



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
 )  
XXXXXXXXXX, Xxxxx Xxxxx ) ISCR Case No. 11-04305  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Gregg A. Cervi, Esquire, Department Counsel  
For Applicant: *Pro se*

07/23/2012

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I deny Applicant’s clearance.

On 14 February 2012, 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 5 July 2012, the day Department Counsel noted no objection to Applicant’s response to the Government’s File of Relevant Material (FORM). DOHA assigned the case to me 12 July 2012.

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<sup>1</sup>Consisting of the FORM, Items 1-11, and the Applicant’s response to the FORM.

<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, 1.c, and 1.d. He is a 29-year-old field technical specialist employed by a U.S. defense contractor since April 2010. He has not previously held an industrial clearance. He is unmarried and has no children. However, he supports his girlfriend and her child. He has not served in the military.

The SOR alleges, and Government items (GI) 1-10 prove, nine delinquent debts totaling nearly \$67,000. All but \$1,900 of the debt is for delinquent education loans.

In 2004, Applicant began attending a technical college, from which he received an associate's degree in March 2006. He attended college with government-insured education loans. Applicant's August 2010 credit report (GI 10) and his December 2010 credit report (GI 9) suggest that Applicant received loan disbursements in at least April 2004 (2), December 2010 (2), and August 2005 (2), totaling just over \$21,000.<sup>3</sup> It appears that Applicant did not begin repaying his education loan as required when his deferment period ended in September 2006. By December 2011 (GI 9), the loan guarantor reported three delinquent consolidated accounts (SOR 1.e, 1.f, and 1.g) totaling nearly \$34,000. By May 2012 (GI 8), the three debts had grown another \$600.

Meanwhile, on Applicant's August 2010 credit report (GI 10), a commercial lender reported opening two deferred education loan accounts in September 2006, initially totaling just over \$22,000. However, those two accounts used account numbers dramatically different from the loan guarantor. That lender consolidated the two

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<sup>3</sup>Tracing the journey of education loans through a credit report is complicated, particularly where an account falls delinquent. The government guarantor disburses the loans to the educational institution. After a student graduates, the loans are deferred for six months, at which point the student must begin repayment unless the student is eligible for further deferment based on the kind of employment undertaken by the student, i.e. military service or teaching. After the deferment ends, the individual disbursements may be consolidated into one of more loans. The loans may also be assigned to a commercial lender for repayment. Tracing the loans is further exacerbated by several factors. The loan guarantor uses one set of account numbers when the loans are disbursed and when they are in deferred status. These account numbers are reported by one division of the loan guarantor to the three major credit reporting agencies, which themselves have their own shorthand for reporting the account numbers. When the deferment period ends, the loans are consolidated in another division of the loan guarantor, and given different numbers. So for example, the account numbers for the six deferred loan disbursements in GI 10 consisted of a 14-digit base and a 15<sup>th</sup> digit extension reflecting the disbursement. When the accounts were consolidated in the other division of the loan guarantor, the six disbursements were consolidated to three accounts, each with the 14-digit base and a nine digit extension. One major credit agency reported all 23 digits. Another major agency reported only the 14-digit base and the first six digits of the extension. The agencies occasionally change their reporting formats, so by GI 9 and GI 8, the agency that used the first six digits of the extension now only uses the first two digits. Nevertheless, by comparing account numbers and loan amounts, it is possible to trace the loan guarantor's disbursements on the August 2010 credit report, through the December 2011 and May 2012 credit reports, to observe the growing debt on each loan.

accounts into one account later reported delinquent with a balance over \$25,000.<sup>4</sup> By December 2011 (GI 9), the loan had been transferred first to another commercial lender, then on to a collection agent for government loans, which reported returning a delinquent balance totaling over \$31,000 (SOR 1.c. and 1.d) to the government. Applicant's Answer documented a January 2012 offer from a different collection agent to enter two delinquent loans totaling just under \$31,000 into a loan rehabilitation program, conditioned on making nine consecutive and timely payments of \$245.<sup>5</sup> Applicant entered the loan rehabilitation program in late January 2012. Applicant rehabilitated the two loans in early April 2012. Applicant was to begin regular monthly payments, but has not documented any loan payments since the loans were rehabilitated.

Applicant worked a part-time, minimum wage job while he was in school. However, in August 2005, he obtained a job based on his soon-to-be-earned associate's degree. Applicant attributes his financial problems to his drop in income when that job ended in June 2009, and the underemployment that followed between June 2009 and April 2010, when he obtained his current job. However, the credit reports suggest that the education loans were delinquent in 2006.

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

### **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.

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<sup>4</sup>That lender later transferred the loan to a second commercial lender (GI 8-9), who in turn transferred it to the loan guarantor's collection agent (SOR 1.c and 1.d). The collection agent separated the loan back to its constituent accounts, using an account number that corresponds to the two earlier holders of the loans.

<sup>5</sup>The collection agent uses account numbers that are completely different from any of the other account numbers used to identify the education loans in the credit reports. However, the asserted balances are close enough to the balances reported on GI 8 to conclude that the collection agent is pursuing the two loans previously held by the commercial lenders.

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>6</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>7</sup> At the outset, I should note that the education loans at SOR 1.c and 1.d and the loans at SOR 1.e-1.f may be the same education loans. I conclude that they are not for several reasons. First, Applicant reports having contacted the collection agent for SOR 1.e-1.g, and that is a different collection than the collection agent for SOR 1.c-1.d. Second, neither the account numbers or the loan balances correspond enough to conclude that the loans are the same. Finally, Applicant has the burden to show that the loans are the same, and he has produced no evidence to that effect.

Applicant meets few of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple, and the immediate causes of his problems can recur.<sup>8</sup> His underemployment is a circumstance beyond his control, but it appears that the loans were in default before his employment situation changed. Further, he has not demonstrated that he dealt responsibly with his debts during his underemployment or after regaining full employment.<sup>9</sup> Applicant has received no financial or credit counseling, and has presented no budget.<sup>10</sup> Even if I concluded that SOR debts 1.e-1.g are duplicates of SOR debts 1.c-1.d, and that Applicant was currently making regular payments on his rehabilitated loans, there are unresolved debts that Applicant will apparently not be in a position to address for several years. This

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<sup>6</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>7</sup>¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

<sup>8</sup>¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

<sup>9</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;

<sup>10</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;

is not a timely, good-faith effort.<sup>11</sup> I conclude Guideline F against Applicant. A “whole-person” analysis requires no other result.

### **Formal Findings**

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-h: Against Applicant

### **Conclusion**

Under 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.

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JOHN GRATTAN METZ, JR  
Administrative Judge

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<sup>11</sup>¶20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.