



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



In the matter of:	)	
	)	
	)	ISCR Case: 14-00201
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric Borgstrom, Esquire, Department Counsel  
For Applicant: *Pro se*

03/06/2015

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**Decision**

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DAM, Shari, Administrative Judge:

Applicant accumulated over \$20,000 of delinquent debts between May 2007 and August 2010. He failed to provide evidence that he paid or resolved any of the ten alleged delinquent debts. Resulting security concerns were not mitigated. Based upon a review of the pleadings and exhibits, eligibility for access to classified information is denied.

**Statement of Case**

On August 12, 2013, Applicant submitted a security clearance application (SF-86) for an investigation. On March 7, 2014, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the DOD after September 1, 2006.

Applicant answered the SOR on April 7, 2014, and requested that his case be decided by an administrative judge on the written record without a hearing. (Item 3.) On October 2, 2014, Department Counsel submitted the Government's written case. A complete copy of the File of Relevant Material (FORM), containing six Items, was provided to Applicant on November 5, 2014, and he was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of his receipt of the FORM.

Applicant signed the document acknowledging receipt of his copy of the FORM on November 11, 2014, and timely returned the receipt to the Defense Office of Hearings and Appeals (DOHA). He provided no additional information in response to the FORM within the 30-day period. I received the case file on February 24, 2015.

### **Findings of Fact**

In his answer to the SOR, Applicant admitted responsibility for six debts in the SOR, and denied four: ¶¶ 1.a, 1.f, 1.g, and 1.j. (Item 2.) Those admissions are incorporated into these findings.

Applicant is 29 years old. He is married and has two children. In April 2013 he began a position as a pipefitter for a defense contractor. Prior to this job, he was consistently employed since July 2007. He attended college from August 2004 to May 2007, but did not earn a degree. (Item 3.)

On October 4, 2013, a Government investigator interviewed Applicant about delinquent debts. He said he was aware of the delinquencies, but that they could not be used to blackmail him. (Item 6.)

Based on credit bureau reports (CBR) dated August 30, 2013, and May 19, 2014, the SOR alleged ten delinquent debts totaling \$20,704, which accumulated between May 2007 and August 2010. They included credit card debts, utility bills, medical bills, and an educational loan. (Item 1.) The record does not contain evidence documenting the payment or resolution of any of the ten debts, or attempts to resolve them. Although Applicant asserted in his Answer that he paid the \$4,000 debt alleged in SOR ¶ 1.j, he did not provide proof of payment. (Item 2.)

There is no evidence that Applicant obtained credit counseling or sought assistance with a debt consolidation company within the past couple years. He did not provide a budget or a plan to address the delinquent debts. He submitted no evidence concerning the quality of his professional performance, or the level of responsibility his duties entail. He provided no character references describing his judgment, trustworthiness, integrity, or reliability.

## 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 (AG) 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, 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(a) and 2(c), the entire process is a conscientious scrutiny of applicable guidelines in the context 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 access to classified information 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, "[t]he 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." Section 7 of Executive Order 10865 provides: "[a]ny 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."

A person applying for access to classified information seeks to enter 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified 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 or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

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

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

Applicant's delinquent debts accumulated between May 2007 and August 2010. He has been unable or unwilling to satisfy or resolve them. The evidence raises both security concerns, thereby shifting the burden to Applicant to rebut, extenuate, or mitigate those concerns.

The guideline includes five conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial difficulties:

- (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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated 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 delinquent debts, which are listed on the SOR, began accumulating in May 2007. All of them continue to be unresolved. Because he failed to address any of the debts, he did not demonstrate that such problems are unlikely to continue or recur. His reliability and trustworthiness in managing delinquent debts remain of concern. The evidence does not support the application of AG ¶ 20(a).

Applicant provided no evidence that his financial problems arose as a result of circumstances beyond his control or that he attempted to resolve the debts while they were accumulating. AG ¶ 20(b) has no application.

Applicant has not participated in financial or credit counseling, and there are no clear indications that his delinquent debts are under control; thus, AG ¶ 20(c) has no application. He did not provide documentation to demonstrate that he has made a good-faith effort to resolve any of the ten SOR-listed debts. Hence, AG ¶ 20(d) has no application. There is no evidence that Applicant had a reasonable basis to dispute any delinquent debt and successfully resolved it through the dispute process. AG ¶ 20(e) has no application.

### **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(a):

(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 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 29 years old. He has been employed with a defense contractor since April 2013, and consistently employed for the prior six years. He admitted responsibility for six SOR-listed debts, but provided no proof to support his denial of responsibility for the other four SOR-listed debts. There is no evidence that he paid, is paying, or resolved any of these ten debts totaling over \$20,000. He did not present a budget or plan for addressing the debts. He became aware of the Government's concerns during an interview in October 2013. He provided no evidence that he has taken steps to resolve his financial obligations, despite employment since April 2013. The likelihood that similar problems will continue is significant; and the potential for pressure, coercion, or duress is undiminished.

Overall, the record evidence leaves me with substantial doubt as to Applicant's judgment, eligibility and suitability for a security clearance. He did not meet his burden to mitigate the security concerns arising under the guideline for financial considerations

**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
Subparagraphs 1.a through 1.j:	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.

SHARI DAM  
Administrative Judge