



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 23-02415  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tovah Minster, Esq., Department Counsel  
For Applicant: *Pro se*

10/11/2024

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**Decision**

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MASON, Paul J., Administrative Judge:

Applicant’s consistent repayment history of his unalleged student loan accounts for over a 12-year period overcomes his inaction in addressing the three delinquent debts listed in the Statement of Reasons (SOR). While he provided an incomplete and undated financial statement and no evidence of financial counseling, he supplied documentation of payments on an unalleged bank card that had been charged off, two years of payments to a commercial lender that persuasively demonstrate he is trying to responsibly manage his financial obligations. Eligibility for security clearance access is granted.

**Statement of the Case**

On November 1, 2022, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to retain a security clearance required for a position with a defense contractor. On June 28, 2023, he provided a personal subject interview (PSI) to an investigator from the Office of Personnel Management (OPM) The Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Facility (CAS) could not make the affirmative findings required for security clearance eligibility

and issued to Applicant a Statement of Reasons (SOR), dated October 30, 2023, detailing security concerns raised by 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.

Applicant provided his answer to the SOR on December 2, 2023. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on April 16, 2024, for a hearing on May 2, 2024. The live in-person hearing was held as scheduled. The Government's exhibits (GE) 1 through 4 and Applicant's three exhibits (AE) A through C were admitted in evidence without objection. On May 31, 2024, Applicant submitted post-hearing exhibits have been separated into four exhibits labeled AE D, E, F, and G. AE D contains Applicant's payment history of his student loans. AE E contains his historical record of payments to his mother, and real estate documentation of his property in country A that he plans to sell to pay off SOR ¶ 1.a. There is an undated real estate property advertisement for sale of a parcel and a May 31, 2024, appraisal of the parcel appearing at AE E at 11-16. AE F contains Applicant's character references. AE G provides documentation of Applicant's medical bills which he accumulated between 2019 and 2023. There is an incomplete personal financial statement (PFS, AE D at 59) and numerous copies of the same page of a newspaper. DOHA received the transcript (Tr.) on May 13, 2024. The record closed on June 4, 2024.

### **Findings of Fact**

There are three delinquent debts listed in the SOR. SOR ¶ 1.a is a delinquent car loan amounting to \$11,807. SOR ¶ 1.b is a charged off credit card totaling \$1,703. SOR ¶ 1.c is cell phone account in the amount of \$1,375, placed for collection. The total amount of debt is about \$14,885. The debts became delinquent in August 2023. Applicant admitted the three allegations.

Applicant is 30 years old, born in country A, is single, with no children. He is a naturalized United States (U.S.) citizen. He received his high school diploma in June 2012, and his bachelor's degree in the United States in December 2016. He began graduate school in 2018 and anticipates a degree in May 2025. (GE 1 at 12)

Since March 2017, Applicant has been working as a software engineer for his current employer. Previously, he worked as a sales associate, a package delivery driver, a taxi driver, a sales associate, and a cashier. He was unemployed for two months in 2016, seven months from 2015 to 2016, seven months from 2014 to 2015, and 16 months in 2012 and 2013 while he was in school. He has had a security clearance since August 2018. (GE 1 at 14-25, 45; Tr. 8)

In his November 2022 security clearance application, Applicant listed two of the three debts that appear in the SOR. He noted he had an unalleged \$155 medical bill. He incorrectly believed the cell phone bill (SOR ¶ 1.c) was paid in July 2021. His plan to pay the SOR ¶ 1.a bill was delayed by two medical bills that awaited payment and by helping his mother financially. He apparently forgot about the SOR ¶ 1.a debt when he told the OPM investigator in June 2023 that he was current on all his accounts. (GE 1 at 47-49; GE 2 at 2)

Applicant testified that he intends to sell a parcel of property worth about \$50,000 to pay off the delinquent car debt appearing at SOR ¶ 1.a. The property is located overseas in country A where he was born. His mother and uncle are preparing the parcel for sale by removing squatters and having a survey conducted of the property. He has talked with a potential buyer. He believes that the property will be sold by the end of 2024. He submitted a warranty deed for the property, an undated real estate advertisement, and a May 31, 2024, appraisal of the property valued at about \$50,000. (AE E at 11-16) However, he presented no documentation establishing that a sale is imminent. (Tr. 18-21, 48; AE A)

SOR ¶ 1.a became delinquent after Applicant gave his car to his mother who needed transportation. She was not working, and the car was repossessed when she could not sustain the payments. This financial problem began in July 2019 while his mother was living with him. (GE 1 at 50; Tr. 23-24, 31)

