



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 21-02036  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Raashid S. Williams, Esq., Department Counsel  
For Applicant: *Pro se*

05/23/2023

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**Decision**

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MASON, Paul J., Administrative Judge:

Applicant’s periodic unemployment since 2015 and his marital difficulties caused some of his financial problems. However, Applicant has been employed continuously since January 2019. His evidence in mitigation does not dispel the security concerns that remain under the guideline for financial considerations. Eligibility for security clearance access is denied.

**Statement of the Case**

On February 17, 2021, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to retain a security clearance required for a position with a defense contractor. On March 22, 2021, he provided an interview (PSI) with an investigator from the Office of Personnel Management (OPM). The Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudication Services (CAS) could not make the affirmative findings required to continue a security clearance, and issued to Applicant a Statement of Reasons (SOR), dated October 13, 2021, detailing security concerns raised by financial considerations (Guideline F). The action was taken under Executive Order (E.O.) 10865, *Safeguarding Classified Information*

*within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective in the DOD on June 8, 2017.

Applicant provided his answer on October 19, 2021. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on March 29, 2023, for a hearing on April 7, 2023. The hearing was held by Teams video teleconference as scheduled. I entered the Government's four exhibits (GE) 1-4 into evidence without objection. Ten exhibits are listed in Applicant's exhibit list, but AG G is missing. AE L, one of Applicant's four post-hearing exhibits submitted without objection, establishes proof that he settled SOR ¶ 1.a. Applicant also referred to another exhibit during the course of hearing that does not appear on his exhibit list, and that he did not submit aet the hearing or in his post-hearing submissions. . This exhibit is discussed below under SOR ¶ 1.b in the factual findings. References to the PSI (GE 2) and GE 3 will cite the handwritten page numbers in the lower right-hand corner of the page. DOHA received the transcript (Tr.) on April 18, 2023. The record closed the same day.

### **Findings of Fact**

The 12 delinquent accounts listed in the SOR total \$37,701. The accounts include personal loans, a pay day loan, a vehicle loan, and a credit card. Applicant admitted all the accounts with explanations He contended that the delinquent accounts were isolated and that he had begun communicating with the creditors or collection agencies to resolve the accounts. He indicated he was involved in a payment plan with SOR ¶¶ 1.d, 1.e, and 1.f.

Applicant is 32 years old and divorced from his second wife. He divorced his first wife in 2016. He is paying delinquent child support for one of his two children. He has held a security clearance since May 2010. From January 2021 to the present, he has worked as an equipment technician, maintaining antennas and other equipment for aircraft carriers. (GE 1 at 15-27, 30-32, 46-48; GE 2 at 1-4)

From January 2019 to January 2021, Applicant was employed as a coordinator with the same contractor. He was unemployed in the preceding four months. From October 2017 to August 2018, Applicant served as a liaison coordinator with a different contractor. From April 2017 to October 2017, he was unemployed. From October 2016 to April 2017, he was a gaming technician at an entertainment business, but was terminated. Applicant was unemployed for three months in 2016. From April 2016 to August 2016, Applicant was an electrician, but left by mutual agreement following notice of unsatisfactory performance. From January 2016 to March 2016, Applicant was an assistant packaging operator. He was unemployed from October 2015 to January 2016. He served on active duty in the U.S. Navy from May 2010 to October 2015, when he received a General Discharge under Honorable Conditions. Following his discharge, he

encountered financial difficulties, exacerbated by occasional unemployment and two divorces. (GE 1 at 15-27, 30-32, 46-48; GE 2 at 1-4)

SOR 1.a – This insurance account became delinquent in June 2021. Though Applicant's documentation shows the account was paid, the funds to pay the account did not clear the bank until April 8, 2023, the day after the hearing. As noted in Statement of Case, AE G, which is missing from Applicant's exhibit list, was not submitted into evidence and has been replaced by AE L to confirm the debt was settled. (Tr. 23-26; AE L) This account is resolved.

