



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



In the matter of:	)	
	)	
	)	ISCR Case No. 24-00326
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Andrew Henderson, Esq., Department Counsel  
For Applicant: *Pro se*

11/04/2024

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**Decision**

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BENSON, Pamela C., Administrative Judge:

Applicant did not mitigate the Guideline F (financial considerations) and Guideline E (personal conduct) security concerns. National security eligibility for access to classified information is denied.

**History of the Case**

On April 2, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F and E. The DCSA acted under Executive Order (EO) 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 implemented by the DOD on June 8, 2017. Applicant responded to the SOR on April 30, 2024, and requested a decision based on the written record in lieu of a hearing.

The Government’s written case was submitted on June 6, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the

security concerns. Applicant received the FORM on June 27, 2024. He did not respond. The Government's six exhibits (Items) included in the FORM are admitted into evidence without objection.

### **Findings of Fact**

Applicant is 49 years old. He is an honorably retired Air Force veteran. He has completed some college work, but he has not yet earned a college degree. He is separated from his second wife and has three adult children. Since February 2018 he has worked for his current employer as a technician. (Item 2; Item 4)

The SOR alleges that Applicant owes two creditors a combined total of \$30,333 for past-due accounts. (SOR ¶¶ 1.a, and 1.b) The SOR also alleges that Applicant deliberately failed to list any of his delinquent accounts, as required, when he completed his January 2023 Electronic Questionnaires for Investigations Processing (e-QIP), also known as a security clearance application (SCA). (SOR ¶ 2.a.) He admitted all SOR allegations, however, he clarified that he filled out the SCA incorrectly due to a rush to complete this application and get out to his job site. (Item 1)

SOR ¶ 1.a alleges that Applicant owes \$25,966 for a credit card account referred for collection. During his February 2023 background interview with an authorized DOD investigator, Applicant was asked if he had any delinquent accounts, or had any accounts referred for collection. He told the investigator he was uncertain, but he believed he was current with all of his bills. Applicant was then confronted by the investigator with this delinquent account. Applicant then acknowledged he had opened this account in about 2016 to finance the installation of siding for his current home. He estimated this account became delinquent in about 2017. He told the investigator that he has been working towards paying this delinquent debt and that is the reason he did not disclose it. He stated that he was in the process of refinancing his home, and it was his intention to pay this delinquent account once the delinquent account for siding was rolled into his refinanced mortgage. In his April 2024 response to the SOR, he denied that the overall Guideline F security concern applied to him since he had been earning \$80 to \$100 an hour while employed. Applicant admitted, however, he still owed this delinquent debt. He did not provide information that he has paid this debt, arranged a payment plan with the creditor, or settled this account. This account has not been resolved. (Items 1, 3, 4, 5)

SOR ¶ 1.b alleges that Applicant owes \$4,367 for a past-due account with a total balance of \$5,768. After being confronted with this delinquent account during his February 2023 background interview, he told the investigator that this account was for new windows he had installed in his current home. He estimated that he opened this account in 2016 and it became delinquent in 2017. He also hopes to pay this past-due debt after he refinances his home and has this debt rolled into the new mortgage. Applicant did not provide information that he has paid this debt, arranged a payment plan with the creditor, or settled this account. The March 2024 credit report showed that this account was delinquent in the increased amount of \$5,768, with an outstanding balance of \$5,997. This account has not been resolved. (Items 1, 3, 4, 5, 6)

Applicant completed an interrogatory on May 16, 2023, concerning the current status of the two delinquent accounts obtained from his February 2023 credit bureau report. He indicated that he had not paid, was not currently paying or arranging a payment plan with either of these creditors. He provided a personal financial statement (PFS) reflecting his monthly net income was \$7,101, and after paying his monthly expenses, which did not include any payments on his two delinquent accounts, Applicant was left with a monthly net remainder of \$736. (Item 4)

Applicant also provided a personal declaration with his response to the interrogatory which stated that he was currently working to refinance his home and his two delinquent debts should become a part of his remortgage. He stated, "Every year until they (mortgage holder) accept(s) it, I will put (these two delinquent debts) into the remortgage." He said that he had 11 years left on his current mortgage to pay off his house, and if the mortgage had not been refinanced during the next 11 years, then he would pay these delinquent accounts after he no longer had any house payments. He admitted that he had recovered financially from the separation from his spouse, and the loss of an electrician position which caused him "a tremendous monetary loss." (Dates of either event not provided.) (Item 4)

(SOR ¶ 2.a) Applicant falsified relevant financial information he was required to list when completing his January 2023 SCA. The questions under "Section 26 – Financial Record Delinquency Involving Routine Accounts" asked whether in the past seven (7) years, he had bills or debts turned over to a collection agency? Also, in the past seven (7) years, did he have any account or credit card over 120 days delinquent, or suspended, charged off, or cancelled for failing to pay as agreed? He was also asked if he was currently 120 days or more delinquent on any account? Applicant answered all questions "No," and deliberately failed to disclose his two delinquent financial accounts as alleged in the SOR. Applicant admitted this allegation in his SOR response but explained he had filled out the SCA incorrectly due to him being in a rush to complete this application and get out to his job site.