Regarding SOR ¶ 1.b, Applicant set up an automatic payment plan to begin on May 10, 2024. According to the plan, he was scheduled to pay \$25 on May 10, 2024, and presumably the same amount every two weeks until the debt was paid. According to subsequent documentation in his post-hearing exhibits, the first payment on the account was changed to June 7, 2024. (Tr.21; AE B; AE E at 19)

Regarding the cell phone debt (SOR ¶ 1.c), on May 1, 2024, Applicant established a plan to repay SOR ¶ 1.c \$57 a month, with payments beginning on May 10, 2024, and ending when the account is paid off in April 2026. He and his mother opened the account in his name. When she could not make the payments, he became responsible for the account. At the close of the hearing, no actual repayments have been made on the three delinquent accounts listed in the SOR. Applicant's post-hearing documentation does not show that he made his first payment to the creditor on May 10, 2024. (Tr. 21-22; 47; AE C)

Applicant began supporting his mother in 2013 while he was working a part-time job during college. He has been sending \$100 to \$200 a month to her United States (U.S.) or her country A residential location since that year. From October 2018 to October 2019, she lived with Applicant and contributed \$50 to \$100 a month for expenses. See AE D at 2-9. While she was living in another U.S. location from 2020 to 2022, he claimed that he paid \$1,500 a month for her rent. She has been living in country A since 2022. (Tr. 26-33; AE E at 2-10)

Applicant explained that he did not develop repayment plans for the debts listed in the SOR because he had just completed payments of one of his unalleged student loans to a federal lender. (AE A at 9, 23, 37, 56) He has four student loans that he still has to satisfy. One is with a federal agency and the other three are with a different federal lender. The loans are currently in deferment while he is in graduate school. Applicant has never been delinquent on his student loans. His student loan documentation contains a record of regular payments from October 2012 to April 2024. The Government CBR indicates that all loan accounts are current or in deferment. (GE 4 at 6-7; Tr. 42-47; AE D)

Regarding Applicant's personal finances, he has about \$300 in his checking account, \$0.50 in his savings account, and zero dollars in another savings account that he uses to pay his loans. He has about \$1,300 in is retirement account that he contributes to intermittently. He has three additional past-due credit cards that were charged off in January 2024. These accounts are not alleged in the SOR. He is enrolled in repayment plan with one of the credit-card creditors and has made three monthly payments of \$60 in March, April, and May 2024 under the plan. He has not established a plan with the other two credit-card creditors. He received a \$2,000 debt consolidation loan from a commercial lender in 2022 that he paid off in the week before the hearing. He has never had formal financial counseling. Though his student loans, his loan from a commercial lender, and his April 2023 settlement agreement for a delinquent payday loan in 2019 are not alleged in the SOR, the loans will be considered to assess Applicant's credibility and to provide evidence for the whole-person analysis. (Tr. 37-41, 49-51; AE E at 17-18)

Applicant and his mother have been hospitalized over the years. She and he were hospitalized for varying periods in 2019, 2020, 2022, and 2023. Applicant incurred between \$5,000 and \$7,000 in medical expenses for his treatment. (AE G) Though he was not financially responsible for her hospitalizations, he did pay for some of her medications because she did not have medical insurance. She was hospitalized in country A in 2023 and also in the United States in August and September of 2023. (Tr. 29-33)

### **Character Evidence**

In an undated character statement Applicant's mother identifying the date when this case was heard, she expressed her satisfaction over his career accomplishments and faithfulness to her. She provided a list of actions he took in contributing to her welfare after she became unemployed in 2017. He contributed rent "at times" while his mother lived at two locations in the United States. (AE F at 2) Applicant provided documents chronicling regular financial help on a monthly basis to his mother from September 2016 and May 2024. In that period, he provided a total of \$1,893 in assistance for the entire month of December 2022. (AE E at 2-9) Except for December 2021, the other amounts of monthly assistance never equaled the \$1,500-a-month rent

that he claimed that he provided her between 2020 and 2022. On December 31, 2021, Applicant's credit union acknowledged a rental payment of \$1,500. However, the recipient is unidentified. (AE E at 10)

On May 29, 2024, Applicant's manager for two of the last two and a half years, praised Applicant's work as an engineer and having a team player attitude. The manager lauded Applicant's work productivity that has been recognized with awards for quality and dedication. (AE F at 3)

On May 30, 2024, Applicant's coworker commended Applicant's reliability, trustworthiness, and professionalism. (AE F at 4)

On May 29, 2024, an attorney employed by a public interest organization provided a character endorsement of Applicant. He has been a close friend of Applicant for the past 16 years, and considers him ethical, trustworthy, and considerate. (AE F at 5).

