



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-00746
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Carroll J. Connelley, Esq., Department Counsel  
For Applicant: *Pro se*

01/30/2024

**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 April 12, 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 May 17, 2023, and he elected to have his case decided on the written record in lieu of a hearing. The Government's written case was submitted on July 19, 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 29, 2023. His response was due by August 28, 2023, but he did not submit one. The case was assigned to me on November 8, 2023.

The Government's documents, identified as Items 1 through 5 in its FORM, are admitted in evidence without objection.

### **Findings of Fact**

Applicant admitted all the SOR allegations in his Answer. He is 29 years old, married, and he does not have any children. (Answer; Items 1-2)

Applicant was unemployed from July 2012 to March 2015. He worked in retail from March 2015 to March 2016. He then changed careers and worked as a machinist for various companies, to include a staffing company, until August 2021. He has since worked as a legal transcriptionist. He has never held a security clearance. (Item 2)

The SOR alleges that Applicant had three medical debts in collection for \$2,477, \$1,265, and \$51, respectively (SOR ¶¶ 1.a, 1.b, 1.i), and six delinquent consumer accounts totaling \$7,104 (SOR ¶¶ 1.c-1.h). The allegations are established by Applicant's admissions in his Answer, his August 2022 security clearance application (SCA), his February 2023 response to interrogatories, and credit bureau reports from September 2022 and March 2023. (Items 1-5)

Applicant attributes his delinquent debts to minimal income, an employment layoff in January 2017, underemployment in March 2019, and an in-state relocation in August 2021. He planned to file bankruptcy or seek other debt relief programs to resolve his delinquent debts, but he did not provide documentation of his efforts. (Items 2-3)

Applicant's three medical debts stem from an emergency visit that required him to have oral surgery. SOR ¶¶ 1.c through 1.f are for credit cards, in collection for \$1,221, \$814, \$652, and \$200, respectively. (Items 2-5)

SOR ¶ 1.g is a \$3,533 charged-off credit line with an online retailer. It is reported on the September 2022 credit bureau report. Although the March 2023 credit bureau report reflects a zero balance for this debt, it also notes that this account was 150 days past due, charged to profit and loss, and purchased by another lender. Applicant did not provide documentation to show that he resolved this debt. (Items 2-5)

SOR ¶ 1.h is an auto loan past due in the amount of \$664, with an outstanding balance of \$15,960. It is reported on the September 2022 credit bureau report. The March 2023 credit bureau report also reflects a zero balance for this debt, but it notes that there may be a balance due after the "merchandise was taken back by grantor" and that the account was charged to profit and loss. Applicant did not provide documentation to show that he resolved this debt. (Items 4-5)

In February 2023, Applicant stated that he and his spouse's joint monthly net income was approximately \$4,000. After expenses, which did not include payments

toward any of his delinquent debts, their monthly net remainder was \$120. (Item 3) There is no evidence in the record that Applicant has received credit counseling.

### **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. However, Applicant failed to show that he acted responsibly under his circumstances. He did not provide documentation of his efforts to resolve any of his debts. There is no evidence that he has received 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 F:	AGAINST APPLICANT
Subparagraphs 1.a-1.i:	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