



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



In the matter of: )  
)  
) ISCR Case No. 14-01650  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Chris Morin, Esq., Department Counsel  
For Applicant: *Pro se*

02/04/2015

**Decision**

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. Applicant’s financial problems were not the result of irresponsible or reckless behavior that indicates an inability to properly handle and safeguard classified information. He has resolved all of the debts alleged in the SOR, and his finances are under control. Clearance is granted.

**Statement of the Case**

On June 4, 2014, the 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 Applicant’s security clearance.

<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.

Applicant answered the SOR and requested a decision without a hearing. The Government submitted its written case on May 8, 2014. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate SOR allegations. Applicant received the FORM on approximately October 15, 2014, and responded timely. The items appended to the Government's brief are admitted as Government's Exhibits (GE) 1 through 7, and the documents submitted by Applicant are admitted as Applicant's Exhibits (AE) A through I. All exhibits were admitted without objection. The case was assigned to me on December 5, 2014.

### **Findings of Fact**

Applicant, 64, has worked as an engineer for a federal contractor since 2003. On his November 2013 security clearance application, Applicant disclosed several delinquent debts. The ensuing investigation revealed and the SOR alleged that Applicant was indebted to six creditors for approximately \$54,600. Based on his Answer to the SOR, Department Counsel concedes that Applicant has resolved the debts alleged in SOR ¶¶ 1.a, and 1.d-1.f, totaling approximately \$9,800. Only the debts alleged in SOR ¶¶ 1.b (\$4,735) and 1.c (\$40,029), respectively related to the mortgage on Applicant's home and a home equity line of credit (HELOC) remained unresolved when the Government submitted its FORM.<sup>2</sup>

Applicant's financial problems were caused by a series of events, personal and professional that occurred between 2011 and 2013. Before 2011, Applicant, who previously held a security clearance during his 26-year military career and his 10 years as a federal contractor, did not have a history of financial problems. Because Applicant's career path, both military and civilian, required significant travel, Applicant's wife managed the family's finances. In 2011, the contract under which Applicant had been working was awarded to a different federal contracting company. The new company hired Applicant into the same position, but cut his salary by \$24,000. At the time, Applicant was supporting both of his adult daughters as they pursued their college and graduate-level educations. In order to meet his financial obligations, Applicant took a withdrawal from his retirement account, which resulted in a tax penalty. Applicant's wife fell ill with what would be the beginning of a series of medical complications that would recur over the next two years. His daughters, both disabled, began experiencing their own medical issues that resulted in numerous doctor visits and surgeries.<sup>3</sup>

In 2012, as Applicant was preparing his 2011 federal income tax returns, he learned that he was no longer in remission from a serious medical condition. As he focused to concentrate on his health, he neglected to file his federal and state income tax returns. His wife continued to experience medical issues that required emergency hospitalizations. Also, the family endured the unexpected death of a close relative and had to unexpectedly contribute money to the payment of her final expenses. Applicant's wife succumbed to the stress of managing the family's finances and allowed some of

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<sup>2</sup> GE 1.

<sup>3</sup>Answer; AE A, C-F.

their accounts to become delinquent. She stopped paying the mortgage (SOR ¶1.b) HELOC account (SOR ¶ 1.c) in the summer of 2012. The creditor holding the HELOC charged off the account in August 2012.<sup>4</sup>

When Applicant's mortgage account became over \$8,000 in arrears, the mortgage company began to process the property for foreclosure, assessing Applicant approximately \$4,700 in administrative fees. Unbeknownst to Applicant, his wife agreed to a payment plan to rehabilitate the mortgage. Under the terms of the rehabilitation agreement, failure to make timely payments could result in the foreclosure of the property. While Applicant knew that his wife got behind on some of their bills, he did not realize the extent of the problem until August 2013, when his wife was admitted to the hospital for an emergency stay. Because she missed the August 2013 rehabilitation payment, the mortgage company initiated foreclosure proceedings on their home. Upon learning of their financial issues, Applicant assumed control over the family finances.<sup>5</sup>

Applicant arranged a payment plan with the IRS to resolve his outstanding tax liability. He successfully completed the payment plan in July 2014 (SOR ¶ 1.a). He also paid the three outstanding medical bills, totaling \$88 (SOR ¶¶ 1.d-1.f). The mortgage company allowed Applicant to continue the mortgage rehabilitation payment plan, which he successfully completed in January 2014. Although the mortgage is current, the administrative fees assessed in 2012 are being reported as past due; however, the fees are not due until the loan is paid in full. Applicant has chosen to pay them off. In November 2013, he made a \$1,000 down payment toward the fees and has entered into a \$300-per-month payment plan to address the remaining balance. Applicant has also entered into a payment plan with the creditor holding the HELOC. The creditor has agreed to accept monthly payments of \$550, which is memorialized on Applicant's monthly billing statements. To date, Applicant has paid \$2,200 toward the resolution of this debt.<sup>6</sup>

Since August 2013, Applicant and his wife have not missed any payments on their recurring financial obligations and have not obtained any new consumer credit accounts. Applicant continues to travel for work, but is continuing to take an active role in helping his wife with the family finances so that they will not find themselves in similar financial troubles again.<sup>7</sup>

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior,

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<sup>4</sup> Answer; GE 6; AE A.

<sup>5</sup> Answer, AE A.

<sup>6</sup> Answer; AE A, G-H.

<sup>7</sup> AE A.

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.

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.

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**

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>8</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 is indebted to six creditors for approximately \$54,600. The debts are substantiated by the record.<sup>9</sup> Between 2011 and 2013, Applicant had a history of not paying his bills.<sup>10</sup> However, Applicant has submitted sufficient information to mitigate the security concerns raised by his finances. Applicant's financial issues do not cast doubt on his current security worthiness. This brief lapse in financial responsibility was an isolated event in Applicant's 36-year history as a security clearance holder. His financial problems were not caused by irresponsible

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<sup>8</sup> AG ¶ 18.

<sup>9</sup> GE 6.

<sup>10</sup> AG ¶ 19(c).

or reckless behavior, but by a “perfect storm” of professional, personal, and medical events that demanded Applicant’s attention and caused him to briefly neglect his finances. Furthermore, he did not have any reason to doubt his wife’s ability to maintain the couple’s finances. Upon learning of the problems, Applicant worked to resolve them well before the issuance of the SOR. He has made a good-faith effort to resolve his delinquent debts. All of the delinquent debts alleged in the SOR have been resolved.<sup>11</sup> His finances are now stable and under control, and it is unlikely that he will experience similar financial problems in the future.<sup>12</sup>

I have no doubts about Applicant’s suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(a). Applicant’s brief period of financial problems is not indicative of financial irresponsibility, poor self-control, lack of judgment, or an unwillingness to follow rules and regulations.

### **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: FOR APPLICANT

Subparagraphs 1.a – 1.f: For Applicant

### **Conclusion**

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

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Nichole L. Noel  
Administrative Judge

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<sup>11</sup> Answer, AE A, G-H.

<sup>12</sup> See AG ¶¶ 20 (a), (c)-(d).