In an undated character statement, another reference noted that he has known Applicant 2013 when they both attended the same college. Because of their shared interest in soccer, they have become good friends. Applicant is a caring and honest individual. (AE F at 6)

On May 29, 2024, a minister and member of a human resources office of a police department, recommended Applicant for a security clearance because of his intelligence and trustworthiness. (AE F at 7)

A friend indicated on May 24, 2024, that in the last five years, Applicant has become a good friend because of his outstanding character. (AE F at 8)

In his performance reviews for 2021 through 2023, Applicant was rated by his employer as a "successful performer," with a comment in 2023 as continually measuring up to all the requirements of his position. (AE F at 9-17)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied together with common sense and the general factors of the whole-person concept. The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in reaching a final determination. 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**

### **Guideline F, 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.

Responsibly managing one's personal finances provides a good indicator of how a security clearance applicant will comply with security rules and regulations. If he has persistently demonstrated an inability to handle his personal finances in a responsible manner, there is a chance he may exhibit the same kind of irresponsible approach toward security regulations that he chooses not to comply with.

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

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

Adverse evidence from credit bureau (CBR) reports can usually meet the Government's obligation of proving delinquent debts. See, e.g., ISCR Case No. 14-02403 at 3 (App. Bd. Aug. 18, 2015); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) The September 2023 CBR indicates that the three debts listed in the SOR became delinquent in August 2023. The total amount of delinquent debt is about \$14,885. AG ¶¶ 19(a) and 19(c) apply. AG ¶ 19(b) does not apply because Applicant's

regular documented payments of his student loans since 2012, and his payments to the commercial lender since September 2022, represent compelling evidence of his willingness to satisfy his student loans and other delinquent accounts.

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.

AG ¶ 20 (a) is not fully established. Even though there are only three accounts at issue, they became delinquent in August 2023. Their current delinquent status raises some residual concerns that that this type of conduct could recur to cast doubt on Applicant's current reliability and trustworthiness.

Applicant is entitled to some mitigation under AG ¶ 20(b) because he has been providing financial help to his mother since 2013. Between 2020 and 2022, he was paying her rent at times, though not to the extent he described at the May 2024 hearing. His financial assistance to her over the years has been complicated by his periodic medical treatment between 2019 and 2023. While he submitted no actual payments to the three listed debts in the SOR, he provided a 12-year repayment history of his student loans since 2012, and a gratifying payoff of one of the student loans in May 2024.

Even though Applicant has never had financial counseling, his 12-year documented payment history of his student loans enables him to receive mitigation under AG ¶¶ 20(c) and 20(d). To his credit, he has never been delinquent in repaying his student loans.

### **Whole-Person Concept**

I have examined the evidence under the specific guidelines 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 commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant has furnished sufficient evidence to establish that he is paying down his student loans. The student loan payment records convince me that he will continue to pay his remaining student loans until those accounts are eliminated. The student loan payment history justifies my confidence in Applicant to sell his property to pay off SOR ¶ 1.a and will follow through with payment plans for SOR ¶¶ 1.b and 1.c or establish new plans to ensure the delinquent debts are satisfied.

Applicant's decision in 2019 to take out a pay day loan to pay financial obligations, along with his decision to obtain a September 2022 loan to pay other financial obligations establish decisive reasons why he needs financial counseling. This counseling helps a person develop a budget to effectively monitor and account for his earnings and expenditures and control his overall finances. A failure by Applicant to heed this recommendation may lead to an immediate review of his security clearance eligibility.

In Guideline F cases, the DOHA Appeal Board has repeatedly held that, to establish his case in mitigation, an applicant must present a "meaningful track record" of debt repayments that result in debt reduction. *See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007)* While an applicant is not required to show that every debt listed in the SOR is paid, an applicant must show that he has a plan for debt resolution and has taken significant action to implement the plan. *See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006)* After a full review of the entire record from an overall common-sense and whole-person point of view, specifically the complimentary evidence of Applicant's integrity, his team-player attitude, his positive performance evaluations, and his documented payment history since 2012, he has mitigated the financial considerations guideline.

### **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: FOR APPLICANT

Subparagraphs 1.a, 1.b, 1c: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

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Paul J. Mason  
Administrative Judge