### **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 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 concern under Guideline F (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 . . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.

Applicant's admissions of his two delinquent debts totaling \$31,734, and the two credit reports in evidence establishes the following disqualifying conditions under AG ¶ 19:

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

AG ¶ 20 describes conditions that could mitigate security concerns. The following are potentially applicable in this case:

- (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 described a couple of circumstances beyond his control which adversely affected his finances, namely the separation from his wife and the loss of an electrician position. He also admitted that he was currently financially stable and provided a PFS showing he had a monthly net remainder of over \$730 after paying all of his monthly expenses. Despite this information, he has made no effort to repay the two SOR accounts that became delinquent in 2017. Applicant meets the first prong of mitigation of experiencing events beyond his control that contributed to his financial difficulties.

There is no requirement that an applicant immediately resolve all financial issues or make payments on all delinquent debts simultaneously. Rather, a reasonable plan and good-faith efforts to pay delinquent debts, or resolution of such issues, one at a time, is sufficient. In this case, it appears the mortgage holder has been asked more than once

by Applicant to roll these delinquent debts into the refinanced mortgage but has not agreed to this request. If a refinanced mortgage is not established, Applicant has stated he will only pay these two delinquent debts after he has paid off his house within the next 11 years. An applicant's mere promises to pay debts in the future, without further confirmed action, are inadequate. Applicant has failed to satisfy the second prong that he has acted in a reasonable or responsible manner when dealing with his two delinquent debts that have been unpaid since 2017. He failed to show any good-faith efforts to resolve these debts despite having the financial means to do so. Under all the circumstances, Applicant failed to establish mitigation of financial considerations security concerns.

### **Guideline E: Personal Conduct**

AG ¶ 15 expresses the security concern for personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to provide truthful and candid answers during national security investigative or adjudicative processes. ...

AG ¶ 16 describes conditions that could raise a security concern and be disqualifying. The following is potentially applicable under the established facts in this case:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant deliberately falsified relevant and material information on his January 2023 SCA. The above disqualifying condition applies.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. The following mitigating conditions under AG ¶ 17 are potentially applicable:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the

requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor or so much time has passed, or the behavior is so infrequent, or happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) the individual acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Applicant was asked to disclose any delinquent financial accounts on his January 2023 SCA. He failed to do so. In his response to the SOR, he said that he was in a rush to fill out the application so that he could go to his worksite. It is important to note that Applicant only had two delinquent accounts at the time. It should not have taken him much time at all to list that he was delinquent on these two accounts he opened in 2016 to fix up his house, and that later became delinquent in 2017. He also admitted, after being confronted by an investigator with these two delinquent accounts after he failed to voluntarily disclose them on his SCA or during his background interview, that he had been working with refinancing his house and having these delinquent accounts rolled into the refinanced mortgage, and that is the reason why he did not list them on the January 2023 SCA. This version is somewhat different from the explanation he provided in his SOR response. It is clear from this statement he was fully aware of these delinquent accounts but intentionally chose not to disclose them voluntarily during his background investigation for a security clearance. Overall, Applicant's failure to be honest and candid casts doubt on his reliability, trustworthiness, and overall good judgment. Personal conduct security concerns are not mitigated.

### **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 Applicant's lengthy career as a government contractor and the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F and E in my whole-person analysis.

Although Applicant did provide some mitigating information of circumstances beyond his control, the evidence against grant of a security clearance is more substantial at this time. He did not provide documentation about why he was unable to make greater documented progress resolving any of the delinquent SOR debts when his PFS showed that he had over \$730 at the end of each month that he could have used to repay his two delinquent accounts. I conclude Applicant has not met his burden of proof and persuasion.

I have carefully applied the law, as set forth in Egan, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate financial considerations and personal conduct security concerns.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a and 1.b:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	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 security to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Pamela C. Benson  
Administrative Judge