



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



In the matter of: )  
)  
) ISCR Case No. 23-01424  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Patricia Lynch-Epps, Esq., Department Counsel  
For Applicant: *Pro se*

03/08/2024

**Decision**

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on September 26, 2022. On July 25, 2023, the Department of Defense (DoD) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DoD acted 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) promulgated in Security Executive Agent Directive 4, National Security Adjudicative Guidelines (December 10, 2016).

Applicant answered the SOR on August 16, 2023, and requested a decision on the written record without a hearing. Department Counsel submitted the Government’s written case on September 20, 2023. A complete copy of the file of relevant material (FORM) was sent to Applicant on September 22, 2023, who was given an opportunity to file

objections and submit material to refute, extenuate, or mitigate the Government's evidence. Applicant submitted a Response on November 11, 2023. The case was assigned to me on February 7, 2024.

The SOR and the Answer (Items 1 and 2) are the pleadings in the case. FORM Items 3 through 5 are admitted into evidence without objection. Admission of FORM Item 4 is discussed below. Applicant did not submit any exhibits with his Response to the FORM.

### **Evidentiary Issue**

The FORM included a summary of a personal subject interviews (PSI) conducted on December 16, 2022, February 23, 2023, and March 24, 2023. (FORM Item 4). The PSI summary was not authenticated as required by Directive ¶ E3.1.20. Department Counsel informed Applicant that he was entitled to comment on the accuracy of the PSI summary; make any corrections, additions, deletions, or updates; or object to consideration of the PSI summary on the ground that it was not authenticated. I conclude that he waived any objections to the PSI summary by failing to respond to the FORM. "Although *pro se* applicants are not expected to act like lawyers, they are expected to take timely and reasonable steps to protect their rights under the Directive." See ISCR Case No. 12-10810 at 2 (App. Bd. Jul. 12, 2016). FORM Item 4 is therefore admitted.

### **Findings of Fact**

In Applicant's answer to the SOR, in the typed portion, he admitted all 16 allegations under Guideline F. His admissions are incorporated in my findings of fact.

Applicant is 50 years old. He has never been married and has no children. He has attended some college but has not obtained a degree. He has worked as logistic support for a federal contractor since 2022. The SOR alleges sixteen (16) allegations of delinquent debts totaling \$97,759. One is charged off the others are in a collection status. (Item 5.) During his PSI he cited overspending while he was unemployed between July 2014 and February 2015 for his financial problems. Prior to being unemployed he had been with his employer since 1996 until he was terminated in July 2014. (Item 3 at 13.) The SCA shows he has been continuously employed full-time since January 2017. (Item 3.) His Answer stated "I ADMIT" for each allegation. He discussed each debt with investigator. (Item 4 at 4-11.) Applicant said his delinquent debts were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable.

SOR ¶ 1.a: past-due credit-card account charged off in the amount of \$17,687. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. It was not a joint account. He had opened it over 20 years ago. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly

made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 4-5; GE 5 at 2.)

SOR ¶ 1.b: past due store credit card that has been placed for collection in the amount of \$14,729. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it in either 2012 or 2013. He used the credit card to purchase clothes and shoes. The account has been charged off and closed. He guesstimated his last payment was sometime in 2016. (GE 4 at 5; GE 5 at 2.)

SOR ¶ 1.c: delinquent account that has been placed for collection by a bank in the amount of \$12,317. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for living expenses. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 5; GE 5 at 3.)

SOR ¶ 1.d: past-due account that has been placed for collection by a bank in the amount of \$11,947. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for electronics, TVs, and computers. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 5; GE 5 at 3.)

SOR ¶ 1.e: past due credit card that has been placed for collection in the amount of \$9,333. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for car maintenance and food. The account has been charged off and closed. He guesstimated his last payment was sometime in 2016. (GE 4 at 6; GE 5 at 3.)

SOR ¶ 1.f: past-due account that has been placed for collection by a bank in the amount of \$6,822. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for travel expenses. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 6; GE 5 at 3.)

SOR ¶ 1.g: past-due account that has been placed for collection by a bank in the amount of \$5,898. Applicant told the investigator during his PSI he was aware of the

account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for clothes and food. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 7; GE 5 at 4.)

