



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



In the matter of: )  
)  
) ISCR Case No. 23-01014  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tara Karoian, Esq., Department Counsel  
For Applicant: *Pro Se*

11/16/2023

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**Decision**

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BORGSTROM, Eric H., Administrative Judge

After his parents separated, Applicant began providing financial support for his mother and his siblings. Notwithstanding circumstances beyond his control, he has not provided sufficient evidence to establish that he has acted responsibly to address and resolve his financial delinquencies. He did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On May 22, 2023, the Defense of Defense (DOD) Consolidated Adjudication Services (CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The CAS acted under Executive Order (EO) 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 implemented by the DOD on June 8, 2017.

In Applicant's June 3, 2023 response to the SOR (Answer), he admitted the allegations regarding all 11 delinquent debts, and he explained that he was "working to consolidate [his] debt and pay it off." He attached documentation regarding bankruptcy attorneys' fees he paid in 2020 and his engagement of a debt-resolution company (DRC)

in May 2023. He requested a decision by a Defense Office of Hearings and Appeals (DOHA) administrative judge based upon the written record in lieu of a hearing. (Answer)

On July 5, 2023, DOHA Department Counsel submitted a file of relevant material (FORM) and provided a complete copy to Applicant. Department Counsel's FORM includes Government Exhibits (GE) 1 through 7. In the FORM, Department Counsel provided Applicant notice that failure to respond to the FORM may be considered a waiver of any objections to the proffered exhibits.

On July 20, 2023, Applicant submitted his response to the FORM, including his two-page statement (Applicant Exhibit (AE) A), a five-page statement from the debt-resolution company (AE B), and payment arrangements regarding three accounts (AE C-E). The case was assigned to me on November 3, 2023. AE A through E and GE 1 through 7 are admitted without objection.

### **Findings of Fact**

Applicant is 28 years old. Since May 2015, he has served part-time in the U.S. Army Reserve. He has been employed full time as an engineering technician for a DOD contractor since October 2018. He is not married and has no children. He resides with his mother and three siblings, ages 31, 24, and 17. (GE 2)

On August 3, 2020, Applicant certified and submitted an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 26 - Financial Record, he reported five delinquent accounts and his intent to file a Chapter 7 bankruptcy petition to resolve these accounts. (GE 3)

On January 13, 2021, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). During the interview, Applicant reported that he was in the process of filing a Chapter 7 bankruptcy petition to resolve at least twelve delinquent accounts. Applicant explained that his father left Applicant's mother and siblings in early 2019, and Applicant then began contributing payments for the household expenses, such as rent, utilities and groceries. Applicant had not initiated any payment arrangements or made any payments towards his delinquent accounts, however, and he intended to file bankruptcy. As of the interview, his monthly income was approximately \$2,300 and his monthly expenses were approximately \$2,100 to \$2,600. (GE 7)

The SOR alleges 11 delinquent debts; however, SOR ¶ 1.k is a duplicate debt of SOR ¶ 1.f. SOR ¶ 1.k. is found for Applicant. The remaining 10 delinquent accounts total approximately \$23,362. Applicant's admissions and the three credit reports indicate that these 10 accounts became delinquent in about 2019. There is no evidence of any payments or payment arrangements regarding these 10 delinquent accounts between their delinquency and the May 2023 issuance of the SOR. (GE 3-7)

With his June 2023 Answer, Applicant attached five payments, totaling \$1,410, between July 2020 and October 2020 for bankruptcy attorney's fees. The correspondence from the attorney's office indicates that Applicant needed to gather and submit

documentation related to an anticipated bankruptcy filing and needed to complete a credit-counseling course. There is no evidence of a bankruptcy filing or completed credit counseling. Applicant also included documentation of one \$250 payment to the DRC. (Answer)

In Applicant's July 2023 response to the FORM, he reiterated that he had experienced financial hardship when his father separated from his mother. He explained that his father later died, and Applicant paid some or all of the unspecified funeral costs. He disclosed that he did not file bankruptcy and that he had engaged the DRC in May 2023 to settle his delinquent accounts. Applicant's DRC plan includes six of the alleged debts (SOR ¶¶ 1.d.-1.i.), and two creditors had accepted settlement terms. A third creditor (SOR ¶ 1.d.) has proposed a repayment plan; however, there is no evidence of any payments by Applicant. As of the close of the record, Applicant has provided documentary evidence of one \$250 payment to the DRC to pay fees and accrue savings for settlement. (FORM Response; Answer)

Applicant's DRC plan does not address four debts (SOR ¶¶ 1.a.-1.c., 1.j.), and there is no evidence of a plan to address and resolve these accounts or actions in furtherance of such a plan. Applicant has not provided any evidence of credit counseling or a current monthly budget. He has not provided any details as to any expenses he incurred associated with his father's funeral.

### **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 to be 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, administrative judges apply the guidelines 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(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<sup>1</sup> 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, 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 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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

### Guideline F: Financial Considerations

The security concern 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 ....

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

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

Applicant's 10 delinquent accounts total approximately \$23,362. As explained above, SOR ¶ 1.k. is a duplicate debt and is found for Applicant. These debts have been delinquent since at least 2019 and remain delinquent. AG ¶¶ 19(a) and 19(c) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable in this case:

- (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 has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in her debt-resolution efforts or required to be debt-free. "Rather, all that is required is that an applicant act responsibly given his circumstances and develop a reasonable plan for repayment; accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). *See, e.g.*, ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014).

Applicant attributed his financial delinquencies to his parents' marital separation in early 2019. His father left his mother and three siblings, and Applicant then began helping his mother pay for rent, utilities, and groceries. His father later died. Applicant's credit reports show that the alleged accounts became delinquent in mid-to-late-2019. In late 2020, Applicant made five payments, totaling \$1,410, towards fees for a bankruptcy attorney; however, Applicant has not filed a bankruptcy petition. There is no evidence of any debt-resolution efforts between late 2020 and the May 2023 issuance of the SOR, despite Applicant's submission of an e-QIP and his OPM interview alerting him to security concerns about his financial delinquencies.

Under AG ¶ 20(b), Applicant must establish circumstances largely beyond his control and that he acted responsibly under the circumstances. Notwithstanding the financial hardship of supporting his mother and siblings and his father's unspecified funeral expenses, Applicant has not established that he acted responsibly to address and resolve his delinquent accounts. There is no evidence of any debt-resolution efforts for over two years, until prompted by the May 2023 SOR. Although Applicant has recently enrolled in a DRC program, it is too soon to conclude that he has demonstrated a track record of financial responsibility. None of the financial considerations mitigating concerns apply. Applicant did not mitigate the financial considerations security concerns.

### **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 relevant 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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant has served honorably in the U.S. Army Reserve. Circumstances beyond his control contributed to his financial delinquencies; however, he has not provided sufficient evidence to establish that he has acted responsibly to address and resolve his financial delinquencies. Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

### **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.a.-1.j.:	Against Applicant
Subparagraph 1.k.:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, I conclude that 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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Eric H. Borgstrom  
Administrative Judge