



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 23-00610  
)  
Applicant for Security Clearance )

**Appearances**

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

01/26/2024

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**Decision**

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MASON, Paul J., Administrative Judge:

Applicant has not provided persuasive evidence for allowing his former wife’s misuse and abuse of his credit to finance her uncontrollable gambling habit. Eligibility for security clearance access is denied.

**Statement of the Case**

On October 13, 2022, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP, Item 2) for security clearance eligibility so that he could work for a defense contractor. On January 13, 2023, he provided a personal subject interview (PSI) to an investigator for the Office of Personnel Management (OPM). The Defense Counterintelligence Security Agency Consolidated Adjudication Services (DCSA CAS) could not make the necessary affirmative finding to grant Applicant’s security clearance and issued a Statement of Reasons (SOR) on June 13, 2023, to him detailing security reasons under the guidelines for financial considerations (Guideline F). The action was taken under Executive Order (E.O.) 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) effective in the DOD on June 8, 2017.

On June 21, 2023, Applicant provided an answer to the SOR. He elected to have his case decided on an administrative (written) record instead of a hearing. Department Counsel for the Government sent a copy of the File of Relevant Material (FORM), the Government's evidence in support of the allegations in the SOR, to Applicant on August 9, 2023. He received the FORM on September 11, 2023. The Government advised him that in his response, he could either file objections, furnish explanations, submit additional material, or take advantage of all three options within 30 days of receiving the FORM. Applicant's response to the FORM was due on October 11, 2023. No response was received by the Defense Office of Hearings and Appeals. (DOHA). I was assigned the case on January 4, 2024.

### **Findings of Fact**

The SOR contains six allegations under the financial considerations guideline. SOR ¶ 1.a alleges that Applicant's financial troubles stemmed from funding his former's wife's gambling habit from 2014 to 2018. SOR ¶¶ 1.b, 1.c, 1.e, 1.f, and 1.g represent delinquent credit-card accounts, and SOR 1.d is a delinquent personal loan. The total amount of delinquent debt is \$43,105. Applicant admitted the six allegations without explanations.

Applicant is 37 years old and has been divorced twice. He has no children. His financial problems occurred during his first marriage from August 2014 to April 2018. (Item 3 at 19) Applicant has rented from the same United States (U.S.) residential location since January 2014. He earned several college credits from January 2012 to July 2014, but attained no degree. Between January 2017 to December 2018, he earned credits from a technical college, but achieved no degree. (GE 3 at 8-10) He is seeking his first security clearance. (Item 3 at 46)

Since September 2020, Applicant has been employed as an engineering technician by a defense contractor. Before his current job, he worked for a temporary agency for seven months. From November 2015 until his termination in February 2020, he was a group leader. He breached company policy by showing favoritism. His explanation of how the infraction occurred is not clear from the record. However, it appears that his selection process for determining which employees would be assigned to which work shifts ran afoul of company policy. Prior to November 2015, Applicant was a server and an assembler. (Item 3 at 10-18)

SOR ¶ 1.a – Applicant admitted his financial problems arose through his funding of his former wife's gambling habit from 2014 to 2018. His wife used his credit cards at the local casino. (Item 4 at 5) Applicant's marriage began in 2014 and ended in 2018 when he could no longer finance her habit. The delinquent credit-card and personal loan balance over \$40,000 implies that he spent much more than \$1,000 over a four-year-period for her gambling. (See Item 4 at 6)

SOR ¶ 1.b – This is a charged-off credit-card account with a delinquent balance of \$2,576. The last payment activity on the account was in October 2019. (Item 5 at 3; Item 6 at 3) The debt is unresolved.

SOR ¶ 1.c – This is a charged off credit-card account, with a delinquent balance of \$3,124. The last payment activity was in September 2014. (Item 5 at 3; Item 6 at 3) the debt has not been paid.

SOR ¶ 1.d – This is a personal loan amounting to \$3,914, with the last payment activity in September 2022. This loan was opened to pay for Applicant's wife's gambling in 2015 and 2016.(Item 4 at 8; Item 5 at 4; Item 6 at 2) The debt has not been paid.

SOR ¶ 1.e – The past-due amount of this credit-card account is \$20,575, with the last payment activity on the account is August 2019. Applicant conceded that he used the credit card to finance vacations, gambling and clothing. (Item 5 at 4; Item 6 at 2, Item 4 at 7) The account is unpaid.

SOR ¶ 1.f – This is a charged off delinquent credit-card account totaling \$720. Applicant's last payment activity on this account was June 2018. (Item 4 at 7; Item 5 at 5) The account is not resolved.

SOR ¶ 1.g – This is a charged off delinquent credit-card account amounting to \$12,196. The last payment activity on the account was July 2019. (Item 5 at 5; Item 6 at 2) Applicant has not paid this account.

