



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



In the matter of:)
)
) ISCR Case No. 23-02357
)
Applicant for Security Clearance)

Appearances

For Government: Erin P. Thompson, Esq., Department Counsel
For Applicant: *Pro se*

02/13/2025

Decision

COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations or the personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On October 23, 2023, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations and Guideline E, personal conduct. The DOD acted 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) effective on June 8, 2017.

Applicant answered the SOR on October 27, 2023, and he requested a hearing. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on September 19, 2024, and the hearing was convened as scheduled on December 10, 2024. The Government offered exhibits (GE) 1-4, which were admitted into evidence without objection. The Government's exhibit list was identified as hearing exhibit (HE) I

and its disclosure letter to Applicant was marked as HE II. Applicant testified but did not offer any documents into evidence. DOHA received the hearing transcript (Tr.) on December 27, 2024.

Findings of Fact

In his SOR answer, Applicant admitted the allegations in SOR ¶¶ 1.a through 1.i, with explanations. He denied the allegation in SOR ¶ 1.j. He also admitted the Guideline E allegation, with explanations. His admissions are adopted as findings of fact. After a review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is a 45-year-old employee of a defense contractor. He began working at his present job in approximately August 2021. He works as a business enablement manager. He has a bachelor's degree, and has started a master's program. He married in 2007. He has a 12-year-old son and a 21-year-old stepson. His wife works for a financial/insurance company. (Tr. 5-6, 21; GE 1)

Financial Considerations

The SOR alleged Applicant was delinquent on 10 accounts, including 9 credit cards and a gym debt, totaling approximately \$59,000. The debts are established by credit reports from May 2023 and December 2024, his SOR admissions, and his hearing testimony. (SOR ¶¶ 1.a–1.j) (Tr. 30; GE 2, 4; SOR answer)

Applicant admitted all the SOR debts during his testimony, except for a gym membership debt (SOR 1.j), which he denied. He also admitted that he has not made payments toward any of the debts or set up any payment plans as of the date of the hearing. He stated that he paid several non-SOR debts and his most recent credit report corroborates his assertion. As to the admitted SOR debts, Applicant stated his reason for not paying those debts was because they had been “written off” by the creditors and a financial advisor, who was a family friend, told him he did not need to pay them if they had been written off. He admitted that overspending was part of the reason he accumulated these debts. He also blamed the creditors for extending him credit, calling it predatory lending. He presented no evidence to corroborate this claim. All the SOR debts listed at SOR 1.a to 1.i remain unpaid and Applicant expressed no intent to pay them in the future. (Tr. 28-31, 34, 36, 39-40; GE 4)

Applicant claimed the gym debt was a membership through a former employer whom he notified about cancelling his membership. Apparently there was confusion about the cancellation and it was listed on his May 2023 credit report. This debt has little security significance. (Tr. 35; GE 2)

Applicant testified about his current financial wellbeing. He claimed gross annual income of approximately \$175,000 for himself and approximately \$68,000 for his wife. His major monthly expenses include his mortgage payment of \$1,300 (he claimed his mortgage payment has never been late, but no mortgage account appears on either credit report); a car payment of \$1,200 for a 2020 Bronco; and a car payment of \$900

for a 2019 Ford F-250 truck. His December 2024 credit report shows numerous credit cards (other than the SOR accounts). Most of the current accounts are being paid on time, however, one appliance-account shows a past-due balance of \$1,850. This account was not alleged in the SOR so it cannot be used for disqualification purposes, but I may use it when considering mitigating factors and in assessing the whole-person factors. (Tr. 47-49; GE 2, 4)

Applicant also indicated that he and his wife have retirement accounts that total approximately \$500,000. They have approximately \$7,000 in a savings account for emergencies. Besides talking to the friend who is a financial advisor, Applicant claimed that he sought financial counseling through the banks with whom he dealt. He offered no specifics or supporting documentation. (Tr. 45-46, 50)

Personal Conduct

The SOR also alleged that Applicant deliberately gave false information on his April 2023 security clearance application (SCA) when he failed to list his delinquent debts as requested in Section 26 of the SCA.

Applicant stated during his background investigation that he failed to list his delinquent debts because he misunderstood the questions. In his SOR answer, he stated “I admit knowing of this financial responsibility and not listing it on my EQIP.” During his hearing testimony, he testified that he did not list the debts on his SCA because he thought he did not have to because they were old and had fallen off his credit reports. He further testified that he had no intent to mislead the Government by failing to list the debts because he truly believed that he was no longer responsible for the old debts. (Tr. 27, 42; GE 3; SOR answer)

Policies

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 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, these guidelines are applied 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(a), 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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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

AG ¶ 18 expresses the security concern for financial considerations:

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.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶ 19 and the following potentially apply:

- (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 accumulated ten delinquent debts, all of which remain unpaid. I find all of the above disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's debts are recent because they are ongoing. He failed to present evidence that any of the debts were caused by circumstances beyond his control. He has made no effort to resolve them, despite the fact that his gross yearly family income is over \$240,000, he has retirement accounts valued at \$500,000, and savings of \$7,000. He made a conscious choice not to address his delinquent debts. Instead, he followed the advice of a financial advisor-friend and chose not to pay these debts. While this may be a sound financial decision, it does nothing to show his reliability, trustworthiness, and good judgment for security worthiness purposes. He receives some mitigation credit for his claim of seeking financial counseling. AG ¶ 20(c) has minimal application. There is some evidence to call into question the legitimacy of the

gym debt, so SOR ¶ 1.j is resolved for Applicant. Otherwise, mitigation under AG ¶¶ 20(a), 20(b), and 20(d) were not established.

Guideline E, Personal Conduct

AG ¶ 15 expresses the personal conduct security concern:

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 cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

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

(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 gave several different explanations for failing to list his delinquent debts on his SCA. Based upon these differing accounts, I cannot give his denial of deliberately providing false information much credence. I conclude that AG ¶ 16(a) applies.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 17 and the following potentially apply:

(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; and

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it 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.

Applicant did not report his falsifications to the background investigator, he received bad advice from a financial advisor, but that person was not qualified to instruct him concerning the security process, and making deliberately false statements when competing an SCA is never a minor offense because it strikes at the heart of determining reliability, trustworthiness, and judgment. None of the mitigating conditions above apply.

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 the 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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F and E in my whole-person analysis.

I considered the circumstances surrounding his indebtedness. However, I also considered that he has made insufficient efforts to resolve his debts. He has not established a meaningful track record of financial responsibility. He also intentionally gave false information about his finances on his SCA.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the financial considerations or the personal conduct security concerns.

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.i:	Against Applicant
Subparagraphs 1.j:	For 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 interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Robert E. Coacher
Administrative Judge