



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-02536
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: John Lynch, Esq., Department Counsel  
For Applicant: *Pro se*

12/07/2023

**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 28, 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 March 15, 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 July 12, 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 July 28, 2023. He submitted a response on August 15, 2023 (FORM Response). The case was assigned to me on November 6, 2023. The

Government's documents, identified as Items 1 through 8 in its FORM, and Applicant's FORM Response, are admitted in evidence without objection.

### **Findings of Fact**

Applicant admitted all the SOR allegations in his Answer. He is 35 years old, married, and he has four minor children. He graduated from high school in 2007. He attended various colleges between 2014 and 2020, but he did not earn a degree. As of his June 2021 security clearance application (SCA), he previously owned a home from February 2015 to September 2016 in state A, and he has owned his home in state B since February 2018. (Answer; Items 1-3; Form Response)

Applicant served in the U.S. military from August 2007 to March 2015. He deployed to Iraq from December 2009 to November 2010. He was honorably discharged in March 2015. He has since worked for various DOD contractors. As of his SCA and since August 2017, he has worked as a field systems engineer for his employer, a DOD contractor. He was first granted a security clearance in 2007. (Items 3, 8)

The SOR alleges that Applicant had three delinquent consumer debts: an auto loan charged off for \$19,347 (SOR ¶ 1.a); an apartment rental account in collection for \$7,242 (SOR ¶ 1.b); and a charged-off loan for \$23,146 (SOR ¶ 1.c). The allegations are established by Applicant's admissions in his Answer, his SCA, his June 2022 response to interrogatories, and credit bureau reports from August 2021, November 2022, and July 2023. The August 2021 credit bureau report lists the debts in SOR ¶¶ 1.a and 1.c. The November 2022 and July 2023 credit bureau reports list the debts in SOR ¶¶ 1.a and 1.b. (Items 1-7)

Applicant attributes his delinquent debts to minimal income, relocation costs, the high cost of living in state A, and his spouse's and father-in-law's unforeseen medical expenses. He stated in his response to interrogatories that his spouse worked only part time and her income fluctuated. He acknowledged that he and his spouse were also financially overextended; they utilized credit cards to meet their financial obligations; and they incurred some of their medical expenses when they voluntarily elected in approximately 2017 not to have medical coverage. He stated in his SCA:

Took on loans and credit card debt in order to fund relocations. Shortly after had healthcare expenses not covered by insurance. Our revolving debt ate up all our disposable income and we had to use credit cards to stay afloat. (Answer; Items 3, 7; Form Response)

Applicant obtained the car loan in SOR ¶ 1.a to purchase a car necessary for him to commute from state B, where he resided with his family, to state C, where he worked. The debt in SOR ¶ 1.b is for the cost of breaking the lease on the apartment that Applicant's father-in-law resided in when it was no longer feasible for him to live on his own due to his health issues. Applicant stated in his Answer that after he unsuccessfully

attempted to negotiate a monthly payment arrangement of \$200 with the management company, he stopped hearing from the company. He did not provide documentation to corroborate his efforts to resolve this debt. Applicant obtained the loan in SOR ¶ 1.c to assist with relocation costs, debt consolidation, and to pay for his spouse's medical expenses. They could not afford the monthly minimum payment for the loan. He stated in his SCA that this debt was sent to a debt servicing agency (Company B). This debt is only reported on the August 2021 credit bureau report. The November 2022 and July 2023 credit bureau reports reflect that this charged-off debt has a zero balance. (Answer; Items 3, 4, 5, 7; Form Response)

Applicant stated that in his SCA he was working with a debt consolidation company (Company A) to resolve his debts. He also stated that Company A provided him with financial counseling. In his response to interrogatories, he acknowledged that he had not paid the debts in SOR ¶¶ 1.a and 1.c. He stated that he and his spouse intended to pay their smaller debts first before tackling the larger ones. He noted in his June 2022 personal financial statement (PFS) that he allotted a monthly payment of \$623 to Company A. He stated in his Form Response that he and his spouse were in touch with their creditors. He also stated that they listed their home for sale, and they intended to use any profit to resolve their debts. He also stated that they were downsizing to reduce their monthly expenses, and they intended to sell the car that he purchased with the loan in SOR ¶ 1.a and use the profit to resolve the outstanding loan balance. He did not provide documentation to corroborate his efforts to resolve his debts through Company A, to include any payments he has made to date to Company A, and he did not provide documentation to corroborate his efforts to resolve his debts directly with the creditors. (Items 3, 7; Form Response)

Applicant's June 2022 PFS reflects a net monthly income of \$12,662. After expenses, to include the monthly allotment of \$623 to Company A, his monthly net remainder was \$306. The July 2023 credit bureau report lists three additional charged-off credit cards, for \$2,013, \$7,275, and \$12,282, respectively, that are not alleged in the SOR. I will not consider these unalleged debts in evaluating the disqualifying conditions under this guideline; however, I will consider this information in my mitigation and whole-person analysis. (Item 4)

### **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; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

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 failed to provide documentation to corroborate his efforts to resolve his debts, and he has incurred additional delinquent debts as evidenced by the 2023 credit bureau report. Although he stated that Company A provided him with credit counseling, there are not clear indications that his financial problems are being resolved or are under control. 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), and 20(d) 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
Subparagraphs 1.a-1.c:	Against 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