SOR 1.b – This payday loan became delinquent in December 2019. Applicant claimed that he settled the account in October 2022. He stated that he would submit documentation to confirm the settlement. No supporting documentation was submitted. (GE 2 at 4; GE 3 at 4; Tr. 26, 38) This account is unresolved.

SOR ¶ 1.c – This retail account became delinquent in July 2019. Applicant satisfied the account on March 30 and March 31, 2023. (GE 4 at 3; Tr. 27; AE I) This account is resolved.

1.d, 1.e, 1.f – These three accounts belong to a federal credit union. SOR ¶ 1.d represents a past-due credit-card account. SOR ¶ 1.e is an overdue personal loan. SOR ¶ 1.f is a delinquent vehicle loan. The last payment on the accounts was in October 2015. In his October 2021 answer to the SOR, Applicant claimed that he had started a repayment plan with the creditor. At the April 2023 hearing, Applicant claimed he no longer owed the debts to the credit union because after seven years, they disappeared from his credit report. (GE 3 at 3; GE 4 at 3; Tr. 28, 38; AE A) The three debts are unresolved.

SOR ¶ 1.g - This cell phone account became delinquent in March 2020. In his October 2021 answer, he claimed that he started communications with the creditor to resolve the account. Applicant's documentation to show that he disputed the account is an entry in his credit report indicating he disputed the account. However, he never stated the basis for his dispute. (GE 3 at 3; GE 4 at 4; Tr. 39; AE A at 39) This account is unresolved.

SOR 1.h – This account is a personal loan that became delinquent in July 2019. In his October 2021 answer, he indicated he was talking to the collection agency to resolve the account. Applicant testified that he no longer owes the account because it was removed from his credit report. (GE 4 at 4; Tr. 30, 39; AE A) The account is unresolved.

SOR ¶ 1.i – This account is for a personal loan that became delinquent in April 2019. In his March 2021 PSI, he planned to pay the account with his 2021 tax refund. In his October 2021 answer to the SOR, he indicated that in March 2021, he disputed the account through a credit repair firm. He claimed the reason for the dispute was that the

account contained incorrect information. (GE 3 at 4; Tr. 30, 40; AE A at 26) With no credible reason for the dispute, the account is still unresolved.

SOR 1.j – This account belongs to a credit rebuilder firm. The account became delinquent in October 2019. In a letter dated April 20, 2022, the creditor informed Applicant that he had a zero balance on the account. (GE 3 at 5; GE 4 at 5; Tr. 32, 40; AE D) The account is resolved.

SOR 1.k – This is a credit-card account that Applicant fell behind on when he was unemployed. The account became delinquent in April 2019. In his October 2021 answer to the SOR, he claimed that he began a repayment plan. In November 2021, the collection agency notified Applicant that the account was satisfied and had a zero balance. (GE 3 at 4; Tr. 32, 42; AE F) This account is resolved.

SOR ¶ 1.l – This is a medical account that became delinquent in July 2018. The collection agency notified Applicant on April 20, 2022 that the account was paid-in-full. (GE 3 at 5; Tr. 32; AE E) The account is resolved. Applicant has paid or settled SOR ¶¶ 1.a, 1.c, 1.j, 1.k, and 1.l. totaling \$1,609; he still owes SOR ¶¶ 1.b, 1.d, 1.e, 1.f, 1.g, 1.h, and 1.i, totaling \$36,189.

