



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



In the matter of: )  
)  
) ISCR Case No. 15-03551  
)  
Applicant for Security Clearance )

**Appearances**

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

11/07/2017

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**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense's (DOD) intent to deny his eligibility for a security clearance. Applicant mitigated concerns raised by his decision to default on his mortgage loan in 2013. He has since settled the deficiency balance, which the creditor accepted as satisfaction of the debt. Clearance is granted.

**Statement of the Case**

On December 13, 2015, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.<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.

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<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 February 26, 2016. A complete copy of the file of relevant material (FORM) and the Directive were provided to Applicant. He received the FORM on March 18, 2016, and provided a response. The documents appended to the FORM are admitted as Government's Exhibits (GE) 1 through 8. The document provided by Applicant is admitted as Applicant's Exhibit (AE) A. On October 25, 2017, I opened the record to allow the parties to submit additional information. Applicant's submission is admitted as AE B. All documents are admitted 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, a pipe fitter, has worked for a federal contractor since December 2003. He completed a security clearance application in July 2014. The ensuing investigation revealed that Applicant is indebted to two creditors for \$32,500 in delinquent accounts. Both accounts are related to the voluntary repossession of a trailer home.

Applicant purchased the trailer home in 1998 for \$40,000. In 2013, Applicant decided he wanted to purchase another home. When he tried to sell the trailer home, Applicant claims that he learned that the property was secured by an interest-only loan. After 13 years of payments, he still owed the full principal balance on the loan. He also discovered that the trailer was worth less than he owed. When Applicant purchased his current home in November 2013, he stopped paying the mortgage loan and lot rent and voluntarily surrendered the trailer to the lender. Before surrendering the property, Applicant made sure the lot rent was current. He believed the bank would be responsible for any future rent. Applicant believes the bank sold the trailer in April 2014. He did not learn of the \$747 judgment for the lot rent until after he completed the security clearance application.

In April 2016, Applicant received a settlement offer for the deficiency balance on the loan. He accepted the offer, settling the debt for \$13,500 the same month. The creditor considers the account paid in full. Aside from the accounts alleged in the SOR, Applicant does not have a history of financial problems.

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<sup>2</sup> GE 1.

## 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 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 the 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

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.<sup>3</sup>

In deciding to default on his mortgage loan and lot rent, Applicant demonstrated an "unwillingness to pay his creditors, regardless of his ability to do so."<sup>4</sup> He has since resolved the deficiency balance on the mortgage by accepting a settlement offer made by the creditor. Applicant does not have a history of financial problems. The circumstances that led to Applicant's default were not borne of financial difficulty, but confusion as he sought to sell one home and purchase another. Applicant's decision

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<sup>3</sup> AG ¶ 18.

<sup>4</sup> AG ¶ 19(b).

was an isolated financial incident that happened almost four years ago. His actions do not cast doubt on his current reliability, trustworthiness, and good judgment.<sup>5</sup>

After reviewing the record, I find that Applicant is a suitable candidate for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Applicant has resolved the larger of the two SOR debts. Although the second debt remains unresolved, it is unlikely that such a small account, \$747, can be used as a source of vulnerability or exploitation.

### **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:	FOR APPLICANT
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Subparagraphs 1.a – 1.b:	For Applicant
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### **Conclusion**

Based on the record, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Nichole L. Noel  
Administrative Judge

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<sup>5</sup> AG ¶ 20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment.