



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



In the matter of: )  
)  
) ISCR Case No. 23-00918  
)  
Applicant for Security Clearance )

**Appearances**

For Government: John G. Hannink, Esq., Department Counsel  
For Applicant: *Pro se*

03/18/2024

**Decision**

DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the financial considerations or personal conduct security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 5, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, and Guideline E, personal conduct. Applicant responded to the SOR on June 15, 2023 (Answer) and requested a hearing before an administrative judge. The case was assigned to me on December 4, 2023.

The hearing was convened as scheduled on February 27, 2024. At the hearing, I admitted Government Exhibits (GE) 1 through 8 and Applicant Exhibit (AE) A without objection. I received a transcript (Tr.) of the hearing on March 4, 2024.

**Findings of Fact**

Applicant is a 48-year-old employee of a government contractor for whom he has worked since November 2021. He earned a bachelor's degree in electrical engineering

in 1998. He has been married and divorced twice. His first marriage was from 2001 until 2010. His second marriage was from July 2015 until November 2020. He was legally separated from his second spouse for about a year prior to their divorce. He married again in January 2021. He has three children from his first two marriages. A son from his first marriage is approximately 17 years old, and twin girls from his second marriage are approximately seven years old. (Tr. 28-38; GE 1, 2, 6, 7)

In the SOR, the Government alleged Applicant's six delinquent accounts totaling approximately \$57,000. These delinquent accounts consist of a personal loan (SOR ¶ 1.a), credit cards (SOR ¶¶ 1.b, 1.d, and 1.e), an automobile loan (SOR ¶ 1.c), and an automobile insurance premium (SOR ¶ 1.f). He admitted all the SOR allegations listed under Guideline F with additional comments. I have incorporated his admissions in my findings of fact. The Guideline F SOR allegations are established by his admissions, the Government's 2021, 2022, 2023, and 2024 credit reports, and Applicant's 2024 credit report. (Answer; GE 2-5, 8; AE A)

The delinquent personal loan in the amount of \$22,427 alleged in SOR ¶ 1.a has not been resolved. Applicant opened this account in about January 2017 to consolidate some of his second wife's debt. He is the sole accountholder. He became delinquent on the account in about October 2019 when his second marriage began to fail, and his child support payments increased from about \$1,400 per month to about \$3,100 per month. He also paid for his ex-wife's rental apartment between his legal separation and the finalization of the divorce. The creditor charged off the account in approximately February 2020. (Tr. 30, 49-59; Answer; GE 2-5, 8; AE A)

After Applicant became delinquent on the account, he claimed that he had a payment arrangement with the creditor and made payments for a few months prior to the pandemic, when he stopped making payments. He claimed that he attempted to arrange payments with the creditor several times during the pandemic, but the creditor would not work with him. He also claimed that the creditor contacted him in November 2021, 2022, and 2023, to attempt to resolve the account. He claimed he asked the creditor for written proof of the debt each time they contacted him, but they did not provide it. He provided no documents evidencing his resolution efforts. He last made a payment on this debt in January 2020. In February 2022, he told the DOD investigator that he would not satisfy this account because his second wife used the car that secured the account. (Tr. 30, 49-59; Answer; GE 2-5, 8; AE A)

The delinquent credit card in the amount of \$15,960 alleged in SOR ¶ 1.b has not been resolved. He opened the credit card in 2013, and the account became delinquent in about 2018. He claimed that he only became aware the account was delinquent when he had his February 2022 security interview, and the DOD investigator brought it to his attention. He also acknowledged receiving phone calls from the creditor about this delinquent account in November 2021, 2022, and 2023. He claimed he asked the creditor for written proof of the debt each time they contacted him, but they did not provide it. He believes that his second wife was making unauthorized purchases on the account. He claimed he was not aware of these purchases because he was not living in the location to which the creditor sent the monthly billing statements. The account was

charged off in February 2020. He testified that he went to the creditor's office in early February 2024 to investigate the account further, and the creditor is attempting to determine who now owns the debt so he can pay it. He provided no documents concerning his resolution of the debt or the alleged unauthorized charges on the account. He claimed the creditor would not provide him with any documents regarding the account. He acknowledged that he was assigned the debt as part of his second divorce. During his February 2022 security interview, he told the DOD investigator that he would not satisfy this debt even if an investigation revealed that he is responsible for the charges on the account. During the hearing, he testified he will satisfy the debt. The last payment on this account was made in August 2018. (Tr. 25, 32-37, 59-67; Answer; GE 2-5, 8; AE A)

