



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



In the matter of: )  
)  
) ISCR Case No. 23-02547  
)  
Applicant for Security Clearance )

**Appearances**

For Government: William Miller, Esq., Department Counsel  
For Applicant: *Pro se*

08/19/2024

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**Decision**

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Dorsey, Benjamin R., Administrative Judge:

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

**Statement of the Case**

On February 23, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. He responded to the SOR on March 18, 2024, and requested a decision based on the written record in lieu of a hearing.

The Government submitted its written case on April 4, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was advised that he had 30 days from his date of receipt to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on April 9, 2024, and he did not respond within the deadline. The case was assigned to me on July 16, 2024. The Government exhibits included in the FORM, marked as Items 1 through 7, are admitted in evidence without objection.

## Findings of Fact

Applicant is a 34-year-old employee of a government contractor for whom he has worked since February 2023. He earned a high school diploma, and in about May 2014, he earned a training certificate at a community college. He is once divorced (first marriage from 2011 until May 2015) and has been in a civil marriage since 2018. He has no children. (Items 3, 4)

In the SOR, the Government alleged Applicant's eight delinquent debts totaling approximately \$111,000 (SOR ¶¶ 1.a through 1.h). The largest of these delinquencies is a judgment against him for about \$103,000, for a mortgage. (SOR ¶ 1.a). The delinquencies also consist of a credit card (SOR ¶ 1.b), a utility debt (SOR ¶ 1.c), a telecommunications debt (SOR ¶ 1.d), a cable debt (SOR ¶ 1.e), two separate motorcycle loans (SOR ¶¶ 1.f and 1.g), and a car loan (SOR ¶ 1.h). He admitted the SOR allegations. His admissions are adopted as findings of fact. The SOR allegations are established through his admissions and the Government's credit reports. While the mortgage account alleged in SOR ¶ 1.a became delinquent in late 2019, a court of competent jurisdiction approved of the foreclosure sale of the secured real property on April 24, 2024. The other SOR debts became delinquent between 2018 and July 2023. (Items 3-7)

In Applicant's March 2024 response to the SOR, he provided a February 7, 2024, letter from a company that appears to dispute debts that claimed that Applicant is a client of theirs, and that he has "potentially inaccurate items on their credit report." The letter further alleges that the company is filing "disputes, official complaints, and identity theft reports where necessary." The letter does not allege that any of these disputes, in fact, exist. It also does not specify to which accounts potential disputes are applicable. During Applicant's August 2023 security interview, he told a DOD investigator that he would make payment arrangements on the SOR accounts and that he has the money to do so. He claimed that he had monthly disposable income of about \$1,855. Other than the aforementioned letter, there is no evidence that he has taken any action to resolve these debts. Applicant did not respond to the FORM, so more recent information about his finances is not available. Given the lack of evidence, I find that the SOR debts are unresolved. (Items 2-7)

Applicant became delinquent on some of the SOR debts because of his divorce. He fell behind on the mortgage in SOR ¶ 1.a when he became embroiled in a dispute with a contractor over the value of repairs the contractor made on his home. Applicant claimed that the dispute and the lien that the contractor placed on his home caused him to be unable to afford his mortgage payments. The lien was especially troublesome because it meant he had trouble selling the home when he moved to a different state to take a better paying job. He provided no evidence that he has undergone financial counseling. (Items 2-5)

## 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 eight delinquent debts totaling about \$111,000. Many of the delinquent accounts, including by far the largest, are several years old. 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;
- (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 financial delinquencies are recent and ongoing. He has not provided sufficient evidence that he has resolved or is resolving his SOR debts. It is reasonable to expect Applicant to present documentation about the resolution of specific debts, but he has not. See, e.g., ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). He has not established a track record of financial responsibility. AG ¶ 20(a) does not apply.

Applicant's delinquencies were caused by a divorce and his inability to sell a home because of a lien that a contractor placed upon it. These causes can arguably be seen as being beyond his control. Regardless, because he has not provided sufficient evidence that he has attempted to resolve his debts, he has not shown that he acted responsibly under the circumstances with respect to these debts. AG ¶ 20(b) does not apply. The lack of evidence of resolution of his SOR debts also means that AG ¶ 20(d) does not apply.

The letter that Applicant provided from a debt dispute company does not provide a basis for the dispute of any of the SOR debts. In fact, it does not claim that he actually has a dispute with respect to any of the SOR debts. Conversely, he admitted all the debts in his SOR response, and he told the DOD investigator that he would resolve the debts through payment arrangements. AG ¶ 20(e) does not apply. Applicant failed to provide sufficient evidence that any of the mitigating conditions 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 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 Guideline F 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 security concern.

### **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.h:	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