



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-01003
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: *Pro se*

11/08/2023

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**Decision**

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HYAMS, Ross D., Administrative Judge:

Applicant did not provide sufficient information to mitigate the financial considerations security concerns arising from his delinquent debts. Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on June 7, 2021. On June 20, 2022, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant answered the SOR with three attachments on an unknown date and requested a hearing before an administrative judge. The case was assigned to me on February 2, 2023.

The hearing convened, as scheduled, on July 12, 2022. Department Counsel submitted Government Exhibits (GE) 1-5, which were admitted in evidence without objection. Applicant did not present any documentation at the hearing. After the hearing, I held the record open for two weeks to provide Applicant with the opportunity to submit documentary evidence. He submitted Applicant’s Exhibits (AE) A-C, which I admitted without objection.

## Findings of Fact

In his answer, Applicant admitted 15 of the 17 SOR allegations, and denied the allegations in ¶¶ 1.k and 1.p. His admissions are incorporated into the findings of fact. Based on my review of the pleadings, evidence submitted, and testimony, I make the following additional findings of fact.

Applicant is 46 years old. He has been married since 2019. He was previously married from 1997-2004, and from 2013-2019. He has two children, one of whom is a minor. He earned an associate degree in 2006. He served on active duty with the Army from 1997-2012, and in a reserve capacity from 2012-2019. This service included six deployments to combat zones. He received an honorable discharge. He has worked for a government contractor since 2019 as a public affairs specialist. (Tr. 15-19, 28-30; GE 1)

The SOR alleges 17 delinquent debts totaling about \$76,000. The status of the allegations is as follows:

SOR ¶ 1.a is an auto loan that was charged off for \$21,572. Applicant reported that he purchased the car in 2018 and the account became delinquent in 2021. He claimed that the vehicle has not been repossessed and that he is paying this debt. He claimed the balance of the loan principal is down to about \$6,000 and the rest of the debt is late fee charges. He did not provide documentation supporting his assertions. This debt is unresolved. (Tr.39-41; GE 2-5)

SOR ¶¶ 1.b, 1.c, 1.e, and 1.f. are students loans placed for collection for \$6,695, \$6,672, \$4,599, and \$3,449, respectively. Applicant stated that these loans have been delinquent since 2017. He reported that he has not taken action to resolve these debts and they remain unpaid. These debts are unresolved. (Tr.41-45; GE 2-5)

SOR ¶¶ 1.d, 1.g, and 1.i. are student loans placed for collection for \$4,960, \$3,407, and \$2,555, respectively. Applicant stated that these loans should have been paid in 2014 as part of his reenlistment agreement, but for some unknown reason they were not paid by the Army. He claimed that he made two voluntary payments in 2017, but could not afford to continue making payments. He reported that his pay was garnished for these loans in 2020 for about three months, and the garnishment resumed in April 2022 for about \$81 monthly. He claimed that his tax refunds have also been garnished since 2019. He stated that he has not contacted the creditor to arrange a repayment plan. No documentation was submitted to support his assertions. These debts are unresolved. (Answer; Tr. 24-25, 31-39; GE 2-5)

SOR ¶ 1.h is a loan for furniture that was charged off for \$2,975. Applicant stated that he sold the furniture when he moved. He claimed that he used some of the proceeds from the sale to pay part of the debt. He asserted that this debt was dropped by the creditor; however, the documentation provided only shows that there was a case filed against him and it was dismissed in August 2022 for want of prosecution. The

documentation does not show that the debt is no longer valid or that the creditor no longer requires repayment. This debt is unresolved. (Tr. 28, 45-48; GE 2-5; AE H)

SOR ¶ 1.j is a credit card account that has been charged off for \$1,111. Applicant stated that he does not know why this account appears as delinquent. He claimed to have made \$100 payments for the nine last months. He did not provide any documentation supporting his claims. This debt is unresolved. (Tr.48-49; GE 2-5)

SOR ¶ 1.k is a debt to an apartment lessor placed for collection for \$629. Applicant reported that this debt is from 2016. He claimed that the debt was paid in June 2022, but provided no documentation supporting his claims. This debt is unresolved. (Tr. 23-24, 49-50; GE 2-5)

SOR ¶ 1.l is for past-due child support in the amount of \$10,451. Applicant reported that this account was not delinquent until April 2018. He stated that he had been deployed overseas and the child support was being deducted from his account. When he redeployed home and started new employment, the deduction did not automatically come out his paycheck, which caused the arrearage. He reported that he now pays \$970 monthly, with \$100 going towards arrears, and the balance is now about \$8,000. He provided documentation of his account and payments. This debt is being paid. (Answer; Tr. 24-27, 50-52; GE 2-5; AE B)

SOR ¶¶ 1.m and 1.n are student loans placed for collection for \$1,841 and \$1,784, respectively. Applicant stated that he was not aware of these accounts and did not contact the creditor to determine the status. These debts are unresolved. (Tr.52-53; GE 2-5)

SOR ¶¶ 1.o and 1.p. are debts to the Department of Veterans Affairs (VA) placed for collection for \$1,373 and \$696, respectively. Applicant stated he started attending college full time using funds he earned from the G.I Bill. He later found employment and dropped out. He thought that the debt in ¶ 1.o was an overpayment for school that he needed to return to the VA. He was unsure about the debt in ¶ 1.p and had not contacted the VA to find out why it was owed. These debts are unresolved. (Tr. 53-55; GE 2-5)

SOR ¶ 1.q is a credit card account that has been charged off for \$1,649. Applicant reported that he did not recognize the account and had not contacted the creditor. He stated that he was unsure if this debt was addressed by the credit repair company that he hired in 2021. He provided no documentation regarding this account. This debt is unresolved. (Tr. 55-57; GE 4)

Applicant reported that he earns about \$53,000 annually and has been employed since 2014. He reported that he also earns about \$1,800 monthly from military disability, and \$1,000 monthly from a side job. He reported having about \$400 left after his regular monthly expenses. He claimed that he hired a credit repair company from 2021-2022, to dispute debts on his credit report, but did not provide any supporting documentation. He claimed, without corroborating documentation, that he has had financial counseling. He

stated that he does not use a budget. He stated that he tried to use a budget, but it did not work for him. (Tr. 31-39, 57-65)

## **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 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.

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

The guideline notes two 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.

The SOR allegations are established by the credit reports and Applicant’s admissions. 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:

- (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; and
- (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.

AG ¶ 20(a) does not apply. Other than SOR ¶ 1.I, Applicant failed to provide sufficient documentation showing that any of the alleged debts are resolved, or that any became delinquent under such circumstances that are unlikely to recur. His failure to pay delinquent and charged-off debt is both long-term and recent, as well as ongoing and unresolved. This continues to cast doubt on his current reliability, trustworthiness, and good judgment.

AG ¶ 20(b) does not apply. Applicant did not provide sufficient evidence showing that his debts occurred largely due to circumstances beyond his control or that he acted responsibly under the circumstances.

AG ¶ 20(c) does not apply. Applicant did not provide sufficient evidence to find that he received financial counseling from a legitimate source and that his financial problems are being resolved or are under control.

AG ¶ 20(d) applies to SOR ¶ 1.I. It does not apply to the rest of the debts alleged.

### **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 considered his military service. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility for a security clearance. He did not provide sufficient evidence to mitigate the security concerns under Guideline F arising out of his delinquent debts. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for eligibility for access to classified information in the future.

### **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.k:	Against Applicant
Subparagraphs 1.l:	For Applicant
Subparagraphs 1.m-1.q:	Against Applicant

### **Conclusion**

It is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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Ross D. Hyams  
Administrative Judge