



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



In the matter of: )  
)  
) ISCR Case No. 15-01728  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Jeff A. Nagel, Esq., Department Counsel  
For Applicant: *Pro se*

07/27/2017

**Decision**

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense's (DOD) intent to deny his eligibility for a security clearance. Applicant owes approximately \$41,000 in unresolved delinquent debt, which he intentionally failed to disclose on his security clearance application. Clearance is denied.

**Statement of the Case**

On October 2, 2015, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations and personal conduct guidelines.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant's security clearance and recommended his case be submitted to an administrative judge for consideration.

---

<sup>1</sup> The DOD CAF acted 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), and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, implemented on September 1, 2006.

Applicant answered the SOR and requested a decision without a hearing.<sup>2</sup> The Government submitted its written case on May 6, 2016. A complete copy of the file of relevant material (FORM) and the Directive were provided to Applicant. He received the FORM on May 10, 2016, and did not respond. The documents appended to the FORM are admitted as Government's Exhibits (GE) 1 through 5, without objection.

### **Procedural Matters**

While the case was pending decision, the Director of National Intelligence (DNI) issued Security Executive Agent Directive 4, establishing the National Security Adjudicative Guidelines (AG) applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The 2017 AG superseded the AG implemented in September 2006, and they are effective for any adjudication made on or after June 8, 2017. Accordingly, I have applied them in this case.

### **Findings of Fact**

Applicant has worked full time for his employer since August 2013. He has two other periods of employment with his company from February 2004 to April 2011 and February 1986 to September 2003, respectively. Applicant also listed concurrent full-time employment with another company from December 2003 to August 2013. He completed a security clearance application, his first, in July 2014, disclosing unpaid federal income taxes. The ensuing investigation revealed that Applicant also owed over \$41,000 in delinquent debt. These delinquent accounts and Applicant's failure to disclose them on his security clearance application are the basis of the SOR allegations.<sup>3</sup>

The record contains little information to explain the origin of Applicant's financial problems. He has worked consistently since 1986. His marriage of 27 years ended in divorce in 2010. He has one adult child. According to the credit reports in the record, the alleged debts became delinquent between 2008 and 2014. During this six-year period, Applicant lost a home to foreclosure, which is not alleged. Applicant provided neither an explanation for his delinquent accounts nor a plan to resolve them. The record does not contain any information about Applicant's current finances.<sup>4</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, administrative judges apply the guidelines in conjunction with the factors listed in the

---

<sup>2</sup> GE 1.

<sup>3</sup> GE 1-5.

<sup>4</sup> GE 2, 3-5.

adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 national security eligibility 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**

### **Financial Considerations**

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgement, or willingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . . An individual who is financially overextended is at a greater risk of having to engage in illegal or otherwise questionable acts to generate funds.<sup>5</sup>

Applicant's admissions and the credit reports in the record establish the Government's *prima facie* case, that Applicant has a history of not meeting his financial obligations. He has demonstrated an inability or unwillingness to pay his creditors.<sup>6</sup> None of the financial considerations mitigating conditions apply. Applicant did not submit any information to explain, extenuate, refute, or mitigate the SOR allegations.

### **Personal Conduct**

The SOR also alleges that Applicant deliberately failed to disclose his delinquent accounts on his July 2014 security clearance application. Failure to provide truthful and candid answers during the national security investigative or adjudicative processes may indicate questionable judgment, lack of candor, dishonesty, or an unwillingness to

---

<sup>5</sup> AG ¶ 18.

<sup>6</sup> AG ¶¶ 19 (a) – (c).

comply with rules and regulations that raises questions about an individual's reliability, trustworthiness, and ability to protect classified information.<sup>7</sup> Applicant admitted the allegation establishing the Government's *prima facie* case. Because he offered no explanation for his omission, none of the personal conduct mitigating conditions apply.

Based on the record, doubts remain about Applicant's suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Applicant failed to meet his burden of production and persuasion to refute or mitigate the SOR allegations. He did not provide any evidence to show financial rehabilitation or reform. Applicant did not offer any evidence to assuage concerns raised by the falsification of his security clearance application. Accordingly, his request for access to classified information is denied.

### **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, Financial Considerations:	AGAINST APPLICANT
Subparagraphs 1.a – 1.k:	For Applicant
Paragraph 2, Personal Conduct:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

### **Conclusion**

Based on the record, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Nichole L. Noel  
Administrative Judge

---

<sup>7</sup> AG ¶ 16(a).