The delinquent automobile loan in the amount of \$11,676 alleged in SOR ¶ 1.c has not been resolved. Applicant opened the account in November 2015, to finance the purchase of a vehicle. He became delinquent on the account in about January 2018. He claims that he and his second wife had an agreement that she would pay the account, but she did not. The creditor repossessed the vehicle in February 2018. Applicant was aware that the vehicle was repossessed in spring 2018, because his second wife called him when it happened. He claimed he did not know that the account was delinquent until right before the creditor repossessed it. He claimed he tried to resolve the account prior to the repossession, but he could not afford the payments the creditor required. In January 2024, he contacted the creditor about paying the account, but he is allegedly waiting on the creditor's legal department to weigh in because the account is charged off. Part of the reason he waited until January 2024 to resolve the account was that he wanted his second wife to pay it despite knowing he is ultimately responsible. During his February 2022 security interview, he told the DOD investigator that he would not satisfy this debt. He claimed that sometime prior to the hearing, he changed his mind and claimed that he will satisfy it. He provided no documents related to his resolution efforts of this account. (Tr. 26, 68-84; Answer; GE 2-5, 8)

The delinquent credit card in the amount of \$5,009 alleged in SOR ¶ 1.d has not been resolved. Applicant opened the account in October 2007. He became delinquent on the account in September 2019, and the creditor charged off the account in May 2020. Applicant claimed that about \$4,000 of the balance on the account accrued through fraudulent charges that he did not authorize. He acknowledged that about \$1,000 of the balance on the account is valid and his responsibility. He claimed that in November 2018, he noticed charges on his statement that he did not recognize. He testified the charges were made in a different location than where he was at the time. He stated that he filed a formal dispute with the creditor, but they investigated it and determined that Applicant was responsible for the charges for unknown reasons. He claimed that he appealed the decision pursuant to his cardholder agreement, but his appeal was denied. He also claimed that he disputed the debt with the credit reporting agencies. He maintains that most of the balance is not his responsibility, so he has refused to pay the account, but he will agree to a settlement for a lesser amount. He believed that the fraudulent charges could be related to having his wallet stolen in 2012 and 2016, but that he informed his creditors about the issue, and they canceled his cards. He provided no documents regarding his attempts to resolve the debt or his

efforts to dispute the debt. He has not attempted to pay the \$1,000 that he acknowledged owing. There has been no contact between him and the creditor in about four years. Applicant's credit report does not reflect that the account is in dispute, but he claimed he saw a credit report that did reflect a dispute. (Tr. 36, 84-95, 137-143; Answer; GE 2-5, 8; AE A)

The delinquent credit card in the amount of \$1,152 alleged in SOR ¶ 1.e has not been resolved. Applicant opened this account in about January 2007. The last payment on this account was in February 2020. He believes that there were fraudulent charges on this account, as well. Sometime in 2015 or 2016, he noticed charges on this account that he did not recognize and were made in a location other than where he was located. He claimed he notified the creditor that he believed certain charges on the account were fraudulent, but he does not recall when he notified them. It may have been in 2020. He claimed that the creditor initially removed the charges, but then reinstated them when they denied his fraud claim. He testified that he appealed the decision pursuant to his cardholder agreement, but the creditor denied his appeal. He also claimed that he disputed the debt with the credit reporting agencies. In February 2022, he told the DOD investigator that he would not satisfy this account because he did not make the charges. He provided no documents regarding his dispute and no documents regarding his attempted resolution of this account. He has not contacted the creditor regarding this account since he alleged the fraudulent charges. (Tr. 95-100, 143-147; Answer; GE 2-5, 8; AE A)

The delinquent automobile insurance account in the amount of \$976 alleged in SOR ¶ 1.f has not been resolved. Applicant opened and defaulted on the account in 2020. The delinquency arose when he changed insurance carriers and did not pay all the premiums for which his old insurance carrier held him responsible. He claimed that he canceled his old insurance coverage according to the carrier's terms, but they charged him anyway. He provided no documents regarding his resolution of this account or any dispute he may have with this account. He claimed that he became aware of this delinquency during his February 2022 security interview. He claimed that he contacted the creditor in the summer of 2022, and the creditor told him that he had not provided timely notice of cancellation. He alleged that he had given proper notice. He intends to pay the debt but has not had any contact with the creditor or the collection agency since summer 2022. (Tr. 100-105; Answer; GE 2, 4, 5)