Applicant furnished inconsistent statements about his former wife's gambling habit. He did not interpret paying for her gambling sojourns, clothing purchases, and away from home dining events as constituting irresponsible financial support for her spendthrift spending habits. (Item 4 at 9) After he was terminated from his group leader job in February 2020, his next job provided insufficient income for him to pay on any of the listed delinquent accounts, except for another credit card, which is not alleged in the SOR. He repaid that account through a wage garnishment. (Item 4 at 9-10)

Applicant claimed he called listed several creditors by phone, but their practice of keeping him waiting for them to connect and talk to him or their inability to return his calls made him less interested in making contact with them. He did not respond to creditor letters. (Item 4 at 10)

Applicant intends to file for bankruptcy in the next six months to a year. Except for the delinquent debts listed in the SOR, Applicant is able to pay his other financial obligations. He realizes that he was living beyond his means during his first marriage, but he believes his financial profile has changed. Applicant enrolled in a debt consolidation program in 2018, but discontinued the service when he discovered the monthly payments were too high. (Item 4 at 11) Without disclosing what he has done to explain how he has changed his financial habits; it is impossible to determine that his current financial management is better than during his first marriage from 2014 to 2018.

Applicant did not provide any information about his yearly or monthly earnings or his financial practices, such as whether he has a budget.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines and all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. These guidelines, which are flexible rules of law, are applied together with common sense and the general factors of the whole-person concept. The protection of the national security is the paramount consideration. AG ¶ 2(d) 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 applicant or proven by Department Counsel. . ." The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

### **Analysis**

#### **Financial Considerations**

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. 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.

AG ¶ 19. Conditions that could raise a security concern and may be disqualifying include:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regard less of the ability to do so;
- (c) a history of not meeting financial obligations; and

(e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or non-payment, or other negative financial factors.

The surrounding facts leading to the SOR §§ 1.b-1.g accounts becoming delinquent between June 2018 and September 2022 support the application of AG §§ 19(a) and 19(c). I am unable to apply SOR § 19(b) because of Applicant's successful resolution of an unalleged credit card account that became delinquent between 2014 and 2018. Furthermore, Applicant has not indicated he does not want to satisfy the listed debts, though he is ruminating over filing bankruptcy. To his credit he tried to contact the creditors. His dilemma is that he simply does not have the necessary funds to address the creditors. AG § 19(e) applies due to Applicant's admission that he was living beyond his means in financing his wife's gambling habit and leading to his excessive indebtedness.

AG § 20. Conditions that could mitigate security concerns include:

(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; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Though the listed accounts became delinquent six years ago or less, the accounts are still delinquent. I believe Applicant tried to contact the creditors, but he has produced no plan of how he intends to handle the delinquent debt. AG § 20(a) does not apply.

AG § 20(b) does have some application to the circumstances of this case. Applicant was terminated from his group leader position in February 2020 for showing favoritism. Since Applicant had been working for this employer for almost five years, I am unable to conclude that his conduct rose to an actionable level to justify the

termination. The record shows he resumed employment in the same month, and he has been steadily employed since then. The reason for Applicant's financial problems was his first wife's gambling habits. Though it took him four years, he receives some credit for acting responsibly under the circumstances by ending the marriage in 2018, thereby staunching deeper financial problems. Failure to act responsibly before he did, was due to not realizing that he was adopting the same extravagant financial practices of his former wife.

Applicant receives no mitigation under AG ¶ 20(c) because he has never had financial counseling. His participation in the debt consolidation service ended when he decided the monthly payments were too high, and it is inferred that he was not enrolled in the service for long. There is no clear indication that his listed debts are being resolved or under control. AG ¶ 20(d) does not apply because Applicant has not provided a good faith effort to the delinquent creditors.

### **Whole-Person Concept**

I have examined the evidence under the guideline for financial considerations in the context of the nine general factors of the whole-person concept 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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant is 37 years old and has been married twice. He has no children. He has been an engineering technician since September 2020. He married his first wife in 2014. By the time of the 2018 divorce, he has accumulated debt of over \$43,000, due primarily to his wife's uncontrollable gambling habit. He does not have a plan to repay the listed creditors. Even if he succeeds in discharging the listed debt through a Chapter 7 Bankruptcy discharge, this legal action does not constitute a good-faith effort to pay his debts with a meaningful track record of repayments. Having considered the entire record from an overall common-sense point of view, including the lack of evidence of financial counseling and character evidence, the financial considerations and personal conduct guidelines have not been mitigated.

## 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.g: Against Applicant

## Conclusion

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

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Paul J. Mason  
Administrative Judge