) Court records show this judgment was satisfied in June 2019. (Item 8 at 3) This debt is resolved.

**SOR ¶ 1.r: unlawful detainer actions in September 2012, April 2013, and June 2013.** Applicant denied the allegation explaining that his landlord improperly attempted to charge him for a properly documented working dog. (Item 2 at 3) Court records show unlawful detainer actions were filed against Applicant and his wife in September 2012, March 2013 and June 2013 and that the result in each case was “other.” (Item 9 at 1-6)

**SOR ¶ 1.s: delinquent on September 2011 judgment for \$1,615 until December 2011.** Applicant denied the allegation. (Item 2 at 3) Court records show this judgment was released in September 2011. (Item 10 at 1-2) This debt is resolved.

**SOR ¶ 1.t: delinquent on September 2010 judgment for \$6,373 until October 2011.** Applicant denied the allegation stating that it had been settled in full in October 2011. (Item 2 at 3) Court records show this judgment was released in September 2010. (Item 10 at 3) This debt is resolved.

## **Policies**

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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

"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." Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988); see AG ¶ 2(b).

The protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt will be resolved in favor of the national security." 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; and
- (c) a history of not meeting financial obligations.

Applicant's admissions and the evidence in the FORM establish a history of financial problems dating back to at least 2010. AG ¶¶ 19(a) and 19(c) apply.

AG ¶ 20 provides conditions that could mitigate security concerns. Five potentially apply in this case:

- (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.

AG ¶ 20(a) is not fully established. SOR ¶ 1.r is concluded for Applicant because it happened more than nine years ago under circumstances unlikely to recur. His delinquent student loans (SOR ¶¶ 1.a-1.j) and other delinquent debts (SOR ¶¶ 1.k-1.m) have been delinquent for some time, are ongoing, and cast doubt on his current reliability, trustworthiness, or good judgment.

AG ¶ 20(b) is not fully established. Applicant's periods of unemployment because of disability and other medical conditions were largely beyond his control. However, he has not provided sufficient evidence that these conditions resulted in his financial problems or that he acted responsibly under the circumstances.

AG ¶ 20(c) is not established. Applicant submitted no evidence of financial counseling, or that the debts alleged in SOR ¶¶ 1.a-1.m are being resolved or are under control.

AG ¶ 20(d) is not fully established. The record shows that Applicant resolved the debts alleged in SOR ¶¶ 1.n-1.q, 1.s, and 1.t. However, he provided no evidence to support a conclusion that he has initiated or is adhering to a good-faith effort to repay the creditors, or otherwise resolve the debts alleged in SOR ¶¶ 1.a-1.m.

AG ¶ 20(e) is not fully established. Applicant disputed debts alleged in SOR ¶¶ 1.o and 1.p, and I resolved those allegations in his favor.

### **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. I considered Applicant's age, education and employment history; that his financial problems were caused, in part, by circumstances beyond his control including unemployment, disability and other medical conditions, and that he has acted responsibly regarding some of his debts.

However, he provided no evidence of action taken to communicate with the creditors, to defer or to otherwise resolve debts alleged in SOR ¶¶ 1.a-1.m totaling approximately \$68,243, including \$67,464 in delinquent student loans.

After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his delinquent debts.

### **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.m:	Against Applicant
Subparagraphs 1.n-1.t:	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 security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Eric C. Price  
Administrative Judge