Applicant indicated he takes home about \$3,000 a month in earnings after taxes, and receives a \$735 disability check from Veterans Affairs (VA) a month. From the \$3,735 a month, he has approximately \$1,000 in discretionary funds every month after he pays his expenses. Though he intends to contribute \$500 a month of the \$1,000 to his girlfriend's debt, he just began helping his girlfriend in April 2023, because he was paying \$700 in child support a month to his former wife as a part of the 2021 stipulated judgment. (Tr. 46-52; AE C at 3)

Applicant intends to begin paying the Internal Revenue Service (IRS) \$300 a month in April 2023 for delinquent income taxes for federal tax year 2019. There is no indication in the record that the payment was made in April 2023. On April 21, 2023, he owed the IRS \$1,438. (Tr. 55; AE M)

Applicant produced a copy of his budget for October 2022. (AE J) The budget is confusing and several monetary entries in the budget are unidentified and do not sufficiently match the information he provided at the hearing. On page 1 of the three-page exhibit, the budget shows that he pays half a month's rent on October 1, (2022) with his disability payment, leaving a \$56 remainder. He received no income on October 1 or October 5. The second page of the budget reflects that on October 19, 2022, Applicant was paid \$1,540 and listed his monthly bills as \$433 for his car, \$230 for (car) insurance (the same amounts he testified to at the hearing), a highlighted payment of \$593.92 for the credit union debts (SOR ¶¶ 1.d, 1.e, and 1.f), and \$100 for groceries. (At the hearing, he testified his groceries were \$400 a month.) On the left side of the second page, Applicant listed six unidentified monetary amounts, and the same credit union payment identified earlier in this paragraph. (Applicant provided no proof of

payments to the credit union at any time.) One other unidentified amount, \$300, listed on the left side of page 2, apparently represents his monthly payment to the IRS. However, according to Applicant's testimony, the IRS payments were not supposed to begin until April 2023. After payment of all bills, his monthly remainder is \$183, much less than the remainder he testified to at the hearing. The third page of Applicant's budget shows the delinquent balances of the SOR ¶¶ 1.d, 1.e, and 1.f accounts. (Tr. 49-56; AE J)

Applicant testified that because he knows that he owes the credit union for the three debts, he intends to establish a payment plan with them by redirecting his monthly remainder of \$1,000 and the \$700 judgment toward the three delinquent debts. In his post-hearing submissions, he submitted no evidence to show that he took any action to resolve these three credit union accounts listed at SOR ¶¶ 1.d, 1.e, and 1.f. He presented no evidence of previous payments under a plan that he referred to in his October 2021 answer to the SOR. He presented no evidence of his disputes of the SOR ¶¶ 1.g and 1.h accounts. (Tr. 54-55)

Applicant testified that he participated in a financial counseling course in February 2021 from the human relations (HR) office of his present employer. He stated that he did not have the supporting documentation to confirm that he took the course. (Tr. 57) In his post-hearing exhibit list, Applicant listed three financial counseling courses that he took on February 12, February 13, and February 18, 2023. Applicant presented no additional information about what he learned from the courses or what he incorporated into the management of his finances. (Post-hearing exhibit list, one page after AE I and before AE J)

In the future, Applicant intends to stay abreast of his financial obligations, including his education payments, because he wants to be financially responsible. (Tr. 58-59)

### **Character Evidence**

Witness A has been Applicant's supervisor since he began working in late 2020. Applicant's job is to remove, repair, and reinstall equipment on aircraft carriers. Witness A has written two performance evaluations finding Applicant's work to be satisfactory with no complaints. Witness A knows about Applicant's delinquent debts, but has not talked with him about those debts. He does not know how Applicant plans to fix his troubles. (Tr. 17-22)

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied together with common sense and the general factors of 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(d) 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, 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.

## **Analysis**

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

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. 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. Conditions that could raise a security concern and may be disqualifying include:

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

A person's practice of paying his voluntarily incurred debts is a private matter until evidence reveals that he is not paying his debts in a timely fashion. Timing is also a critical issue in debt-payment when the evidence indicates that an applicant does not begin to resolve his financial problems until after he has been notified that his security clearance is in jeopardy. ISCR Case No. 17-04110 at 3 (App. Bd. September 26, 2019); ISCR Case No. 16-03122 at 3-4 (App. Bd. Aug. 17, 2018)

Adverse evidence from credit reports can usually meet the Government's obligation of proving delinquent debts. See, e.g., ISCR Case No. 14-02403 at 3 (App.

