



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-01976
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Adrienne Driskill, Esq., Department Counsel  
For Applicant: *Pro se*

06/29/2023

**Decision**

MANNS, Gatha, Administrative Judge:

This case involves security concerns raised under Guideline F (financial considerations). Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application on November 23, 2021. On December 1, 2022, the Department of Defense (DOD) Consolidated Adjudication Services (CAS) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F (financial considerations). The CAS acted 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 responded to the SOR on January 17, 2023, and elected to have his case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on January 31, 2023, including Items 1 through 8. On February 2, 2023, a complete copy of the file of relevant material (FORM) was sent to

Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He received the FORM on February 6, 2023, and did not respond. The case was assigned to me on May 15, 2023. Items 1 through 8 are admitted in evidence without objection.

### **Findings of Fact**

In Applicant's answer to the SOR, he admitted all allegations except the allegation in SOR ¶ 1.c. His admissions are incorporated in my findings of fact.

Applicant is a 35-year-old systems technician employed by a defense contractor since October 2021. He served honorably in the active-duty U.S. Navy from 2010 until June 2021 when he was medically retired. Prior to discharge, he worked and lived in another state (S1) before being assigned to a position in the current state (S2), in about November 2018. Applicant was unemployed for about three months before acquiring his current position in October 2021. (Items 3 and 4)

Applicant is a May 2006 high school graduate. In September 2021, he enrolled in a college program and continues to attend classes part-time towards his degree completion. He married in August 2016. He is father to three children ages 12, 6, and 4; and two stepchildren, ages 16 and 11. Four of the five children live with him and his wife in the family home. In August 2022, S2's child support services department sent a Wage Garnishment Order, or Income Withholding for Support (IWO) order to his employer for direct withdrawal of his wages for child support. He had previously informed his employer that the IWO order was forthcoming, explaining that his current resident state, S2, required him to pay child support pursuant to the IWO order, whereas his previous resident state, S1, did not have this requirement. (Items 4 and 8)

The SOR alleges eight financial issues, including seven delinquent debts totaling about \$28,700; and the IWO order discussed above. (Item 1) In his response, Applicant admitted all allegations except SOR ¶ 1.c. (Item 2) He attributed his financial problems to his move in November 2018 to S2, a high cost of living state. He disclosed during his interview that he was not financially savvy or [financially] smart and admitted to making financial mistakes, but stated he was addressing the problem. (Item 4 at 4). He hired a credit repair company to help "clean up" his credit, confirmed by the company in a letter dated May 2, 2022 (Item 2 at 3) It reads:

Please be advised that [Applicant] has enrolled in our credit restoration service to assist with the removal of any erroneous, inaccurate and obsolete derogatory credit information that has been reported to the three credit bureaus. Our restoration program also provides extensive credit education.

(Item 2 at 3) He stated the company was assisting him with the removal of any erroneous, inaccurate, or obsolete derogatory credit information [from his credit reports]; and credit education; but acknowledged the company was not a credit counseling service. (Item 4 at 6) He stated he initially hired them in 2019 (Item 4 at 2) and that he pays \$69 per month

for their service. (Item 2 at 3; Item 3 at 34; and Item 4 at 2 and 6) At the close of the interview, he told investigators he would provide documentation and more details on the accounts; and that he was living within his means and paying off debts and would have no future financial issues. (Item 4 at 4) He failed to provide any documentary proof showing the terms of the contract including the effective date and obligations of the parties.

In May 2022, Applicant earned a monthly salary of about \$6,284 (\$75,000 annually). He also received monthly Department of Veterans Affairs (VA) non-taxable disability pay of about \$2,871 (\$34,400 annually). His additional financial assets included a savings account of about \$11,300; a checking account of about \$5,400; and a company 401(k) account of about \$25,000. Applicant's monthly discretionary income, after all bills and expenses were paid, totaled over \$4,000. (Item 4 at pp. 5 through 6)

The evidence concerning the financial issues alleged in the SOR is summarized below.

**SOR ¶ 1.a: account charged off for \$8,685.** Applicant admits this debt. He disclosed that he borrowed this money to catch up on bills before his discharge from the Navy. He states he was paying \$325 monthly; and that he missed a few payments, but ultimately "caught up" in May 2022. (Item 4 at 3). He later stated in his SOR response that he made payments until he lost his job due [to his] clearance. He stated he "[has] been in touch with [the creditor] and making strides to get [his] account back to positive." (Item 2 at 1). No further information was disclosed in his SOR response concerning any loss of employment referenced here. This debt, opened in March 2021, appears in all three credit bureau reports. In January 2022, it was 60 days past due with a balance of \$7,758. (Item 7 at 6). The past-due balance became \$8685 in about June 2022; and the account was ultimately charged off to profit and loss. (Item 6 at 2 and Item 5 at 4) This debt is unresolved.

**SOR ¶ 1.b: account in collection for \$4,653.** Applicant admits this debt. He disclosed that in about October 2020 he changed phone providers; and that, though he paid his bill in full and returned the leased devices, the company charged him for early termination of services. (Item 4 at 3) He states he contacted the company and was waiting to hear back. (Item 3 at 39; and Item 4 at 3) His comments in his SOR response are inconsistent with previous factual comments about this debt. (See Item 2 at 1) This debt was assigned in about January 2022 and remained in a collection status after he or his credit repair company disputed it. (Item 6 at 2, and Item 7 at 3). This debt is unresolved.

**SOR ¶ 1.c: account in collection for \$192.** Applicant denies this debt, stating he has never associated with the company. This debt is identified as an individual account that was placed for collection in July 2022. (Item 6 at 2) It does not appear in Item 5, the most recent credit bureau report. This debt is resolved.

