



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



In the matter of:	)	
	)	
	)	ISCR Case No. 11-00472
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Ray T. Blank, Jr., Esquire, Department Counsel  
For Applicant: *Pro se*

February 14, 2012

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

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

On 16 August 2011, 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, requesting a decision without hearing. The record in this case closed 7 January 2012, the day Applicant's response to the Government's File of Relevant Material (FORM) was due. He submitted no response. DOHA assigned the case to me 7 February 2012.

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<sup>1</sup>Consisting of the FORM, Items 1-11.

<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. He is a 49-year-old production control officer employed by a U.S. defense contractor since June 2010. He has not previously held an industrial clearance. He served in the U.S. military from March 1986 to March 1990, during which time he held a clearance.

The SOR alleges, Government exhibits (Items 9-11) substantiate, and Applicant admits nine delinquent accounts totaling nearly \$32,000. The bulk of the debt consists of a \$21,422 Internal Revenue Service (IRS) lien entered against Applicant in June 2010. The remaining delinquent debt accrued between July 2006 and December 2007. Applicant disclosed most of his financial problems in his July 2010 clearance application (Item 6). Applicant states, without corroboration, that he has been negotiating with the IRS for 18 months without result. He does not intend to address any of the remaining debt until he has resolved his IRS issues.

Applicant attributes his financial problems to a variety of circumstances, which he has neither corroborated nor adequately explained. In his September 2010 interview with a Government investigator (Item 7), Applicant explained that his father died in 2001 and Applicant inherited his estate, for which Applicant served as executor. Applicant claims that some of the debt to the IRS is due to the sale of some of his father's assets.<sup>3</sup> The rest of the debt to the IRS is due to taxes and penalties from Applicant prematurely selling shares of his retirement account.

Applicant also attributes his financial problems to legal expenses incurred and increased child-support ordered in August 2007, when the mother of his now 19-year-old daughter sued for increased support. Finally, he states that he recently went through a divorce and was ordered to pay attorneys fees for both parties, pay all the credit card accounts, and pay child support.<sup>4</sup>

Applicant has not sought credit or financial counseling. He presented no personal financial statement or budget. He presented no work or character references.

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<sup>3</sup>Without documentation, it is difficult to see how this can be so. As executor of the estate, Applicant would not be personally liable for any of the debts of the estate. It is unlikely that the estate was large enough to be subject to estate tax, and if it was, Applicant would not be personally liable for any amounts due. Sale of estate assets would not generate taxable income unless they had appreciated between the time of his father's death and the sale of the assets. Applicant does not disclose when the assets were sold, so it is impossible to assess if the assets could have appreciated enough to generate a \$21,000 tax lien.

<sup>4</sup>Again, without documentation, it is difficult to see how this can be so. Applicant's July 2010 clearance application shows that he married in August 2007, but had never been married before. The clearance application also shows that Applicant had two stepchildren, but does not show—and Applicant nowhere claims—that he adopted the two children. In his September 2010 subject interview, Applicant stated that he had just recently gone through a divorce. But there is no indication in his clearance application that any divorce was contemplated or pending. Further, the delinquent debts alleged in the SOR are Applicant's individual accounts.

## 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>5</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, and seem unlikely to be resolved any time soon.<sup>6</sup>

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple, and the immediate causes of his problems are recurring.<sup>7</sup> Applicant has not corroborated any of the claimed circumstances beyond his control, or shown how those circumstances contributed to his financial problems. As he has not corroborated any of his claimed contacts with the IRS, or taken any action regarding the other debts, he has not responsibly addressed his

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<sup>5</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>6</sup>¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

<sup>7</sup>¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

