



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



In the matter of: )  
)  
) ISCR Case No. 14-02850  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: David F. Hayes, Esq., Department Counsel  
For Applicant: *Pro se*

09/28/2015

**Decision**

WHITE, David M., Administrative Judge:

Applicant had a delinquent credit card account that he resolved through a payment plan from 2011 to 2013. A major bank charged off three of his daughter's college student loan debts, for which he had cosigned, when she failed to repay them in 2012. He has otherwise been financially responsible, and works two full-time jobs to pay his bills. Resulting security concerns were mitigated. Based on a review of the pleadings and exhibits, eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application (SF 86) on October 15, 2013.<sup>1</sup> On August 5, 2014, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing

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<sup>1</sup>Item 2.

security concerns under Guideline F (Financial Considerations).<sup>2</sup> 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 that came into effect in the Department of Defense on September 1, 2006.

Applicant submitted a written response to the SOR (Answer) on August 22, 2014, and requested that his case be decided by an administrative judge on the written record without a hearing.<sup>3</sup> Department Counsel submitted the Government's written case on March 28, 2015. A complete copy of the File of Relevant Material (FORM)<sup>4</sup> was provided to Applicant, 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 June 3, 2015. He submitted no material in refutation, extenuation, or mitigation within the 30-day period thereafter. He made no objection to consideration of any contents of the FORM, and did not request additional time to respond. I received the case assignment on July 30, 2015.

### **Findings of Fact**

Applicant is 55 years old. He and his wife have been married for more than 35 years. They have three children, ages 34, 32, and 28, all of whom he reported on his SF 86 to be living in the family home they purchased in 2003. He was honorably discharged after serving in the Army from 1980 to 1985. He graduated from high school in 1978, and earned an associate's degree from a vocational school in 1987. He was hired by his present employer, a defense contractor, in August 2010. He has also been working another full-time night-shift job with a package delivery company, which he started in June 2009.<sup>5</sup> In his response to the SOR, Applicant denied each of the four allegations of delinquent debt, with explanations.<sup>6</sup>

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<sup>2</sup>Item 1.

<sup>3</sup>Item 1.

<sup>4</sup>The Government submitted six Items in support of the SOR allegations. Item 3 is a portion of the Office of Personnel Management (OPM) Report of Investigation that is not admissible into evidence without either a witness' authentication, or adoption by Applicant, per Directive ¶ E3.1.20. Neither appears in this record so Item 3 is inadmissible. It cannot be, and was not, considered in reaching this eligibility determination.

<sup>5</sup>Item 2.

<sup>6</sup>Item 1.

Applicant opened a credit card account with a major bank in March 2007. The account was delinquent and placed for collection in January 2011 with a balance of \$14,819, as alleged in SOR ¶ 1.a. Applicant entered into a repayment agreement with the collection agency in July 2011, and completed making all agreed payments to settle this account in August 2013, two months before submitting his SF 86 and a year before the DoD CAF issued the SOR.<sup>7</sup>

The record also shows that Applicant co-signed for his youngest daughter on three college student loans issued to her by a major bank in 2007, 2008, and 2009. She defaulted on these loans in March 2012, and in November 2013 the bank charged them off to profit and loss in the total amount of \$43, 227. There is no indication that the bank has pursued any further collection action against either Applicant or his daughter concerning these student loans.<sup>8</sup>

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions (DCs) and mitigating conditions (MCs), 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

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<sup>7</sup>Item 1; Item 4 at 7; Item 5 at 3; Item 6 at 5.

<sup>8</sup>Item 1; Item 4; Item 5; Item 6.

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 under 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.

Department Counsel asserted, and the record evidence is sufficient to initially raise, security concerns under two Guideline F DCs, as set forth in AG ¶ 19:

(a) inability or unwillingness to satisfy debts; and

(c) a history of not meeting financial obligations.

Applicant’s November 2013 credit report, obtained shortly after submission of his SF 86, showed the delinquent debts alleged in the SOR. Those debts arose at various times during the preceding six years, before Applicant obtained his current employment. This evidence raised security concerns under DCs 19(a) and (c), 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 has incurred no new delinquencies since obtaining his present employment in 2010, and he completed paying off his delinquent credit card debt several months before submitting his current SF 86. He, like many parents, was convinced that assisting his daughter to incur student loan debt was a good idea at the time. She defaulted on those loans when her deferment ended, after which the bank chose to write them off against its other profits rather than pursue collection. Applicant has been working two full-time jobs to support his family, including three adult children, without incurring other delinquent debt. Applicant's financial situation does not cast doubt on his current reliability, trustworthiness, or good judgment. The evidence therefore establishes substantial mitigation under MC 20(a).

Applicant offered insufficient evidence to support mitigation under MC 20(b) or 20(e). His SOR-alleged debts were voluntarily incurred, and he made no effort to excuse them as having arisen from circumstances beyond his control, or to dispute their initial legitimacy.

Applicant offered no evidence of formal financial counseling, but did establish clear indications that his earlier financial problems have been resolved, and that his budget is under control. He successfully resolved his formerly delinquent credit card debt after obtaining his present second full-time job, but before submission of his SF 86. Rather than pursue collection action against Applicant or his daughter for her student loan debts, that creditor chose to write off those loans as losses against other profits. This evidence shows additional mitigation under MC 20(c) and 20(d).



## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

DAVID M. WHITE  
Administrative Judge