**SOR ¶ 1.d: account charged off for \$13,049.** Applicant admits this debt. He disclosed this was a voluntary repossession of a car he previously owned. He stated he

is in communication with the creditor and that he is “making strides to get [his] account back positive;” however, he offers no additional details or documents supporting the status of the debt. The debt was assigned in July 2018 and charged off in about December 2021 (Items 6 and 7). This debt is unresolved.

**SOR ¶ 1.e: account past-due balance of \$200 with a total balance of \$475.** Applicant admits this debt, and stated he is in contact with the creditor. He offers no additional comments or documents on the current status of this debt. (Item 2 at 1) His last payment on the debt was in December 2021. It was ultimately charged off in about August 2022. (Item 5 at 9) This debt is unresolved.

**SOR ¶ 1.f: account in collection for \$1,304.** Applicant admits this debt. He disclosed this debt was caused by a gap in insurance coverage after a car accident where his car was a total loss. He agreed to pay \$110 per month until resolved but he failed to pay the debt. (Item 4 at 36) The record shows Applicant disputed the debt in about December 2021; but he offers no explanation, information, or documented proof indicating the reason or basis for the dispute. (Item 7 at 3) The debt does not appear in the two later credit bureau reports. (Items 5 and 6) This debt is unresolved.

**SOR ¶ 1.g: account in collection for \$650.** Applicant admits this debt. He disclosed that he purchased a service for his parents and that they paid the account for a few years but stopped paying the bill and failed to return the equipment. He stated he is in contact with the creditor but also working with his credit repair company to “clear his credit.” (Item 2 at 1). The record shows he or his credit repair representative disputed the debt but he offers no explanation, information, or documented proof indicating the reason or basis for the dispute. (Item 7 at 4) The debt does not appear in the two later credit bureau reports. (Items 5 and 6) This debt is unresolved.

**SOR ¶ 1.h: wage garnishment for child support and child support arrears.** Applicant admits this debt with explanation. He disclosed that he reported this garnishment order for child support to his employer, explaining his previous state, S1, did not require child support payments via direct garnishment or IWO orders, unlike S2. (Items 4 and 8) This statement is supported in Item 8. The issue is resolved.

## **Policies**

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” EO 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules

of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines 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 and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." EO 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. 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).

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern under this guideline 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.

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person 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).

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

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

Applicant has a history of financial problems including multiple delinquent debts. He initially experienced some financial hardship after moving to S2, a high cost of living state in 2018; and during his brief unemployed period in 2021. In May 2022, he reported monthly discretionary income exceeding \$4,000, in addition to healthy savings, checking, and 401(k) account balances. He had the available means to pay delinquent debts, but failed to do so. AG ¶¶ 19(a), and 19(c) are applicable.

Applicant denied the debt in SOR ¶ 1.c, stating he never associated with the company. The debt initially appeared as an individual account placed for collection in July 2022; however, it did not appear in the later credit bureau report. This debt is resolved in Applicant's favor.

Applicant admitted the debt in SOR ¶ 1.h, with explanation. He reported the garnishment order for child support to his employer, explaining his previous state did not require child support payments by direct garnishment or IWO orders, unlike the current state, a statement supported by the evidence. This issue is resolved in Applicant's favor.

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

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;

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(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 established. Applicant's delinquent debts are numerous and ongoing; his longstanding delinquent debts in the SOR remain largely unresolved.

AG ¶ 20(b) is not fully established. Applicant could have experienced financial strain after moving to S2, a high cost of living state in 2018; and briefly during his three-month unemployment period, July through September 2021, prior to acquiring his current position. However, he has not established he acted responsibly under the circumstances.

Applicant admitted he was not financially savvy and that he made financial mistakes. Though he hired a credit repair company to help with financial issues, the company's primary purpose was to assist with the removal of "erroneous, inaccurate, or obsolete derogatory credit information" from reports of the three major credit bureau reporting services. There is no indication he took steps to substantively address his delinquent debts. The fact a debt no longer appears on a credit report does not establish any meaningful independent evidence concerning the disposition of the debt. See ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 15, 2015). It does not extenuate or mitigate a history of financial difficulties or constitute evidence of financial reform or rehabilitation. ISCR Case No. 21-00261 at 2-3 (App. Bd. June 6, 2022).

AG ¶ 20(c) is not established. Applicant's financial problems are not under control.

AG ¶ 20(d) is not established. Though Applicant hired a credit repair company to assist him with removing derogatory information from his credit bureau reports; he failed to establish he initiated and is adhering to good-faith efforts to repay delinquent debts. He

has not established any meaningful track record towards resolving his delinquent debts. Establishing a meaningful track record of resolving delinquent debts generally includes establishing a plan to resolve financial problems and taking significant steps to implement that plan. ISCR Case No. 07-06482 at 2 (App. Bd. May 21, 2008); *see also* 19-01624 at 4 (App. Bd. Aug. 29, 2022).

AG ¶ 20(e) is not established. Though a few delinquent debts alleged in the SOR were disputed, Applicant did not elaborate on this aspect, nor did he present independent evidence supporting a reasonable basis to dispute any such delinquent debts.

In sum, 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 continue to cast doubt on his current reliability, trustworthiness, and good judgment. I find that financial considerations security concerns remain despite the presence of some mitigation.

### **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 have incorporated my comments under Guideline F in my whole-person analysis.

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 and 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraphs 1.d through 1.g:	Against Applicant
Subparagraph 1.h:	For 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.

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Gatha Manns  
Administrative Judge