



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



In the matter of:	)	
	)	
XXXXXXXXXXXXXXXXXX	)	ISCR Case No. 22-01617
	)	
Applicant for Security Clearance	)	

**Appearances**

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

08/25/2023

**Decision**

KATAUSKAS, Philip J., Administrative Judge:

Applicant has provided evidence sufficient to mitigate the national security concern raised by his problematic financial history. Applicant’s eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted his security clearance application (SCA) on June 22, 2021. The Department of Defense (DoD) issued Applicant a Statement of Reasons (SOR) on February 10, 2023 detailing security concerns under Guideline F, financial considerations. The DoD acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and Security Executive Agent Directive 4, *National Security Adjudicative Guidelines*, effective within the DoD as of June 8, 2017.

Applicant submitted an answer (Answer) to the SOR on February 25, 2023, and elected a decision on the written record by an administrative judge of the Defense Office of Hearings and Appeals (DOHA). On March 31, 2023, Department Counsel submitted the Government’s file of relevant material (FORM), including documents identified as

Items 1 through 7 and sent the FORM to Applicant on the same day. He received it on May 9, 2023 and was afforded 30 days to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not respond to the FORM. The SOR and the Answer (Items 1 and 2, respectively) are the pleadings in the case. Items 3 through 7 are admitted without objection. The case was assigned to me on August 8, 2023.

### **Findings of Fact**

After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact:

Applicant is 57 years old. He is a naturalized citizen of the United States who entered this country in November 1987. He had an alien registration number but was unable to locate it. He was married in January 1988 and divorced in September 2020. He has two adult children. He has lived with a cohabitant since March 2020. Since January 2011, he has worked for a defense contractor. This is apparently his first application for a security clearance. (Items 3 and 4.)

The SOR alleged six delinquent accounts, the largest being a home mortgage with a past-due amount of \$55,335 and a total balance of \$355,323. The most recent credit report (March 29, 2023) noted "Foreclosure Process Started." (SOR ¶ 1.a; Item 5.) The home mortgage account is reported as "Joint." (Items 5 through 7.) The remaining five accounts are two medical accounts totaling \$1,211 and three cable accounts totaling \$860. (SOR ¶¶ 1.b-1.f.) Applicant admitted the home mortgage account, one medical account, and one cable account. (Answer ¶¶ 1.a, 1.b, and 1.e.) He denied two cable accounts and one medical account. (Answer ¶¶ 1.b, 1.c, and 1.d.) All SOR allegations are supported by the credit reports. (Items 5 through 7.) Applicant did not provide any documents supporting his denials. The SOR debts went into collections from February 2017 to September 2021. (Item 6.)

In his personal subject interview (PSI), Applicant explained why he did not list his certificate of naturalization in his SCA: "[He has] no access to the certificate because it's in ex-wife's residence; subject has not got the certificate due to their contentious divorce. [He] thinks the certificate of naturalization was issued in September 2000 . . . ." (Item 4.)

In his PSI, Applicant addressed the delinquent mortgage as follows:

[He] advised that his ex-wife [is] in-charge of the mortgage since she lives in the home. Their divorce was granted in September 2020 . . . The divorce settlement requests sale of the property. [He] does not know the reason for non-payments of approximate \$2,300 per month. [His] divorce lawyer advised not to contact ex-wife since it was a contentious divorce. . . The plan is the sale of the home will pay off mortgage debt. (Item 4.)

## The Law and Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant’s suitability for a security clearance, an administrative judge must consider the adjudicative guidelines guidelines are flexible rules of law that apply together with common sense and the general factors of the whole-person concept. An administrative judge must consider all available and 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, then the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

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

The security concern relating to Guideline F 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.

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. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

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

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

The SOR debts are established by Applicant's admissions and the Government's credit reports. AG ¶¶ 19(a) and 19(c) apply.

Guideline F also includes conditions that could mitigate security concerns arising from financial difficulties. Having reviewed all of the mitigating condition under AG ¶ 20, I find the following 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; and
- (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.

I have considered condition AG ¶ 20(a). Applicant's SOR debts went into collections between 2017 and 2021. That is not that long ago. The debts are numerous and remain in default today. His debts are not mitigated under AG ¶ 20(a).

I have considered condition AG ¶ 20(b). Applicant was divorced in September 2020, after 12 years of marriage and having two children, now adults. AG ¶ 20(b) recites "divorce" as a condition "largely beyond" an applicant's control. That is the condition Applicant has confronted. The first element of that mitigating condition is, therefore, satisfied.

The second element of AG ¶ 20(b) is that an applicant act "responsibly" under the adverse circumstances he faced. Applicant's divorce was sufficiently acrimonious that he was unable to retrieve his naturalization certificate from the marital home, where his ex-wife now resides. And his divorce lawyer counseled that Applicant not contact his ex-wife about the mortgage, because the divorce was so contentious. The only responsible option left to Applicant was to allow the home to go through foreclosure, a process the record shows was occurring in March of this year. I find that SOR ¶ 1.a has been mitigated under AG ¶ 20(b).

The other five SOR debts total \$2,071. The magnitude of that amount does not raise national security concerns. I find in favor of Applicant on SOR ¶¶ 1.b through 1.f.

## **The Whole-Person Concept**

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. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the “whole-person” concept and its factors). In my analysis above, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case.

Applicant leaves me with no questions about his eligibility and suitability for a security clearance. For these reasons, I conclude that Applicant has mitigated the security concerns arising 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:	FOR APPLICANT
Subparagraphs 1.a. – 1.f:	For Applicant

### **Conclusion**

In light of all of the circumstances presented, it is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

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Philip J. Katauskas  
Administrative Judge