



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



In the matter of: )  
 )  
 ----- ) ISCR Case No. 13-00916  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Ray T. Blank, Jr., Esq., Department Counsel  
For Applicant: *Pro se*

04/11/2014

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

Applicant failed to mitigate security concerns regarding finances. Applicant's eligibility for a security clearance is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) in April 2013. On September 10, 2013, 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 (AG) effective within the DOD on September 1, 2006.

In an answer dated December 24, 2013, Applicant admitted 12 of the 14 SOR allegations and requested a decision based on the administrative record. On February 10, 2014, the Government prepared a File of Relevant Material (FORM), which included six attached items. Applicant did not respond to the FORM. The case was assigned to

me on April 9, 2014, by the Defense Office of Hearings and Appeals (DOHA). After receiving the official case file, I reviewed its contents in its entirety.

### **Findings of Fact**

Applicant is a 31-year-old warehouse specialist who has worked for the same defense contractor since November 11, 2011. He has a high school diploma and no military experience. Applicant is married and has no children. The SOR contains 14 allegations (1.a-1.m), each allegation representing a delinquent debt. In sum, those debts amount to approximately \$22,109. Applicant admits all allegations except the two noted in the SOR as 1.j and 1.k, which amount to \$868. He wrote that he does not recognize those two accounts, but presented no documentary evidence refuting them or showing that they have been formally disputed.

Applicant wrote that the debts at issue were acquired through youthful capriciousness. They were neglected and became delinquent due to his immaturity. He stressed that he is now more mature.

Because of his wife's medical expenses, which are related to severe medical conditions that resulted in her leaving the workforce, Applicant presently has financial issues. He cannot support both himself and his wife on his current income. Applicant emphasizes that he loves his work and would not do anything to jeopardize his position.

### **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(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 access to classified information will be resolved in favor of 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 not drawn 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, 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 the applicant may deliberately or inadvertently fail to safeguard classified information.

Section 7 of Executive Order 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**

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that 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.

Here, Applicant admitted financial responsibility for over \$20,000. Therefore, I find that two financial considerations disqualifying conditions apply:

AG ¶ 19(a): inability or unwillingness to satisfy debts, and

AG ¶ 19(c): a history of not meeting financial obligations.

Five conditions could mitigate these finance-related security concerns:

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(e) 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 offered scant information regarding the debts at issue and his general finances. At most, he noted that his wife's illness presently compromises his household finances. If his wife's illness and medical care caused his financial problems, AG ¶ 20(b) could apply in part. However, he failed to explain any reasonable efforts he has taken in the face of those medical bills to manage his financial situation. Indeed, he failed to describe any plan to address or resolve his debts. He similarly failed to show any progress on the debts at issue, to show a basis for his dispute of the debts noted at SOR allegations 1.j-1.k, to show that those two debts were ever formally disputed, or to show he has received financial counseling. Lacking any such documented efforts, there is insufficient evidence to give rise to any of the Guideline F mitigating conditions.

### **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). 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 the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I incorporated my comments under the guideline at issue in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant is 31-year-old warehouse specialist who loves his work and has been with the same employer since November 2011. He has earned a high school diploma. When he was younger, unrestrained spending led to his acquisition of debt. That debt then became delinquent due to immature behavior. Today, Applicant is married. He and his wife have no children. Applicant presently faces adverse financial issues as a consequence of his wife's medical issues and her exit from the workforce due to her ill

health. There is no evidence regarding their expenses, financial resources, or investments, if any. Similarly, there is no evidence showing any efforts to address the delinquent debts at issue, refuting the two debts that he denies, or proving he has received financial counseling.

This process does not demand that one address all of one's delinquent debts. It does, however, expect an Applicant to articulate a reasonable plan for addressing his delinquent debt, and documentary evidence showing that such a plan has been successfully implemented. Here, no such evidence has been presented. Therefore, Applicant failed in his burden in this matter. Financial considerations security concerns remain unmitigated.

### **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
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Subparagraphs 1.a-1.m:	Against Applicant
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### **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 a security clearance. Eligibility for access to classified information is denied.

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Arthur E. Marshall, Jr.  
Administrative Judge