



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



In the matter of:	)	
	)	
	)	ISCR Case No. 09-06558
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Richard A. Stevens, Esquire, Department Counsel  
For Applicant: *Pro se*

May 25, 2011

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> Applicant's clearance is denied.

On 7 September 2010, the Defense Office of Hearings and Appeals (DOHA) sent Applicant a Statement of Reasons (SOR) listing security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, and requested a decision without hearing. DOHA assigned the case to me 29 December 2010. The record in this case closed 28 December 2010, the day Department Counsel stated no objection to Applicant's response to the government's File of Relevant Material (FORM).

---

<sup>1</sup>Consisting of the FORM, Items 1-8 and Applicant's response to the form, Items A-J.

<sup>2</sup>DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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, except for SOR 1.a (a delinquent mortgage he claimed was now current) and SOR 1.b (the deficiency amount on a repossessed automobile, which he claimed was about half the amount alleged). He is a 40-year-old computer system security analyst employed by a U.S. defense contractor since February 2004. He seeks to retain the clearance he has held since 1995 or 1996.

The SOR alleges, and Government exhibits substantiate, a delinquent mortgage over \$4,000 past due and 18 delinquent accounts totaling nearly \$41,000. Applicant admits 17 debts totaling nearly \$19,000 and, with the \$11,000 deficiency on his repossessed automobile, acknowledges nearly \$30,000 in delinquent debt. He filed for chapter 7 bankruptcy protection in December 2010 and the creditors' meeting was scheduled for February 2011 (Item C, D). Applicant received the required credit counseling and was given an action plan that listed bankruptcy as the last resort the same day that he filed his bankruptcy petition (Item A, B).

Of the 18 delinquent debts alleged in the SOR, 11 are less than \$700 each, including five that are \$100 or less, two that are \$100-250, and two more that are \$250-500. Most of the smallest debts are co-pays or coinsurance for medical treatment received by Applicant and his children. Except for the mortgage lender, with whom Applicant was negotiating a mortgage modification, Applicant has not contacted any of his creditors to arrange a settlement figure or a repayment schedule. He has paid none of the alleged debts.

Applicant attributes his financial problems to his separation and divorce in March 2007. However, he also acknowledges being careless and irresponsible with his finances during his marriage. The divorce decree (Item I) requires Applicant to pay \$1,300 per month child support and to pay his ex-wife for her share of the equity in the marital home. The decree also allocated the marital debt between the parties according to a schedule that Applicant did not provide in Item I.

Applicant's March 2010 personal financial statement (Item 7) showed positive monthly cash flow of \$136. However, the only payment being made on the SOR debt was for his mortgage, which he was able to bring current in September 2010 (Item D, E). Nevertheless, the mortgage had previously been over 180 days past due.

## **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 an extensive history of financial difficulties, which are ongoing,<sup>4</sup> although his dischargeable debts may soon be resolved through bankruptcy.

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple.<sup>5</sup> Although his divorce is a circumstance beyond his control, he acknowledges that his carelessness and irresponsibility contributed to his problem, and he has not acted responsibly in addressing his debts.<sup>6</sup> While he acted responsibly to bring his mortgage current (SOR 1.a), he took no action to address the remaining debts until he received the SOR. Certainly, \$136 positive monthly cash flow is a tight budget. But Applicant could not even be bothered to pay \$30 (SOR 1.o) and \$10 (SOR 1.p) medical bills in the six months between his financial statement and the SOR, much less the longer period from his financial statement to the close of the record. The only credit counseling he sought was that required before he could file his chapter 7 bankruptcy petition, and he undertook that counseling only to enable his bankruptcy filing, notwithstanding that the counselor recommended

---

<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;

bankruptcy as the last of several options.<sup>7</sup> None of the debts will be paid, much less in a timely, good-faith effort.<sup>8</sup> While bankruptcy is a legitimate means of addressing delinquent debt, resolving debt through a bankruptcy discharge does not shield Applicant from having his course of conduct assessed in dealing with his debts. I conclude Guideline F against Applicant.

### **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph a:	For Applicant
Subparagraphs b-s:	Against Applicant

### **Conclusion**

In light of all 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.

---

JOHN GRATTAN METZ, JR  
Administrative Judge

---

<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.