



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 22-00164  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andrea Corrales, Esq., Department Counsel  
For Applicant: *Pro se*

02/06/2024

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**Decision**

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MASON, Paul J., Administrative Judge:

Applicant’s claims of resolving several of the listed delinquent debts, paying on other listed debts, and paying other unalleged credit-card accounts are undermined by the lack of documentation to corroborate his claims. Eligibility for security clearance access is denied.

**Statement of the Case**

On May 19, 2020, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to retain a security clearance required for a position with a defense contractor. On July 29, 2020, he provided an interview (PSI) with an investigator from the Office of Personnel Management (OPM). The Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudication Services (CAS) could not make the affirmative findings required to continue a security clearance, and issued to Applicant a Statement of Reasons (SOR), dated April 5, 2022, 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; Department of Defense (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 June 16, 2022. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on August 7, 2023, for a hearing on August 29, 2023. The hearing was held by Teams video teleconference as scheduled. I entered the Government's ten exhibits (GE) 1-10 into evidence without objection. The record remained open until September 13, 2023 to allow Applicant the opportunity to submit post-hearing documentation in support of his hearing testimony. On September 25, 2023. Applicant submitted a 32 page exhibit containing: (1) a two-page position statement (A1A-A1B); (2) a spread sheet depicting payment history; (3) credit card-account balances with reduced balances from earlier dates during the life of the card; (4) six different credit reports posting the same date (September 24, 2023); (5) an undated budget; and (6): a September 5, 2023 letter (with a copy) from the collection agency for SOR ¶ 1.g, with a handwritten note in the upper right hand corner of the exhibit claiming that the account was paid in December 2021.

On September 26, 2023, Department Counsel interposed no objection to the exhibit, but noted that Applicant's large donation to charity evoked the suggestion that he was not overly concerned about addressing his liability to the SOR ¶ 1.d creditor. The exhibit has been marked and entered into evidence as Applicant's Exhibit AE A. (AE A1A-A2A; AE A1-32) DOHA received the transcript (Tr.) on September 12, 2023. The hearing record closed on September 26, 2023.

### **Findings of Fact**

There are seven delinquent accounts alleged in the April 2022 SOR. The eighth allegation alleges that Applicant filed a Chapter 7 Bankruptcy petition in 2001 that was discharged in October 2001. The seven delinquent debts are for credit-card accounts and medical accounts. The total amount of debt is \$28,624. The debts became delinquent between April 2015 and January 2022. Applicant admitted that he owed all but two of the listed debts (SOR ¶¶ 1.c and 1.d), but claimed that he resolved some of the debts, including SOR ¶¶ 1.c and 1.d). The Government credit bureau reports and Applicant's June 2022 Answer to the SOR verify the delinquent accounts. (GE 3, 4, 5, 6)

Applicant is 52 years old. He has owned his own home since 2008. He has no military history. He has been married since November 1994. He has held a security clearance since January 2009. (GE 1 at 8-28)

In 1994, Applicant received a certificate in computer technology. Since May 2022, he has been working as a Linux engineer for a subsidiary of his previous employer where he worked as a Unix administrator from May 2014 to May 2022. He has held previous employment in Unix administration or support. (GE 1 at 10-15)

SOR ¶ 1.a is a medical account that became delinquent in January 2022. Applicant testified that he paid the account. (GE 3 at 1-2; June 2022 Answer to the SOR; Tr. 28) However, he provided no documentation.

SOR ¶ 1.b is a credit-card account that became delinquent in May 2019. Applicant contended that he had a statement from the bank designating him as the authorized user. He helped the account holder pay off the account, but did not produce documentation to support his claim. (GE 3 at 7; Tr. 28) The account is unresolved.

SOR ¶ 1.c is credit-card account that Applicant indicated in his June 2022 answer was still delinquent. At the hearing, he claimed that he paid the bill. (Tr. 28-29) With no documentation, I find the debt has not been paid.

SOR ¶ 1.d is a balance that Applicant owes on a repossessed car. He agrees that he remains liable. The account became delinquent in 2013 when his wife lost her job. The car was repossessed and Applicant never returned the account to a current status. In his May 2020 e-QIP, Applicant tried to negotiate a settlement but the creditor declined the settlement terms. Applicant's last attempt to settle the account was between 2021 and August 2022. At some point during the negotiations, he offered a monthly payment \$300, but the creditor refused to accept the terms. Applicant indicated that "I guess I can – I can provide the documentation of that conversation" (referring to settlement negotiations). (GED 3 at 8; Tr. 41, 43-44) No documentation was presented. The account is not resolved.

SOR ¶ 1.e is a medical account turned over to collection in April 2020. Though Applicant claimed that he paid the account, he provided no documentation to confirm that he paid. (GE 5 at 5; Tr. 29) The debt remains unpaid.

SOR ¶ 1.f is a medical account that became delinquent in July 2020. Applicant claimed that he paid the account though he did not have documentary support. (GE 5 at 5; Tr. 29-30) The account is unresolved.

SOR ¶ 1.g is a credit-card account that became delinquent in June 2020. Applicant indicated in his July 2020 PSI that the account was in a current status. In his September 2023 post-hearing documentation, Applicant indicated that he paid the account in December 2021. (GE 5 at 6; GE 10 at 2; Tr. 45-46; AE A at 31) His claim that he paid the account in December 2021 discredits his earlier claim that the account was current in July 2020.

