



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



In the matter of:

ISCR Case No. 15-05743

Applicant for Security Clearance

**Appearances**

For Government: Mary M. Foreman, Esq., Department Counsel  
For Applicant: *Pro se*

12/12/2017

**Decision**

DAM, Shari, Administrative Judge:

Applicant mitigated the financial considerations security concerns. National security eligibility for access to classified information is granted.

**History of Case**

On August 11, 2016, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR) alleging 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; 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 after September 1, 2006. On June 8, 2017, new AG were implemented and are effective for decisions issued after that date.<sup>1</sup>

---

<sup>1</sup>I considered the previous AG, effective September 1, 2006, as well as the new AG, effective June 8, 2017. My decision would be the same if the case was considered under the previous AG.

Applicant answered the SOR in writing on August 23, 2016 (Answer). On October 24, 2016, he emailed Department Counsel requesting a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) assigned the case to me on April 27, 2017. DOHA issued a Notice of Hearing on May 16, 2017, setting the hearing for June 28, 2017. Department Counsel offered Government Exhibits (GE) 1 through 4 into evidence. Applicant testified, and offered Exhibits (AE) A through C into evidence. All exhibits were admitted without objection. DOHA received the hearing transcript (Tr.) on July 7, 2017. The record remained open until August 4, 2017, for the submission of additional exhibits. Applicant timely submitted another document that I marked as AE D and admitted without objection.

### **Findings of Fact**

Applicant is 52 years old and divorced since October 2003. He and his former wife have three adult children, ages 23, 20, and 19. The children live with him. Applicant earned an associate's degree in 1985. From 1997 to 2001, he worked for his current employer. From 2001 to 2003, he worked for another defense contractor in the Middle East. He then resumed a position with his current employer. (Tr. 17-19; GE 2.) He said his performance evaluations have been "top notch." (Tr. 20.) His employer is aware of this investigation and the underlying security concerns. (Tr. 20-21.) He has held a security clearance since 1989. (Tr. 8-9.) On March 12, 2015, Applicant submitted another security clearance application (SF 86). In it, he disclosed two delinquent debts that are described below.

In March 2003, Applicant and his former wife purchased a trailer home for \$62,000 in a trailer park to be closer to his mother-in-law.<sup>2</sup> Several months later they divorced. After living there seven years, Applicant decided to move in May 2010 because of the unsafe environment in the park. He wanted to sell the trailer, but the landlord would not allow him to advertise it and the loan company would not negotiate a resolution. He then decided to abandon it and purchased another home in a safe area. (Tr. 22-25; GE 1, GE 2.) Subsequently, he defaulted on the trailer loan and the lease of trailer park space.

Applicant resolved the debt alleged in SOR ¶ 1.a for \$706. It was the unpaid lease for space in the trailer park. He paid it promptly after a judgment was entered in July 2010. He did not resolve the unpaid loan for the trailer home alleged in SOR ¶ 1.b. The trailer was repossessed by the creditor in 2010 and charged off for \$30,600 in April 2011. As of the date of the SOR, the delinquent account grew to \$41,031. (Tr. 25-26; GE 2; GE 3; Answer.)

Applicant testified that he did not intend to pay the unpaid loan debt. He is current on all other obligations and bills. He stated that the loan debt is the only delinquent debt that has ever appeared on his credit report. He has not attempted to negotiate a settlement because he has not had sufficient money until recently. He previously liquidated all available accounts in order to purchase the new residence in 2010. He said

---

<sup>2</sup>Applicant and his ex-wife co-signed the trailer loan and lease for the trailer park space.

the divorce negatively affected his finances over the years. He has not spoken to the creditor in over five years. The debt has been removed from his credit reports. (Tr. 27-34.)

Applicant submitted a budget. His net monthly income is about \$4,735. After paying expenses, he has about \$360 remaining at the end of the month. (AE B.) Post-hearing, he submitted an email stating that he attempted to contact the creditor about resolving the debt. He was told that the matter had been released from his credit history and there was nothing he could do to resolve it. (AE D.) He emphasized that he has not had financial problems other than this debt. (Tr. 34.) He provided copies of checking and investment accounts, which indicate that he has been managing his funds. (AE C.)

### **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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 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 contained in the record. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 says that an "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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person applying for national security eligibility seeks to enter 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 national security eligibility. 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 or sensitive information.

Finally, as emphasized in Section 7 of Executive Order 10865, “[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *a/so* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **Guideline F: Financial Considerations**

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personal security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

(a) inability to satisfy debts; and

(b) unwillingness to satisfy debts regardless of the ability to do so.

In May 2010, Applicant defaulted on a loan for a trailer home and lease of park space for it. The loan was charged off in April 2011. He has been unable or unwilling to satisfy the debt since June 2010 when he abandoned the trailer and purchased a new home. These facts establish *prima facie* support for the above disqualifying condition, and shift the burden to Applicant to mitigate the resulting security concerns.

The guideline includes two conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant’s alleged financial difficulties:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and

(d) the individual initiated and is adhering to a good-faith effort to repay creditors or otherwise resolve debts.

The two SOR-alleged delinquent debts arose after Applicant had chosen to move into a trailer park in order to be close to his former mother-in-law. After living there for seven years, he decided that the area was unsafe for his family. The likelihood that he will move into another unsafe trailer park is infinitely small. In addition, he has shown no indication that he intends to abandon his home and current mortgage. Despite having gone through a divorce in 2003, he has managed to keep other debts current and his financial situation has not had an adverse effect on his work performance or security record. An uncollectible \$40,000 debt, half of which is his ex-wife's, which no one can collect or has any interest in collecting, supports no security concerns about coercion or duress. Given his earlier competing priorities to raise three teenagers and pay all other debts since 2010, he acted sufficiently responsible over the past years. The circumstances surrounding the trailer loan debt are unique and old enough that they do not cast doubt on Applicant's current trustworthiness. The evidence establishes mitigation under AG ¶ 20(a) and AG ¶ 20(b) for both SOR allegations. Additionally, he paid the debt alleged in SOR ¶ 2.a immediately after a judgment was entered. The evidence established some mitigation under AG ¶ 20(d) as to SOR ¶ 2.b.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's national security eligibility 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(d):

(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.

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

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant is a mature and candid adult, who has successfully worked for defense contractors for over 20 years and held a security clearance for most of those years. In 2003, he and his wife jointly purchased a trailer in a trailer park. A few months later, they divorced in late 2003. In spring of 2010, Applicant abandoned the trailer because the environment was unsafe for his family. A few months later the landlord for the trailer park space obtained a judgment for unpaid rent. Applicant promptly paid the judgment. Subsequent to repossessing the trailer in 2010, the creditor for the trailer loan charged off the loan. Applicant recently contacted that creditor and was informed that the debt is unresolvable. These are the only two delinquent debts on Applicant's credit record. Overall, the evidence does not raise doubt as to Applicant's eligibility and suitability for a security clearance.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant access to classified information. National security eligibility is granted.

SHARI DAM  
Administrative Judge