



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



|                                  |   |                        |
|----------------------------------|---|------------------------|
| In the matter of:                | ) |                        |
|                                  | ) |                        |
|                                  | ) | ISCR Case No. 22-01400 |
|                                  | ) |                        |
| Applicant for Security Clearance | ) |                        |

**Appearances**

For Government: Nicholas T. Temple, Esq., Department Counsel  
For Applicant: *Pro se*

11/20/2023

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**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. Although Applicant’s financial problems were caused by events beyond his control, he did not present sufficient evidence to mitigate the financial considerations concerns. Clearance is denied.

**Statement of the Case**

On November 7, 2022, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline. This action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended, as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive), and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, implemented on June 8, 2017. DOD adjudicators were unable

to find that it is clearly consistent with the national interest to grant Applicant's security clearance.

Applicant answered the SOR and requested a decision without a hearing. The Government submitted its written case on April 4, 2023. The Government provided Applicant a complete copy of the file of relevant material (FORM) and the Directive. In the FORM, the Government informed Applicant that it was offering a summary of his February 2022 subject interview with a background investigator into evidence. The Government advised him of his ability to object to, correct, add, delete, or update the information in the subject interview summary. The Government further advised him that failure to respond could result in a determination by the administrative judge that he waived any objection to the document's admissibility. Applicant acknowledged receipt of the documents on April 12, 2023. He did not respond. The attachments to the FORM, which include the summary, are admitted to the record as Government's Exhibits (GE) 1 through 7, without objection.

### **Findings of Fact**

Applicant, 32, has worked for his current employer as a security officer since October 2021. He completed a security application, his first, in December 2021, disclosing two delinquent debts, totaling \$10,300. The investigation revealed eight additional delinquent accounts. The SOR alleged that Applicant owed \$20,430 on 10 delinquent accounts. (GE 1,3)

Applicant started having financial problems after experiencing what he described as 'job insecurity,' after being laid off in July 2020. Between July 2020 and October 2021, he worked at four different security companies, with the jobs lasting between 2 and 8 months. During the summer of 2020, his finances were strained by the death of his father. Also, his girlfriend, with whom he had been living and sharing household expenses since May 2020, experienced a medical emergency that left her unable to work for an unspecified period. The record does not contain specific information about Applicant's income or expenses during that time. (GE 7)

Applicant discussed his finances with a background investigator during a February 2022 interview. He discussed the two debts he disclosed in his security clearance application, both for the deficiency balance on car loans. After being laid off in July 2020, Applicant could not afford his car payment, which resulted in the vehicle being repossessed and a deficiency balance on the loan. (SOR ¶ 1.f, \$3,459) Unbeknownst to Applicant until after the death of his father, his father's car, for which Applicant had cosigned, had also been repossessed and had a deficiency balance due. (SOR ¶ 1.e, \$7332) At the time of the interview, he had not made any payments on either of these debts. (GE 7)

The investigator confronted Applicant with evidence of eight additional debts reported in a January 2022 credit report. (GE 4) He admitted owing debts on two old cell phone accounts totaling \$1,267 (SOR ¶¶ 1.b and 1.g). He also attributed a \$69 debt

(SOR ¶ 1.j) to medical treatment he received. He told the investigator he had no knowledge of the other five accounts totaling \$8,303. (SOR ¶¶ 1.b, 1.c, 1.d, 1.h, 1.i)

In his answer to the SOR, Applicant denied SOR ¶ 1.a (\$488), one of the cell phone debts he admitted owing in the February 2022 subject interview. He admitted SOR ¶¶ 1.b through 1.j. All the debts appear on GE 4, a January 20, 2022 credit report. For unknown reasons, only the debts alleged in SOR ¶¶ 1.e through 1.g appear on GE 5, an August 30, 2023 credit report. The most recent credit report, GE 6, dated April 4, 2023, only reports the debts alleged in SOR ¶¶ 1.e and 1.f.

Applicant did not provide any evidence of debt repayment. None of the alleged debts are over seven years old. The alleged debts became delinquent between 2020 and 2022. There is no evidence that Applicant has challenged the information reported on his credit reports as being inaccurate or erroneous.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. 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 AG ¶ 2 describing 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence.

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 clearance decision.

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

Unresolved delinquent debt is a serious security concern because failure to “satisfy debts [or] 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.” (AG ¶ 18). Here, the SOR alleged and the record supports a finding that Applicant is indebted to 10 creditors for \$20,430. The Government has established its *prima facie* case that certain of the financial considerations apply, specifically:

AG ¶ 19(a) inability to satisfy debts; and

AG ¶ 19(c) a history of not meeting financial obligations.

The following mitigating condition is partially applicable, but does not fully mitigate the alleged concerns:

AG ¶ 20(b) the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of unemployment, 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.

The record contains sufficient evidence to establish that Applicant’s financial problems were caused by events beyond his control: job insecurity between July 2020 and October 2021; the death of his father; and the loss of household income due to an unexpected medical issue experienced by his cohabitant girlfriend. However, he did not submit evidence to satisfy the second part of the mitigation condition that he acted responsibly under the circumstances. He did not provide any evidence that he has paid or successfully challenged the alleged debts. He also failed to provide evidence that he is no longer responsible for the debts either by cancellation by the creditors or application of the statute of limitations. He did not present any evidence to show that his finances are under control.

Based on the record, doubts remain about Applicant’s current security worthiness. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Although, security clearance adjudications are not debt-collection proceedings, an applicant is responsible for providing sufficient evidence to explain, refute, or rebut the SOR allegations. Applicant failed to meet his burdens of production and persuasion.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

|  |                   |
|--|-------------------|
| Paragraph 1, Financial Considerations: | AGAINST APPLICANT |
| Subparagraphs 1.a – 1.j:               | Against Applicant |

### **Conclusion**

Based on the record, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. National security eligibility for access to classified information is denied.

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Nichole L. Noel  
Administrative Judge