



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



In the matter of: )  
)  
) ISCR Case No. 11-09002  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: *Pro se*

04/16/2013

**Decision**

LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated financial considerations security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On September 7, 2012, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

Applicant answered the SOR on August 22, 2012. He did not state whether he wanted a hearing before an administrative judge or the case decided on the written record in lieu of a hearing. He later clarified that he wanted a hearing. The case was assigned to me on January 30, 2013. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on March 18, 2013, scheduling the hearing for March

20, 2013. The hearing was convened as scheduled. Government Exhibits (GE) 1 through 5 were admitted without objection. GE 6 was admitted over Applicant's objection. Applicant testified and submitted Applicant's Exhibits (AE) A through C, which were admitted without objection. The record was held open for Applicant to submit additional information. He submitted documents that were marked AE D through G and admitted without objection. DOHA received the hearing transcript (Tr.) on March 26, 2013.

### **Findings of Fact**

Applicant is a 27-year-old employee of a defense contractor. He has worked for his current employer since April 2010. He seeks to retain his security clearance, which he has held since about 2005. He is a high school graduate, and he is attending college. He has never married, but he is in a committed relationship, and he has a three-year-old child.<sup>1</sup>

The SOR alleges eight delinquent debts with balances ranging from \$46 to \$17,832. Applicant admitted having delinquent debts and that he was not as attentive to his finances as he should have been. He received an insurance payment from a car accident and used the proceeds to resolve his financial issues.<sup>2</sup>

SOR ¶¶ 1.a, 1.b, 1.c, 1.d, and 1.f allege five medical debts (\$71, \$116, \$59, \$246, and \$429). A creditor is not named for any of the debts. They are simply listed as medical collection accounts, with account numbers. Applicant admitted owing medical debts, but he was unsure what accounts were identified in the SOR. He paid \$456 to a collection company on March 1, 2013, to pay medical debts. He believes he resolved all the medical debts, but the lack of information in the SOR and in the credit reports made it difficult to marry his payments with the SOR debts.<sup>3</sup>

Applicant's car was repossessed in about 2010. In credit reports from March 2011, July 2012, and December 2012, the creditor listed the deficiency balance due on the car loan as \$11,272. The debt is alleged in SOR ¶ 1.e. The account was transferred to a collection company. Applicant paid \$7,750 to settle the debt on April 10, 2012.<sup>4</sup>

Applicant admitted owing the \$46 delinquent debt to a credit union that is alleged in SOR ¶ 1.g. He stated that he intends to pay the debt, but he was having difficulty communicating with the creditor.<sup>5</sup>

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<sup>1</sup> Tr. at 27-33; GE 1.

<sup>2</sup> Tr. at 25, 33-36; Applicant's response to SOR; GE 2.

<sup>3</sup> Tr. at 37-46; Applicant's response to SOR; GE 2-5; AE B.

<sup>4</sup> Tr. at 46-52; Applicant's response to SOR; GE 2-5; AE C-G.

<sup>5</sup> Tr. at 52-54; Applicant's response to SOR; GE 3-5.

SOR ¶ 1.h alleges a delinquent \$744 cable bill. Applicant stated that he paid the debt in about 2010. The debt is reported by Experian on the March 2011 combined credit report. It is not listed on the Equifax credit reports obtained in July 2012 and December 2012.<sup>6</sup>

Applicant paid other debts that were not alleged in the SOR. He has not received financial counseling, but he indicated that his finances are currently in good shape. He is able to pay his bills and save money. He is committed to resolving all his financial problems. He hopes to buy a house at some point, and he now realizes the importance of good credit.<sup>7</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."

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

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<sup>6</sup> Tr. at 54-55, 62-64; Applicant's response to SOR; GE 2-5.

<sup>7</sup> Tr. at 56-58; Applicant's response to SOR; GE 2-5; AE A.

classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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**

The security concern for financial considerations is set out in AG ¶ 18:

Failure or inability to live within one’s means, satisfy debts, and 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. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant accumulated a number of delinquent debts and was unable or unwilling to meet his financial obligations. The evidence is sufficient to raise the above disqualifying conditions.

Conditions that could mitigate financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control; and
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant has been attempting to resolve his financial problems. He paid several debts that were not alleged in the SOR. Five of the alleged debts are medical debts with no identifying names listed in the SOR and credit reports. The total of the first three

medical debts is \$246, which is the exact amount of the fourth medical debt. Applicant paid what he thought he owed. He settled the largest debt for the deficiency balance due on the loan on his repossessed car for \$7,750. I am convinced that he paid the cable bill. He has one remaining debt of \$46. I am satisfied that he will take appropriate steps to resolve that debt.

A security clearance adjudication is not a debt collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

I find that Applicant made a good-faith effort to pay his debts. There are clear indications that his financial problems are being resolved and are under control. AG ¶¶ 20(b) and 20(c) are applicable.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in this whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

I considered the steps Applicant has taken to remedy his financial problems. As indicated above, an applicant is not required to establish that he has paid every debt listed in the SOR. All that is required is that an applicant establish a plan to resolve the

financial problems and take significant actions to implement the plan. I find that Applicant established a plan to resolve his financial problems and that he has taken significant action to implement that plan.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant has mitigated financial considerations security concerns.

### **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.h: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

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Edward W. Loughran  
Administrative Judge