



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



In the matter of: )  
)  
) ISCR Case No. 14-00043  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esquire, Department Counsel  
For Applicant: *Pro se*

10/21/2014

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**Decision**

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METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I deny Applicant’s clearance.

On 26 February 2014, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 15 September 2014, the day Applicant’s response to the FORM was due. Applicant submitted no materials for review. DOHA assigned the case to me 8 October 2014.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-10.

<sup>2</sup>DoD acted under Executive Order 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 within the DoD on 1 September 2006.

## **Findings of Fact**

Applicant admitted the SOR financial allegations. He is a 50-year-old movement control specialist employed by a U.S. defense contractor since November 2010. He was medically retired from the U.S. military in paygrade E-7 in October 2005, having served over 26 years combined active and reserve duty. He seeks to retain the clearance that was last issued to him in October 2003 (Item 4).

The SOR alleges, Government exhibits (Items 4-5) substantiate, and Applicant admits, nine delinquent debts totaling over \$74,000. The debts consist of seven charged-off accounts, one collection account, and one judgment. SOR debt 1.c and 1.h appear to be duplicates, as they are for identical amounts. Accordingly, the total indebtedness at issue is nearly \$66,000. Applicant listed nine delinquent accounts on his clearance application (Item 4), one of which he settled before the SOR was issued (Item 5). Applicant claims, without corroboration, to have settled the judgment at SOR 1.a for one-third of the outstanding debt in January 2012.

Applicant experienced significant periods of unemployment and underemployment between October 2005 and May 2010, when he received his associate's degree. However, not all of those periods of unemployment were involuntary. From December 2007 to December 2008, he was a full-time student. He briefly obtained part-time employment in December 2008, but left that job in April 2009 when it interfered with his school work. He worked full time from May to August 2009, but was unemployed from August 2009 to May 2010 as a full-time student. Applicant provided no financial statement showing his sources of income during any of the time from his discharge from military service in October 2005. He claimed, without corroboration, to have focused on his wife's debt since becoming employed full time in November 2010.

Applicant documented no financial or credit counseling. He provided no budget or plan for addressing his debts. He provided no work or character references.

## **Policies**

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government

must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.<sup>3</sup>

### Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has a history of financial difficulties.<sup>4</sup> Applicant's financial problems date to at least 2005, when he was medically retired from the military.

Applicant's credit report and clearance application clearly establish the delinquent debts. Having admitted the debts, he had the burden to document his claims in mitigation and extenuation, and to provide a plan for addressing his debts.

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple, although the immediate causes of his problems may be unlikely to recur.<sup>5</sup> While his periods of involuntary unemployment are circumstances beyond his control, his voluntary periods of unemployment are not, and he has not been responsible in addressing his debt, having failed to document any action on his debts, or his resolution of his wife's debts.<sup>6</sup> Applicant offered no evidence of financial or credit counseling, and has presented no budget or plan for addressing his debts.<sup>7</sup> Under the circumstances, Applicant's efforts cannot be considered a good-faith effort to address his debts.<sup>8</sup> Accordingly, I conclude Guideline F against Applicant.

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

<sup>5</sup>¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

<sup>6</sup>¶20 (b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

<sup>7</sup>¶20 (c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

<sup>8</sup>¶20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

### **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-h:	Against Applicant
Subparagraph i:	For Applicant (duplicate)

### **Conclusion**

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

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JOHN GRATTAN METZ, JR  
Administrative Judge