



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-00941
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Brittany C.M. White, Esq., Department Counsel  
For Applicant: *Pro se*

02/23/2024

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On July 27, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective June 8, 2017 (AG).

On August 9, 2023, Applicant answered the SOR and elected to have his case decided on the written record in lieu of a hearing. Department Counsel prepared the

Government's File of Relevant Material (FORM), which was sent to Applicant on September 26, 2023. The evidence included in the FORM is identified as Items 3-8 (Items 1 and 2 include pleadings and transmittal information). The FORM was received by Applicant on October 30, 2023. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not submit any response. The case was assigned to me on February 6, 2024.

### Findings of Fact

Applicant admitted one of the SOR allegations (¶ 1.a), But denied the remaining allegations (¶¶ 1.b-1.f). His admission is adopted as a finding of fact. After a careful review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is 31 years old. He is being sponsored for a clearance by a defense contractor. He obtained a Class A commercial driver's license (CDL) in 2013. He has been employed outside the defense industry as an order packer and shipper from 2015 to present. He is engaged to be married and has one child. He has never held a security clearance. (Items 3-4, 8)

The SOR alleged Applicant owed six delinquent accounts (a residual car loan after repossession and five student loans in collection status) totaling approximately \$26,195. (¶¶ 1.a-1.f) In his SOR answer, Applicant admitted owing the car loan, but he denied the student loans stating that they were "all current and up to date." The debts are supported by listings as delinquent debts in credit reports from July 2022 and January 2023. (Items 5-6; SOR answer)

The status of the SOR debts is as follows:

**SOR ¶ 1.a-\$12,152.** This is an automobile loan for a repossessed car. Applicant cosigned for this truck for his former girlfriend. The relationship ended and the former girlfriend stopped making payments and he was unable to afford the payments as well. He voluntarily turned the truck back into the dealership. The last payment made on the account was in January 2021 and the debt was charged off by the creditor. In his answer, he indicated that he would be calling the creditor to set up payments. He failed to provide any documentation showing he had taken such action. This debt is unresolved. (Items 2, 5-8)

**SOR ¶¶ 1.b-\$4,337; 1.c-\$3,536; 1.d-\$2,403; 1.e-\$2,365; 1.f-\$1,402.** These are five student loans that were placed in collection with an activity date of October 2016. Applicant stated during his background interview that these student loans went into collections and his wages were garnished to repay them sometime in 2019. He claimed that he then called the creditor and was placed into a rehabilitation program requiring him to make regular payments for five to eight months. If he made the required payments over that time, his loans would be considered current. He further claims that he began making the required monthly payments but they ceased because of the CARES Act relief during the pandemic. Appellant offered no documentation to support

these assertions. His September 2023 credit report shows that all five student loans are in a “Pays account as agreed” status and shows the last payment made on the accounts was in August 2023. The monthly payment amount for these student loans is not listed on this credit report or anywhere else in the record. (Items 3-8)

Applicant’s financial worksheet that he completed in January 2023 reflects a net monthly income of \$2,520 and total monthly expenses of \$2,062, leaving a monthly remainder of \$457. This budget does not account for any student loan payments. There is no evidence of financial counseling. (Item 4, p.8)

### **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 national security eligibility 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 about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 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* EO 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 concerns for 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.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶ 19 and the following potentially apply:

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

Applicant has a history of financial difficulties dating back to 2016 when his student loans were put into collection status. He also failed to pay a truck loan after it was repossessed. He incurred six delinquent debts totaling approximately \$26,000. Applicant's admissions and credit reports establish the debts. I find both disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all the mitigating conditions under AG ¶ 20 and the following potentially apply:

(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.

Applicant's debts are recent and remain unresolved. He did not provide sufficient evidence to show that his financial problems are unlikely to recur. To the contrary, his budget shows that he only has a \$400 monthly residual after paying all his expenses and his student loan payment is not accounted for in that budget. AG ¶ 20(a) does not apply. He did not describe any circumstances beyond his control that led to his poor financial condition. His agreeing to cosign on a truck for an ex-girlfriend was not such a condition. AG ¶ 20(b) does apply.

Applicant failed to document any efforts he made to resolve or pay his delinquent debts. Although it appears he made payments on his five student loans in August 2023, as shown by his recent credit report, there is insufficient evidence to show that those payments are sustainable, given his overall financial condition and his history of letting those student loans go into collection status. There is no evidence of financial counseling and no evidence that his financial conditions are under control. He has not shown a good-faith effort to address his debts. AG ¶¶ 20(c), 20(d), and 20(e) do not apply.

### **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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of the facts and circumstances surrounding this case. Applicant has not established a track record of financial responsibility.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline F, financial considerations.

### **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.f:	Against Applicant

### **Conclusion**

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

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Robert E. Coacher  
Administrative Judge