SOR ¶ 1.h: past-due account that has been placed for collection by a bank in the amount of \$3,969. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for everyday living expenses. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 7-8; GE 5 at 4.)

SOR ¶ 1.i: past-due account that has been placed for collection by a bank in the amount of \$3,080. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for clothes and food. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 8; GE 5 at 4.)

SOR ¶ 1.j: past-due account that has been placed for collection by a bank in the amount of \$2,956. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for clothes and food. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4; GE 5 at 5.)

SOR ¶ 1.k: past-due account that has been placed for collection by a bank in the amount of \$2,794. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for clothes and food. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 8-9; GE 5 at 5.)

SOR ¶ 1.l: past-due account that has been placed for collection by a bank in the amount of \$2,302. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a

joint account. He had opened it over 20 years ago. He used the credit card for clothes and food. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 9; GE 5 at 5.)

SOR ¶ 1.m: past-due account that has been placed for collection by a bank in the amount of \$1,654. The credit report shows an account with the same institution name as closed by the credit grantor, no delinquencies, and the account status reflects “paid.” (GE 4; GE 5 at 12.)

SOR ¶ 1.n: past-due telecommunication account that has been placed for collection in the amount of \$630. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had opened it over 20 years ago. He used the credit card for clothes and food. His issues with this credit card started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 10; GE 5 at 6.)

SOR ¶ 1.o: past-due account that has been placed for collection in the amount of \$1,654. Applicant told the investigator during his PSI he was aware of the account and had been contacted both by phone and mail about it. He stated it was not a joint account. He had purchased a cell phone, which he gave as a gift to a friend. He stated it was a consolidated account, which he used to purchase clothes. His issues with this account started in 2015 and were the result of his overspending while employed, along with later becoming unemployed, which quickly made paying his bills unmanageable. He estimated the last payment was made in 2016. (GE 4 at 9; GE 5 at 5.)

SOR ¶ 1.p: past-due medical account referred for collection in the amount of \$103. Applicant told the investigator during his security clearance interview that he was unaware of this debt. He has medical insurance and pays his co-pay. He has not been contacted by phone or mail regarding the debt. (GE 4 at 11; GE 5 at 6.)

Applicant wrote in his Response that in the last seven to eight years he was trying to recover from the financial situation he had gotten himself into. He cited that when he had full-time employment, he had been able to pay his bills. When he became unemployed in 2014 and was out of work for almost a year, he relied on credit cards to pay for his needs. He attempted to make minimum payments but was not making enough money to cover his housing and transportation bills. When he found employment, he was underemployed and could not make enough money to repay his debts or setup a payment plan for the delinquent accounts. He offers without documentation that he paid and settled some accounts; however, he did not provide a budget and sufficient details showing a track record of resolution of debts. He states he has been “trying to dig out of this hole.” (Response.) He has been employed by his sponsor since 2021. (Item 3.) His credit report reflects inaction on all SOR debts with the exception of SOR ¶ 1.m.

## Policies

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition,

and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.

## Analysis

### Guideline F, Financial Considerations

The security concern under this guideline 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. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions and the Government's documentary evidence establish the following disqualifying conditions under this guideline: AG ¶ 19(a) (“inability to satisfy debts”) and AG ¶ 19(c) (“a history of not meeting financial obligations”).

The following mitigating conditions under AG ¶ 20 are 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; and

(d): the individual initiated and is adhering to a good-faith effort to repay

overdue creditors or otherwise resolve debts.

AG ¶ 20(a) is not established. Applicant's delinquent debts are recent, numerous and ongoing.

AG ¶ 20(b) is not established. Applicant did suffer a period of unemployment and underemployment, but he did not provide evidence to support his assertions that he had resolved certain debts or had paid certain debts. He did not establish that he maintained contact with his SOR creditors and attempted to establish payment plans with them.

AG ¶ 20(d) is not established. Applicant did not provide corroborating documentary evidence to support his assertions in his Response that he had resolved certain debts or had paid certain debts.

### **Whole-Person Concept**

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant did not mitigate the financial considerations security concerns.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F:

AGAINST APPLICANT

Subparagraphs 1.a-1.l, 1.n-1.p:  
Subparagraph 1.m:

Against Applicant  
For Applicant

### **Conclusion**

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

Charles C. Hale  
Administrative Judge