In addition to his claims of fraudulent charges, he testified the following caused his SOR delinquencies: his second wife's loss of employment in late 2015; his brief loss of employment because of the pandemic in spring 2020; his change in pay from \$175,000 to \$110,000 in March 2016; his second divorce, causing his monthly child support payments to more than double in October 2016; and his having to take a couple of months of medical leave in late 2021 because of a medical emergency involving his son, who has a chronic health issue. He earned about \$110,000 annually from about March 2016 until June 2017. He earned about \$125,000 annually from about June 2017 until about June 2019. From June 2019 until about March 2020, he earned about \$130,000. After March 2020, he was unemployed for about three months and relied on savings and unemployment. From June 2020 until about November 2021, he found

another job, but the record is not clear as to his earnings. From December 2021 until the present, he has earned about \$175,000 annually. Since 1998, he has had no lapse in employment for more than 90 days. (Tr. 25-26, 32-38, 41-48; Answer; GE 2)

Applicant has approximately \$310,000 in two bank accounts. He has an investment account with a balance of more than \$200,000. He has another investment account with a balance of about \$10,000, and a retirement account with a balance of about \$50,000. He testified that he and his wife have about \$5,000 in surplus funds at the end of each month. He claimed that he received financial counseling from one of the investment firms with whom he has an account. He took a vacation to Mexico in June 2021 and in January 2024. He claimed he has learned from past financial mistakes and is more careful about assisting family members by indebting himself. He testified that he did not have enough money to pay the SOR debts at the time they became delinquent, but he can now afford to pay them. However, for his own financial security, he will not make lump sum payments of more than \$10,000. He has no payment plans in place with any of the SOR creditors. (Tr. 26, 108-116)

Applicant has completed several clearance applications in the past. Despite being required to do so, he failed to divulge the delinquent SOR accounts in his November 2021 Electronic Questionnaires for Investigations Processing (2021 e-QIP). These failures were not alleged in the SOR. In February 2022, during his security clearance interview, a DOD investigator confronted him with these delinquencies and others after Applicant failed to volunteer them. Just four months later, despite having been told about these delinquencies, and despite being required to do so, Applicant failed to divulge the delinquent SOR debts in his May 2022 Electronic Questionnaires for Investigations Processing (2022 e-QIP). (Tr. 117-128; Answer; GE 1, 2, 6, 7)

In August 2022, during a security interview with another DOD investigator, Applicant again failed to volunteer the SOR delinquencies. When the DOD investigator confronted him about the SOR delinquencies, despite being aware of all these accounts, Applicant insisted that he had no knowledge of them. He claimed he was never a member of the credit union that held the accounts in SOR ¶¶ 1.a and 1.b. He claimed he never had the two credit cards listed in SOR ¶¶ 1.d and 1.e. Under Guideline E, the Government alleged his deliberate failure to list these delinquent debts in his 2022 e-QIP in SOR ¶ 2.a. In SOR ¶ 2.b, it alleged he deliberately falsified material facts to a DOD investigator during his August 2022 interview when he claimed that he was unaware of the SOR delinquencies. In the Answer, he denied the allegations in SOR ¶ 2.a and wrote, “[i]dentity stolen.” He denied the allegations in SOR ¶ 2.b and wrote, “[m]y identity was stolen. Unaware.” (Tr. 128-135; Answer; GE 1, 2)

Applicant had several different reasons for not reporting the SOR debts on his 2022 e-QIP, as well as telling the DoD investigator that he did not recognize the accounts. He claimed he forgot about the accounts. He claimed he thought they were more than seven years old. Despite certifying its accuracy, he now thinks the August 2022 security interview summary is not accurate because he thinks he told the investigator that he recognized the SOR accounts. He claimed he did not report the debts or acknowledge them because he thought they were fraudulent and did not

believe he owed them. With respect to the wording in the Answer, he claimed his language was meant to convey that he did not believe he was responsible for the SOR debts and to convey there were “extenuating circumstances.” (Tr. 52, 79-80, 126-128, 130-131, 134-135)

Given that Applicant had been advised of his delinquent debts a few months prior to certifying his 2022 e-QIP, he deliberately omitted his delinquent debts from his 2022 e-QIP. Moreover, despite discussing these debts in February 2022 with a DOD investigator, and acknowledging his awareness of these debts, he deliberately misled another DOD investigator in August 2022, when he claimed he had no knowledge of these debts. (GE 1, 2)

### **Policies**

This case is adjudicated 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 (AG), which became effective within DOD on June 8, 2017.

