



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



In the matter of: )  
)  
) ISCR Case No. 22-01630  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*

04/25/2023

**Decision**

Dorsey, Benjamin R., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On September 16, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. On November 28, 2022, Applicant responded to the SOR and requested a decision based on the written record in lieu of a hearing.

The Government’s written case was submitted on January 23, 2023. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on January 26, 2023. His response was due on February 27, 2023. As of March 7, 2023, he had not responded. The case was assigned to me on April 18, 2023. The Government exhibits included in the FORM, marked as Items 1-10, are admitted in evidence without objection.

## Findings of Fact

Applicant is a 37-year-old employee of a defense contractor for whom he has worked since October 2018. He earned a high school diploma in 2004. He has been married since 2016 and has two children, ages five and three. He has served in the Air Force Reserve since December 2010. (Items 4, 6, 7)

In the SOR, the Government alleged Applicant's five delinquent debts totaling approximately \$32,000 (SOR ¶¶ 1.a through 1.e). These delinquencies consist of credit cards (SOR ¶¶ 1.a, 1.c, and 1.d), a vehicle loan (SOR ¶ 1.b), and a medical bill (SOR ¶ 1.e). He admitted the allegations in SOR ¶¶ 1.a through 1.c with additional comment. His admissions are adopted as findings of fact. He denied the allegations in SOR ¶¶ 1.d and 1.e with additional comment. Despite his denials, those SOR allegations are established through the Government's credit reports. (SOR; Items 3-10)

The delinquent credit cards in the amounts of \$12,505 and \$8,216, alleged in SOR ¶¶ 1.a and 1.c, respectively, have not been resolved. Applicant opened the credit card in SOR ¶ 1.a in 2004 and last made a payment on it in November 2017. He opened the credit card in SOR ¶ 1.c in April 2015 and last made a payment on it in November 2019. (Items 3-10)

The delinquent vehicle loan in the amount of \$10,545 alleged in SOR ¶ 1.b has not been resolved. Applicant opened this account in April 2014 when he financed the purchase of a vehicle. The last payment he made on this account was in January 2019. (Items 3-10)

Applicant disputed owing the credit card in the amount of \$879 listed in SOR ¶ 1.d. He agreed that he opened the credit card but denied making charges on it. He claimed the credit card should not have a balance and believes that someone made charges to this credit card without his authorization. He disputed the balance with the credit reporting agencies, but he acknowledged that the dispute has not been resolved. The Government's 2021, 2022, and 2023 credit reports reflect that he has disputed this account, but all three credit reports list it as an account in collection. Applicant provided no documentation to substantiate the basis of his dispute, nor has he provided documentation to show any resolution of his dispute. (Items 3-10)

Applicant denied owing the medical debt for \$170 listed in SOR ¶ 1.e. because he claimed that he does not recognize it and therefore does not know if he is responsible for it. The debt was established in January 2022. He provided no evidence of any attempted resolution of this debt. He provided no documentation to substantiate the basis of any dispute. The debt appears on the Government's 2022 credit report but not on the Government's 2023 credit report. (Items 3, 9)

Applicant has two additional delinquent debts that are not listed on the SOR. One debt is a rental delinquency for \$2,026 that is in collection. Another is a credit card that is 150 days late that has a past due balance of \$674 with a total balance of \$3,693. Any adverse information not alleged in the SOR, such as Applicant's additional

delinquencies, will not be considered for disqualification purposes; however, it may be considered in assessing an applicant's credibility; in evaluating an applicant's evidence of extenuation, mitigation, or changed circumstances; in considering whether the applicant has demonstrated successful rehabilitation; and in applying the whole-person concept. (ISCR Case No. 15-07369 at 3 (App. Bd. Aug. 16, 2017)). (Item 10)

Applicant claimed that the reason he became delinquent on the debts listed in SOR ¶¶ 1.a through 1.c is because his wife had a difficult pregnancy and health problems that kept her from working. Her inability to work resulted in decreased income that did not allow them to cover their expenses. In June 2022, he claimed that he would arrange to pay these SOR debts in the future when his wife's health problems subside, and she is able to earn money again. He did not provide a timeline for when he thought he might start paying these debts. He provided no evidence how he plans to resolve the debts listed in SOR ¶¶ 1.d and 1.e. In June 2022, he provided a personal financial statement showing that he has about a \$500 monthly surplus. Therefore, he had at least some available finances to address his SOR debts if he chose to do so. He provided a paystub from his employer for the May 14, 2022 through May 27, 2022 pay period showing that he earned a net income of about \$2,312. (Items 3-7)

### **Policies**

This case is adjudicated 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), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. 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 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."

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 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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.

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

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

Applicant had five delinquent debts totaling about \$32,000. Many of those debts have been delinquent for years. The evidence is sufficient to raise AG ¶¶ 19(a) and 19(c), thereby shifting the burden to Applicant to provide evidence in mitigation.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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;

(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.

Applicant's financial delinquencies are ongoing and therefore recent. The SOR debts remain unresolved, and he has not provided a timeline for when he will resolve them. He also has two additional financial delinquencies not listed in the SOR. I cannot find that his financial issues are unlikely to recur. AG ¶ 20(a) does not apply.

Applicant's financial issues arose because of his wife's health problems. These conditions were beyond his control. For AG ¶ 20(b) to apply, he must also show that he acted responsibly under the circumstances with respect to these debts. He has not resolved any of the SOR debts. While he disputed the balance on the debt listed in SOR ¶ 1.d, he provided no documentation showing the result of that dispute. It is reasonable to expect Applicant to present documentation about the resolution of specific debts. See ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). Given these considerations, he has failed to show that he acted responsibly under the circumstances and AG ¶ 20(b) does not apply. The lack of evidence of the resolution of his SOR debts also makes AG ¶ 20(d) inapplicable.

Applicant disputed the balance of the debt in SOR ¶ 1.d because he believed he did not have a balance on the account. This concern is a reasonable basis to dispute the legitimacy of the past-due debt. He disputed the balance with the credit reporting agencies, which is reflected in the credit reports. However, the debt is still listed on the credit reports, and he did not provide evidence of any resolution of the dispute. MC

20(e) requires more than an individual's claim to not recognize a debt coupled with a claim that he disputed the debt on his credit report. ISCR Case No. 20-03691 at 3 (App. Bd. March 29, 2023). For this same reason, Applicant's claim that he does not recognize the debt in SOR ¶ 1.e, without further evidence of resolution, is also insufficient. AG ¶ 20(e) does not apply.

None of the Guideline F mitigating factors are fully applicable. Applicant's financial issues continue to cast doubt on his current reliability, trustworthiness, and good judgment.

### **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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. I also considered Applicant's military service.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations 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:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a-1.e:	Against Applicant

## **Conclusion**

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Benjamin R. Dorsey  
Administrative Judge