



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



|                                  |   |                        |
|----------------------------------|---|------------------------|
| In the matter of:                | ) |                        |
|                                  | ) |                        |
|                                  | ) | ISCR Case No. 22-02478 |
|                                  | ) |                        |
| Applicant for Security Clearance | ) |                        |

**Appearances**

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

11/08/2023

**Decision**

GARCIA, Candace Le'i, Administrative Judge:

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

**Statement of the Case**

On February 13, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The action was taken under Executive Order (Exec. Or.) 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) implemented by DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on April 25, 2023, and elected to have his case decided on the written record in lieu of a hearing. The Government's written case was submitted on May 22, 2023. A complete copy of the file of relevant material (FORM) was provided to Applicant and he was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on May 30, 2023. He did not submit a response. The case was assigned to me on September 28, 2023. The Government's documents, identified as Items 1 through 6 in its FORM, are admitted in evidence without objection.

## Findings of Fact

Applicant admitted both SOR allegations in his Answer. He is 41 years old, married in 2010, divorced in 2018, and remarried in 2020. He has three children, one adult and two minors, and two stepchildren, both minors. He graduated from high school in 2001. (Items 1-3)

Applicant has worked as an electrician for various employers since at least 2008. He has worked for his current employer, a DOD contractor, since June 2022. He has never held a security clearance. (Item 3)

The SOR alleges that Applicant had two delinquent consumer debts: an auto loan account in collection for \$20,945 (SOR ¶ 1.a) and a pre-paid credit card charged off for \$75 (SOR ¶ 1.b). The allegations are established by Applicant's admissions in his Answer, his June 2022 security clearance application (SCA), his August 2022 background interview, and credit bureau reports from July 2022 and May 2023. The July 2022 credit bureau report lists both SOR debts, and the May 2023 credit bureau report lists only the charged-off credit card in SOR ¶ 1.b. (Items 1-6)

Applicant attributes his delinquent debts to his divorce. He obtained an auto loan (SOR ¶ 1.a) to purchase his then-spouse a car during their marriage. Her poor credit prevented her from obtaining an auto loan solely in her name or co-signing the auto loan with him. When they separated approximately one year later, he allowed her to keep the car with the understanding that she was going to make the monthly car payments. Unbeknownst to him, the car was repossessed when she failed to do so. He has not made any efforts to resolve this debt as he does not have the financial means to do so. He does not intend to obtain any auto loans in the future unless he needs to buy his own vehicle. (Items 2-4)

Applicant obtained a pre-paid credit card (SOR ¶1.b) to rebuild his credit. He deposited \$200 onto the card, of which he used \$75, and then he cancelled the service. He was unaware that the card was charged off, and he did not understand why it was charged off since he still had money remaining on the card. He stated in his Answer, "I never got any of [my] money back so therefore I don't see how I owe them anything, doesn't make any sense to pay them." (Items 2-4)

Applicant indicated during his background interview that he monitors his credit using Credit Karma, and he lives within his financial means. He stated in his Answer that he is the primary breadwinner, as his spouse does not work outside of the home, and he would not jeopardize his ability to care for his family. The May 2023 credit bureau report lists the following additional debt that is not alleged in the SOR: an auto loan account for which Applicant is \$2,109 past due, with January 2023 reflected as his date of last payment. I will not consider this unalleged debt in evaluating the disqualifying conditions under this guideline; however, I will consider this information in my mitigation and whole-person analysis. There is no information in the record about whether Applicant has received credit counseling. (Items 2, 5)

## Policies

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 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(a), 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 access to classified information 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. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, 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 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 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 Exec. Or. 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## Analysis

### Guideline F: Financial Considerations

AG ¶ 18 expresses the security concern pertaining to financial considerations:

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.

AG ¶ 19 describes conditions that could raise a security concern and may be disqualifying. I considered as relevant AG ¶ 19(a), an "inability to satisfy debts" and, AG ¶ 19(c), "a history of not meeting financial obligations." Applicant has a history of not paying his debts. AG ¶¶ 19(a) and 19(c) apply.

Of the mitigating conditions under AG ¶ 20, I have determined the following to be relevant:

(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.

Conditions beyond Applicant's control contributed to his delinquent debts. For the full application of AG ¶ 20(b), he must provide evidence that he acted responsibly under the circumstances. Applicant incurred the pre-paid credit card debt in SOR ¶ 1.b under such circumstances that are unlikely to recur, and this minimal debt does not cast doubt on his current reliability, trustworthiness, or judgment. AG ¶ 20(a) applies to the debt in SOR ¶ 1.b and I find that allegation in Applicant's favor. However, Applicant failed to make any effort to resolve the debt in debt SOR ¶ 1.a, and he has incurred an additional delinquent debt as evidenced by the 2023 credit bureau report. There is no indication that he has received credit counseling. I find that Applicant's ongoing financial problems continue to cast doubt on his current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) are not established .

### **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 have incorporated my comments under Guideline F in my whole-person analysis. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that 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 E:

AGAINST APPLICANT

Subparagraph 1.a:

Against Applicant

Subparagraph 1.b:

For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Candace Le'i Garcia  
Administrative Judge