



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



In the matter of: )  
)  
) ISCR Case No. 23-00479  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Karen Moreno-Sales, Esq., Department Counsel  
For Applicant: *Pro se*

11/26/2024

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**Decision**

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WHITE, David M., Administrative Judge:

Applicant failed to mitigate the security concerns raised under the Financial Considerations guideline. Based upon a review of the full record, national security eligibility for access to classified information is denied.

**History of Case**

On April 12, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations). The action was taken 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 Security Executive Agent Directive (SEAD) 4 National Security Adjudicative Guidelines (AG), which came into effect on June 8, 2017. Applicant submitted his written Answer to the SOR on May 4, 2023. He admitted the allegations in SOR ¶ 1.a but denied that the Guideline F Security Concern applied to him; and he requested a hearing before an administrative judge.

The Defense Office of Hearings and Appeals (DOHA) assigned the case to me on June 28, 2023, and I received the case file on July 3, 2023. DOHA issued a Notice of Hearing on July 14, 2023, setting the hearing for July 27, 2023. On that date, Department Counsel offered Government Exhibits (GE) 1 through 5 into evidence. Applicant testified and offered Applicant Exhibits (AE) A through D into evidence. All exhibits were admitted without objection. I left the record open until August 18, 2023, for possible submission of additional documentary evidence in mitigation or rebuttal. Neither party submitted any additional evidence, and the record closed as scheduled. DOHA received the hearing transcript (Tr.) on August 7, 2023.

### **Findings of Fact**

Applicant is 39 years old. He is unmarried and has no children. He earned a bachelor's degree in finance with a minor in accounting in August 2007, and an MBA degree in June 2021. He began his current employment as a Senior Consultant with a major defense contractor in February 2022. He has neither served in nor been employed by the U.S. Department of Defense, and has never held national security eligibility. (GE 1; GE 2; Tr. 6-8, 34.)

In early 2010 Applicant, his mother, and his brother lived together in an urban home that his mother rented. At the time, his mother was a co-owner and manager of a Dunkin' Donuts franchise where his brother was also employed. The three of them decided to purchase a suburban house together for \$324,000 in February 2010, for which they all cosigned a mortgage loan. Each of them contributed around \$20,000 toward the down payment, and then about \$1,000 per month toward their subsequent mortgage and other house expenses. (GE 2; GE 4; Tr. 36-39.)

In May 2012, Applicant moved out and stopped contributing to the housing expenses. His brother and mother said that they would cover the costs while he moved back to an urban apartment. Later his mother sold her share of the franchise and quit working at Dunkin' Donuts for health reasons. His brother had trouble finding another full-time job, so in 2016 they stopped making payments on the House loan. In 2018 the lender offered them an option to conduct a short sale or to refinance the loan with the delinquent amount added to the outstanding balance. They decided that they wanted to keep the house, so they chose to refinance and all three cosigned the modified mortgage loan. Applicant still did not contribute any payments toward this loan, and his mother and brother again could not afford the payments on their own. The lender foreclosed on the house in 2022 with an outstanding loan balance of \$431,896. After the home was resold, a \$153,221.00 deficiency balance remained on the loan, for which the lender obtained a county circuit court deficiency judgment against Applicant in August 2022. Applicant's brother declared bankruptcy and his mother has no income or assets outside of Social Security. The applicant now helps her rent an apartment. (GE 3; GE 4; AE D; Tr. 28, 40-46, 49-51, 53-54)

Applicant admits that he knowingly and voluntarily cosigned for his now-delinquent original and refinanced mortgage loans because his mother and brother, with whom he cosigned, would not have qualified for them unless he also agreed to repay them. His salary is now about \$133,000 per year, and he received an additional \$9,700 annual bonus in 2023. Nevertheless, he deliberately chose to move out of the home and incur additional housing expenses. In 2017, he knew that the house payments were not being made, but he nevertheless purchased a new car with six years of “unfavorable” high monthly payments. (GE 2; GE 3; GE 4; Tr. 35-36, 46-47.)

Applicant testified that he has now paid off all his other debts, and provided an updated personal financial statement demonstrating a monthly \$2,602 surplus of income over his regular living expenses. Nevertheless, he confirmed that he has no intention of repaying the mortgage loan deficiency judgment or contacting the creditor to attempt to resolve this debt. (AE A; AE B; AE C; Tr. 47-53, 56.)

### **Policies**

When evaluating an applicant’s national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations, each guideline lists potentially disqualifying and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process.

The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶¶ 2(b) and 2(c), the entire process is a conscientious scrutiny of several variables known as the whole-person concept. The administrative judge must consider all available, pertinent, and reliable information about the person, favorable and unfavorable, in reaching a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that any doubt concerning personnel being considered for national security eligibility be resolved in favor of the national security. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have avoided drawing inferences grounded on mere speculation or conjecture.

According to Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states, “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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who applies for national security eligibility seeks to enter 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 eligibility for access to classified information or assignment in sensitive duties. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified or sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of protected information.

Section 7 of EO 10865 provides, "Any determination under this order adverse to an applicant shall be a determination 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 concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

AG ¶ 19 describes three conditions that could raise security concerns and may be disqualifying in this case:

- (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.

Applicant admittedly still owes a judgment debt totaling \$153,221. This debt arose because he chose to spend his available resources on other non-essential expenses rather than meet his voluntarily undertaken obligation to his mortgage lender over the past decade. He testified to his ongoing unwillingness to repay or otherwise attempt to resolve this substantial debt. These facts establish prima facie support for the foregoing disqualifying conditions, and shift the burden to Applicant to mitigate the resulting security concerns.

The guideline includes four conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's admitted financial delinquencies:

- (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.

Applicant failed to establish mitigation under any of these conditions. The large delinquent debt of concern remains unresolved, demonstrating his current unreliability and the potential for recurrent problems. His continuing failure to meet financial obligations is not a recent development. He provided no evidence that he obtained or is following professional counseling to establish financial responsibility. There are no documented indications that the problem is being resolved or is under control. His history of financial irresponsibility and plan to continue ignoring this judgment debt create ongoing potential for financial coercion and increased risk of having to engage in illegal or otherwise questionable acts to generate funds.

### **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.

According to 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 applicable guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant is a mature and accountable consultant with an MBA degree who defaulted on more than \$153,000 in voluntarily incurred debt. He has no intention to resolve his outstanding delinquent debt despite his current remunerative employment with a defense contractor. There remains significant potential for pressure, coercion, exploitation, or duress, which is likely to continue. Applicant failed to meet his burden to mitigate the security concerns arising under the Financial Considerations guideline.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:

AGAINST APPLICANT

Subparagraph 1.a:

Against Applicant

### **Conclusion**

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

DAVID M. WHITE  
Administrative Judge