Bd. Aug. 18, 2015); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) The Government credit reports establish that the debts listed in the SOR, totaling \$37,701, became delinquent between 2016 and June 2021. AG ¶¶ 19(a) and 19(c) apply.

AG ¶ 20. Conditions that could mitigate security concerns include:

(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.

AG ¶ 20 (a) does not apply since Applicant still owes over \$36,000 in delinquent debt to seven creditors or collection agencies. He incurred the debts between October 2015 and June 2021. Even though several delinquent debts may have been removed from his credit report, that removal does not mean that the debts have been satisfactorily resolved. ISCR Case No. 16-02941 at 2 (App. Bd. Dec. 12, 2017) Applicant did not provide persuasive evidence for me to confidently conclude that his financial problems will not persist or reappear.

Since October 2015, Applicant has been unemployed about five times with his periods of joblessness lasting for up to six months. The mitigating value of his periodic unemployment is reduced measurably by the fact that on two occasions during the period, he caused his unemployment by conduct within his control. Applicant's two divorces have also been considered as a condition beyond his control.

In order for Applicant to receive full mitigation under AG ¶ 20(b), he must show that he acted responsibly under the circumstances. Weighing against Applicant's occasional unemployment is his uninterrupted employment since January 2019, corresponding with the parallel period of time that he has known about the delinquent debts, but has failed to take appropriate action to resolve them. Applicant receives only limited mitigation under AG ¶ 20(b).

Applicant claimed he took a financial counseling course in February 2021. That claim has very little probative value because it is uncorroborated. In his post-hearing submission, Applicant listed three financial counseling courses. That information has no probative value because it is unsubstantiated. Applicant's confusing testimony about how he intends to resolve the unpaid debts does not provide clear indications that his debts are being resolved or are under control. AG ¶ 20(c) does not apply. AG ¶ 20(d) has only limited application to Applicant's satisfaction of SOR ¶¶ 1.a, 1.c, 1.j, 1.k, and 1.l accounts.

Although Applicant admitted all the SOR-allegations in his October 2019 answer, he disputed the two accounts identified at SOR ¶¶ 1.g and 1.i, because of incorrect information in the accounts. Applicant's dispute fails because he did not provide documented evidentiary proof to establish the basis of the disputes. AG ¶ 20(e) is inapplicable.

### **Whole-Person Concept**

I have examined the evidence under the specific guidelines in the context of the nine general factors of the whole-person concept 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 access to classified information must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant has not furnished sufficient evidence to establish that his delinquent debts are being resolved or under control. Notwithstanding Applicant's reliance on a limitations statute to avoid responsibility for several of the SOR debts because they have been removed from his credit report and are no longer enforceable, the debts are



still significant for security clearance purposes. See ISCR Case No. 15-02326 at 3 (App. Bd. Oct. 14, 2016) In addition, relying on the statute of limitations does not constitute a good-faith effort to eliminate financial difficulties. See ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016) In Guideline F cases, the DOHA Appeal Board has repeatedly held that, to establish his case in mitigation, an applicant must present a “meaningful track record” of debt repayments that result in debt reduction. See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007) While an applicant is not required to show that every debt listed in the SOR is paid, the applicant must show that he has a plan for debt resolution and has taken significant action to implement the plan. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006) From the record presented, Applicant has no clear plan in place to repay the outstanding debts remaining in the SOR. After a full review of the entire record from an overall common-sense point of view, Applicant’s ongoing financial problems have not been mitigated.

### **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.b, 1.d, 1.e, 1.f, 1.g, 1.h, 1i:	Against Applicant
Subparagraphs 1.a, 1.c, 1.j, 1.k, 1.l:	For Applicant

### **Conclusion**

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

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Paul J. Mason  
Administrative Judge