



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



In the matter of: )  
)  
) ISCR Case No. 14-02991  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Caroline E. Heintzelman, Esq., Department Counsel  
For Applicant: *Pro se*

07/13/2015

**Decision**

NOEL, Nichole L., Administrative Judge:

Applicant contests the Defense Department's intent to deny his eligibility for a security clearance to work in the defense industry. Applicant has not established a track record of debt repayment or reduction. Ultimately, he did not present sufficient evidence to mitigate the security concerns raised by his \$12,000 in delinquent debts. Clearance is denied.

**Statement of the Case**

On September 22, 2014, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue Applicant's security clearance and recommended

<sup>1</sup> This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

that the case be submitted to an administrative judge for a determination whether to revoke or deny Applicant's security clearance.

Applicant timely answered the SOR and requested a hearing,<sup>2</sup> which convened as scheduled on April 14, 2015. Without objection, I admitted Government's Exhibits (GE) 1 through 5 and Applicant's Exhibit (AE) A. After the hearing, Applicant submitted AEs B through I, which were also admitted without objection.<sup>3</sup> I received the transcript (Tr.) on April 22, 2015.

### **Findings of Fact**

Applicant, 27, has worked for a federal contractor since October 2012 as a truck driver and materials handler. On his security clearance application, also submitted in October 2012, he disclosed some derogatory financial information. The ensuing investigation confirmed that Applicant owes approximately \$12,000 on 12 delinquent accounts.<sup>4</sup>

Applicant's financial problems were caused by his immaturity. As a young adult, he incurred debt without regard for his ability to repay it. Before accepting his current position, Applicant's work history consisted of low-paying jobs and temporary work. He is now financially stable and earns \$50,000 annually. However, recent events have compromised his ability to repay his delinquent debt. Applicant is the father of two children, ages 7 and 8. In April 2014, he filed for and received emergency custody of his two children. He does not receive child support from their mother. Since August 2012, Applicant has incurred at least \$3,500 in legal and *guardian ad litem* fees related to the custody of his children. Since 2009, Applicant has also been paying a \$12,000 child support arrearage (\$8,000 principal, \$4,000 interest). The court abated his child support in April 2014, but he continues to pay the arrearage.<sup>5</sup>

Applicant is engaged and lives with his fiancée and his two children. Until October 2014, he provided the only source of income for the household. Now that his fiancée has completed school, she is working full-time and contributing toward household expenses. Based on their current budget, they have a net remainder of approximately \$960 each month after paying the recurring household bills. While the majority of that net remainder has gone to funding the Applicant's custody dispute, he has made some payments toward the loan accounts alleged in SOR ¶¶ 1.f (\$752) and 1.g (\$684), reducing the balances by \$144 and \$236, respectively. Applicant tried to enter payment plans on both debts simultaneously, but realized that he could only afford to pay one at a time. He made the last payment of \$76 on SOR ¶ 1.f in February 2011, and the last payment of \$10 on SOR ¶ 1.g in June 2014. In 2014, Applicant tried to

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<sup>2</sup> The Government's discovery letter, dated December 30, 2014, is appended to the record as Hearing Exhibit (HE) I.

<sup>3</sup> The e-mails regarding the admissibility of the applicant's exhibits are included in the record as HE II.

<sup>4</sup> GE 1, 3-5.

<sup>5</sup> Tr. 14, 16, 18, 24-27; AE C-F.

enroll in a debt repayment plan. However, after completing the initial consultation, he realized that he could not afford the proposed plan payments. He intends to pay the remaining SOR debts as he is able. Currently, Applicant lives within his means. He has not incurred any additional debt since he began working in 2012.<sup>6</sup>

### **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 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, administrative judges apply the guidelines 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the 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." The applicant 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. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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<sup>6</sup> Tr. 20-24, 31-37; GE 3, 5; AE B, I.

Section 7 of EO 10865 provides that adverse 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**

Unresolved delinquent debt is a serious security concern because failure to “satisfy debts [or] 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.”<sup>7</sup> Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.

The SOR alleges that Applicant owes \$12,000 on 12 delinquent accounts. The allegations are supported by the record, establishing the government’s *prima facie* case. Applicant has demonstrated an inability to pay his bills and a history of financial problems resulting in unresolved delinquent debts.<sup>8</sup> Applicant’s financial problems were caused by his immaturity and poor financial habits in his early twenties. Although he is now financially stable and responsible, circumstances beyond his control have prevented him from being able to address his delinquent debt. Applicant has made payments toward the accounts alleged in SOR ¶¶ 1.f and 1.g. However, he did not provide sufficient information to show a consistent track record of debt repayment or reduction. Applicant’s finances remain a security concern that must be resolved in favor of the Government.

This decision should not be construed as a determination that Applicant cannot or will not attain the type of financial stability necessary to justify the granting of a security clearance. The award of a security clearance is not a once-in-a-life-time occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. A clearance is not recommended with Applicant’s current circumstances, but should he be afforded an opportunity to reapply for a security clearance in the future, he may well demonstrate persuasive evidence of his security worthiness. However, a clearance at this time is not warranted.

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<sup>7</sup> AG ¶ 18.

<sup>8</sup> AG ¶¶ 19(a) and (c).

### **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.e, 1.h - 1.l:	Against Applicant
Subparagraphs 1.f - 1.g	For Applicant

### **Conclusion**

In light of all of the circumstances presented, 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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Nichole L. Noel  
Administrative Judge