



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



In the matter of:	)	
	)	
PUTNAM, Michael Wayne	)	ISCR Case No. 15-03591
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Andrew Henderson, Esquire, Department Counsel  
For Applicant: *Pro se*

September 28, 2016

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**Decision**

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CEFOLA, Richard A., Administrative Judge:

Applicant submitted his Electronic Questionnaires for Investigations Processing (e-QIP) on June 18, 2014. On December 13, 2015, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing the security concerns under Guideline F for Applicant. The action was taken under Executive Order 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), effective within the Department of Defense after September 1, 2006.

Applicant answered the SOR in writing (Answer) on January 26, 2016, and requested a hearing before an Administrative Judge. The Defense Office of Hearings and Appeals (DOHA) received the request soon thereafter, and I received the case assignment on March 28, 2016. DOHA issued a notice of hearing on March 31, 2016, and I convened the hearing as scheduled on May 5, 2016. The Government offered Exhibits (GXs) 1 through 6, which were received without objection. Applicant testified on his own behalf, but submitted no exhibits. DOHA received the transcript of the

hearing (TR) on May 13, 2016. I granted Applicant's request to keep the record open until June 3, 2016, to submit additional matters. He has submitted nothing. The record closed on June 3, 2016. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

### **Findings of Fact**

In his Answer to the SOR, Applicant denied the factual allegation in Subparagraph 1.a. of the SOR. He provided nothing further, just a simple "I deny."

### **Guideline F - Financial Considerations**

Applicant is a 51-year-old "Federal Contractor," employed as an "Electro-Mechanical Technician." (GX 1 at pages 5 and 9.) He is a veteran of the United States Air Force, having served from 1987 to 1991. (TR at page 16 line 14 to page 18 line 11.)

1.a. In his Answer, Applicant initially denied he was indebted to a successor Bank as the result of a second mortgage in the amount of about \$62,722. He now realizes he may owe the monies alleged. (TR at page 18 line 15 to page 31 line 14.) The allegation is supported by a March 2009 credit report (GX 4 at page 6), and reiterated by a June 2014 credit report (GX 5 at page 5).

In 2005, Applicant refinanced his home, which resulted in about a \$200,000 equity withdrawal. (TR at page 18 line 15 to page 19 line 6.) With this large sum, he had "a pool installed into the backyard of the home, and . . . paid off two vehicles." (TR at page 19 lines 9~10.) However, with the second mortgage he was now subject to an Adjusted Rate Mortgage (ARM). As a result of the ARM, in three years his mortgage payments doubled from about \$1,200 to about \$2,400. (TR at page 19 line 23 to page 20 line 16.) His mortgage payments soon exceeded his income. (TR at page 20 line 17 to page 21 line 21.) As a result, Applicant contacted his primary mortgage holder; and in November of 2008, under a "Keys for Cash Program," he received \$3,000 in exchange for ownership of the house. (TR at page 21 line 22 to page 23 line 11.)

In May of 2009, during a Personal Subject Interview with an agent from the Office of Personnel Management (OPM), Applicant indicated he now realized he still may owe about \$62,722 as the result of the second mortgage. (GX 2.) Applicant admits that he took no action as a result of this interview. (TR at page 28 line 18 to page 29 line 9.) He reiterated this realization at his hearing. (TR at page 26 line 17 to page 28 line 2.) Applicant also averred he would contact the successor bank to clarify his situation vis-a-vis the alleged debt. (TR at page 29 line 14 to page 30 line 10.) Despite having a month to do so, he has submitted nothing further in this regard. I find that this rather large mortgage debt is still outstanding.

## Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. (AG Paragraph 2.) The administrative judge's over-arching adjudicative goal is a fair, impartial and commonsense decision. According to AG Paragraph 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 Paragraph 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive Paragraph E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive Paragraph 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 as to obtaining a favorable clearance 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 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 relating to the guideline for Financial Considerations is set out in AG Paragraph 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 Subparagraph 19(a), an "*inability or unwillingness to satisfy debts*" is potentially disqualifying. Similarly under Subparagraph 19(c), "*a history of not meeting financial obligations*" may raise security concerns. Applicant has an outstanding \$62,000 mortgage debt. I can find no countervailing Mitigating Condition that is applicable here. Applicant made a bad financial decision when he refinanced his home, and has submitted nothing to show he is addressing the alleged mortgage debt. Financial Considerations are found against Applicant.

### 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 the circumstances. Under AG Paragraph 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.

The Administrative Judge should also consider the nine adjudicative process factors listed at AG Paragraph 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.

I considered all of the evidence, including the potentially disqualifying and mitigating conditions surrounding this case. The record evidence leaves me with questions and doubts as to his eligibility and suitability for a security clearance. Applicant has failed to fully respond to the Government's concerns; and as such, has failed to meaningfully address the alleged past-due debt. For this reason, I conclude Applicant has not mitigated the security concerns under the whole-person concept arising from his Financial Considerations.

### **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:	AGAINST APPLICANT
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Subparagraphs 1.a.	Against Applicant
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### **Conclusion**

In light of all of the circumstances presented by the record in this case, 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.

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Richard A. Cefola  
Administrative Judge