Applicant filed a Chapter 7 Bankruptcy petition in 2001 (SOR ¶ 1.h) because he lost his job and was the sole provider of the household. He also had to care for his wife who was in the hospital. He completed the mandatory financial counseling required by the bankruptcy court in order to complete the bankruptcy petition. He has had no other financial counseling. (Tr. 39-40)

From May 2014 to June 2022, Applicant was earning about \$160,000 a year. In January 2022, he had surgery. When he began working for a short period as a Linux engineer in May 2022, he could not collect disability, so he entered a long-term disability status without pay. For most of calendar year 2022, Applicant lived off his savings account until the account was almost liquidated. He had a second surgery in August 2022. He recovered and, in December 2022, he began earning \$15,000 a month before taxes. (Tr. 31-35)

Applicant has a \$7,700 monthly remainder, but he is spending that remainder on other credit-card accounts totaling about \$15,000. Those other credit-card accounts are not alleged in the SOR, although some were delinquent at one time or another. SOR ¶ 1.g was delinquent, but became current in June 2023. Applicant is paying off medical bills in amounts of \$500 a month. He does not know how much he owes in total. He used his \$401(k) retirement account to pay medical bills and his living costs while he was unemployed in 2022. His mother has been living with him since 2008. His mother-in-law has been living with him since 2022. However, he does not know how much he spends to support them. His last purchase of a car was in 2014. His last house purchase was in 2008. Applicant's wife earns about \$3,000 a month. (Tr. 34-39)

Having carefully evaluated Applicant's testimony, I find his credibility damaged by presenting almost no evidence in support of his claims of solving certain debts and paying on others. In response to SOR ¶¶ 1.a, 1.b, 1.c, 1.e, and 1.f, Applicant stated he had the documentation to support his testimony, but he produced no independent evidence. Apparently, Applicant has decided to suspend further attempts to settle the account with SOR ¶ 1.d. Though his credit picture has improved as he has been paying more accounts in a timely fashion, with his most recent missed payment over 3 years ago, the negative comments by the credit agency reflect his serious debt delinquency (SOR ¶ 1.d) and his high credit usage. (AE A at 21-23)

### **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 making a decision. 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.

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

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

A person's practice of paying his voluntarily incurred debts is a private matter until evidence reveals that he is not paying his debts in a timely fashion. Adverse evidence from credit 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 Government credit reports establish that all the debts listed in the SOR have been delinquent from 2015 to July 2020. Though Applicant stressed that he paid several of the listed accounts, the only resolved account that is supported by documentation is SOR ¶ 1.g. However, Applicant took conflicting positions regarding the status of that account between July 2020 and September 2023. AG ¶¶ 19(a) and 19(c) apply.

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) does not apply since Applicant still owes \$27,983 in delinquent debt to six creditors or collection agencies. One listed debt became delinquent in 2015. However, the remaining four debts became delinquent within the last five years. The absence of documentary proof of solution for the outstanding listed delinquencies continues to raise concerns about Applicant's current reliability, trustworthiness and judgment. AG ¶ 20(a) does not apply.

The medical problems and surgery of Applicant's wife in 2013, and his two surgeries in January and August 2022 have been considered. Missing from this medical evidence is the nature of the surgeries, documented reasons why Applicant did not receive disability insurance, the documented impact of Applicant's unemployment in 2022 to his savings account, and any additional information concerning the medical problems that exacerbated Applicant's financial strife in 2022. At the very least, Applicant should have taken some action to contact and negotiate payment plans with the creditors, or at least inform the creditors of his financial plight.

Applicant testified that his \$7,700 monthly remainder was used to pay the non-SOR credit-card creditors. This claim has very little probative impact unless it is accompanied with evidence, i.e., payment stubs, receipts, bank ledgers, that show actual payments to these non-SOR creditors.

While Applicant had mandated financial counseling when he filed his Chapter 7 Bankruptcy petition in 2001, there is very little evidence that he made the necessary changes in his financial habits over the years. The reason for this conclusion comes from Applicant's 2023 CBR, where the credit bureau is on record believing that his high credit use jeopardized his financial profile.

Though Applicant receives some credit under the first prong of AG ¶ 20 (c) for experiencing conditions beyond his control, the credit due him under the second prong of AG ¶ 20(c) is reduced substantially because there is insufficient justification to conclude that his debts are being resolved. AG ¶ 20(d) does not apply because Applicant is not engaged in a good-faith effort to repay his creditors.

## 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 been married since 1994. He has been employed as a Linux engineer since May 2022.

Except for settling with the creditor identified in SOR ¶ 1.g, the remaining delinquent accounts are in the same status in February 2024 as they were in April 2022, when the SOR was issued. Applicant has a lengthy history of financial difficulties that trace to a Chapter 7 bankruptcy petition and discharge in October 2001. The lack of documentation to shore up Applicant's medical claims and his assertions where he was spending the large monthly remainder, undercut his overall credibility. He was unable to estimate how much he spends to support his mother and mother-in-law. Having weighed and balanced the mitigating and disqualifying evidence, Applicant has not met his ultimate burden of persuasion under the guideline for financial considerations.

Assuming that Applicant is relying on a limitations statute to avoid responsibility for some of the SOR debt because it has been removed from his credit report and is no longer enforceable, the debt is still significant for security clearance purposes. See ISCR Case No. 15-02326 at 3 (App. Bd. Oct. 14, 2016) Relying on the statute of limitations does not constitute a good-faith effort to eliminate financial troubles. See ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016) In Guideline F cases, the DOHA Appeal Board has repeatedly held that, to establish by documentation 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, the 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) From the record presented, there is insufficient evidence of a plan in

place regarding the listed past due accounts. After a full review of the entire record from an overall common-sense point of view, Applicant's ongoing financial problems 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.f; 1.h: Against Applicant

Subparagraph 1.g: For 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. Eligibility for access to classified information is denied.

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Paul J. Mason  
Administrative Judge