



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



In the matter of: )  
 )  
XXXXXXXXXXXXXXXXXXXXXXX ) ISCR Case No. 15-02660  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Benjamin R. Dorsey, Esquire, Department Counsel  
For Applicant: *Pro se*

05/23/2017  
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**Decision**  
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METZ, John Grattan, Jr., Administrative Judge:

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

On 29 September 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 6 August 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 9 May 2017.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-6.

<sup>2</sup>DoD acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; 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.d-1.e and 1.i-1.j. He is a 66-year-old construction laborer employed by a U.S. defense contractor since October 2007. He seeks to retain the clearance he received in February 2008 (Item 3).

The SOR alleges, and Government exhibits (Items 3-6) substantiate, ten delinquent debts totaling over \$29,000. Applicant admits six debts totaling over \$20,000. The debts comprise nine delinquent consumer credit accounts, and a February 2011 tax lien for \$175. Applicant claims not to recognize SOR debts 1.f and 1.i, despite the fact that he acknowledged both debts during his January 2013 interview with a Government investigator (Item 4), and listed SOR debt 1.f by account number on his December 2012 clearance application (Item 3). He claimed, without corroboration, to have paid SOR debt 1.j. He also claimed to have had no correspondence from the SOR debt 1.g creditor in six years.

Applicant disclosed SOR debts 1.a and 1.g on his December 2012 clearance application (Item 3). He acknowledged the debts—including the debts he now claims to be unaware of—during his January 2013 interview with a Government investigator (Item 4). He stated that he was in the process of arranging repayment plans with his creditors.

Applicant claimed, without corroboration, to: 1) have reduced the SOR debt 1.a balance to \$8,920; 2) have had the SOR 1.b creditor close the account when the balance was \$6,100, without giving Applicant an Internal Revenue Service Form 1099 for the charged-off balance; 3) have paid \$150 monthly on the combined SOR debts 1.c-1.e, reducing the balance to \$4,900; and, 4) have been paying \$100 monthly on SOR debt 1.h. Applicant did not state when he began the payments on these accounts, but Applicant's December 2012 (Item 5) and February 2015 (Item 6) credit reports show no reduction of the account balances during that time.

Applicant attributes his financial problems to his wife's credit card spending from their May 2007 marriage and their August 2011 separation. However, in his January 2013 interview, he stated that he remained delinquent on his accounts because he chose to provide financial support to his mother, and to a single mother of two children living in his neighborhood.

Applicant provided no budget or financial statement. He has not received any credit or financial counseling. He provided no work or character references, or any evidence of community involvement.

## **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 failed to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing.<sup>4</sup> Applicant and his wife separated in August 2011, yet he has documented no efforts to bring the SOR debts under control.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the circumstance which led to his financial situation may be unlikely to recur.<sup>5</sup> Applicant's wife may have used their credit cards recklessly during their marriage, but they separated in August 2011, and Applicant has documented no action to bring the delinquent credit cards current.<sup>6</sup>

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<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;

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.<sup>7</sup> There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, and thus he cannot establish that he has made a good-faith effort to address his debts.<sup>8</sup> Accordingly, I conclude Guideline F against Applicant.

## Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-j:	Against Applicant
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## 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.

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.