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 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 had six delinquent financial accounts totaling approximately \$57,000. He has been delinquent on these accounts for several years. The above disqualifying conditions are established.

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

- (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 delinquencies are unresolved and ongoing. I therefore cannot find that they are unlikely to recur. AG ¶ 20(a) does not apply.

Applicant's delinquencies were caused by divorce, unemployment, and underemployment. These conditions were largely beyond his control. However, he must also show that he acted responsibly under the circumstances with respect to these debts. It is reasonable to expect Applicant to present documentation about the resolution of specific debts. See, e.g., ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). He failed to provide documentary evidence that he meaningfully addressed or disputed any of the established SOR debts. Despite having a significant amount of money in savings, he has not resolved or made a payment arrangement on the debts that he agrees he owes. He therefore did not provide sufficient evidence that he acted responsibly under the circumstances or made a good-faith effort to repay overdue creditors or otherwise resolve debts. AG ¶¶ 20(b) and 20(d) do not apply.

Applicant has undergone financial counseling and apparently has developed a significant amount of savings and investments. These factors tend to show that his financial problems are being resolved or are under control. However, his failure to resolve even the debts that he does not dispute undermines the applicability of this mitigating factor. AG ¶ 20(c) partially applies.

Applicant claimed that he does not owe a portion of the total balance in SOR ¶ 1.d and the full balance of the debt in SOR ¶ 1.e, because there were fraudulent charges on these accounts. If true, this would be a reasonable basis to dispute the legitimacy of all or a portion of those past-due debts. However, he provided no



documentary proof of these disputes to substantiate their bases. See ISCR Case No. 19-03757 (App. Bd. Aug. 18, 2021). He did provide uncorroborated testimony that he filed disputes and appeals with the creditor and disputes with the credit reporting agencies. However, these debts still appear on his February 2024 credit report. In a similar case, the Appeal Board held that when an applicant claimed he disputed debts, and those debts *were* removed from a credit report, without causation between dispute and removal, there was insufficient evidence to meet the requirements of MC 20(e)'s second evidentiary option. ISCR Case No. 20-03691 (App. Bd. March 29, 2023). Given the holding from that Appeal Board Decision, I cannot find that uncorroborated evidence of disputes *without* removal from credit reports meets that evidentiary requirement. AG ¶ 20(e) does not apply.

### **Guideline E, Personal Conduct**

The security concern for personal conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following are potentially applicable in this case:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other government official.

Applicant deliberately omitted his delinquent debts from his 2022 e-QIP. He misled a DOD investigator in August 2022 when he claimed he had no knowledge of these debts. Both disqualifying conditions are established.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following mitigating conditions potentially apply in Applicant's case:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Applicant did not correct his omission of his financial delinquencies prior to being confronted with the facts. Instead, he continued to misrepresent his delinquencies in another e-QIP and to another DOD investigator. AG ¶ 17(a) does not apply.

Deliberately omitting required information from an e-QIP and lying to a DOD investigator are not minor. Instead, these actions strike at the heart of the security clearance process, which relies on candid and honest reporting. Applicant engaged in this deceitful and misleading activity multiple times. Therefore, he has not shown that his behavior was infrequent, happened under unique circumstances, or is unlikely to recur. AG ¶ 17(c) does not apply.

Applicant has not acknowledged his dishonest behavior. Instead, he has provided illogical excuses and explanations for his misrepresentations that strain credulity. Moreover, for the reasons I provided in my analysis of AG ¶ 17(c), I cannot find his behavior is unlikely to recur. AG ¶ 17(d) does not apply. None of the Guideline E mitigating conditions are applicable.

### **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 Guidelines F and E in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations or personal conduct 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.f:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a-2.b:	Against Applicant

### **Conclusion**

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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Benjamin R. Dorsey  
Administrative Judge