



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



In the matter of: )  
 )  
 ) ISCR Case No. 15-08500  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Charles C. Hale, Esq., Department Counsel  
For Applicant: *Pro se*

11/14/2017

**Decision**

LOUGHRAN, Edward W., Administrative Judge:

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

**Statement of the Case**

On April 29, 2016, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on May 18, 2016, and requested a hearing before an administrative judge.

The case was assigned to me on May 8, 2017. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on June 15, 2017, scheduling the hearing for June 20, 2017. The hearing was convened as scheduled. Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through C, which were admitted without objection. The record was held open for Applicant to submit additional information. He submitted documents that have been marked AE D through G and

admitted without objection. DOHA received the hearing transcript (Tr.) on June 28, 2017.

### **Findings of Fact**

Applicant is 40 years old. As of the date of the hearing, he had been an employee of a defense contractor since 2010. His current status with that employer is uncertain. He attended college for a period without earning a degree. He is married with two children and a stepchild.<sup>1</sup>

The SOR alleges a \$3,475 debt to an online university; 19 medical debts totaling about \$9,000; and 2 miscellaneous delinquent debts totaling \$844. All of the debts are listed on an August 2015 credit report, an April 2016 credit report, or both credit reports.<sup>2</sup>

Applicant's wife is disabled and unable to work. Their children also have medical issues. Their family had health insurance, but there were costly co-payments and deductibles. She handled the family's finances. He was unaware that several bills went unpaid.<sup>3</sup>

The medical debts alleged in the SOR were primarily held by two collection companies. One collection company was assigned the five debts alleged in SOR ¶¶ 1.a through 1.d and 1.o. The total of those five debts is \$1,136. Applicant paid those 5 debts, plus an additional 12 medical debts assigned to that collection company. Those 12 debts do not appear to be connected to other debts alleged in the SOR, likely because they were paid before the SOR was issued.<sup>4</sup>

The second collection company was assigned the eight medical debts alleged in SOR ¶¶ 1.h through 1.k and 1.r through 1.u. The total of those eight debts is \$5,679. Applicant has been paying that collection company since May 2016. He documented payments totaling \$383, which paid six debts. The collection company noted in May 2017 that the total balance due on all their accounts was \$7,813. Attributing specific debts from the SOR to this creditor is difficult, but Applicant believes the collection company is handling all the remaining medical debts that were not assigned to the first collection company.<sup>5</sup>

The April 2016 credit report lists the \$3,475 debt to an online university, plus three additional student loans totaling about \$14,000. Applicant is current on those three loans. He thought the online university loan had been assigned to the Department of

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<sup>1</sup> Tr. at 22, 40-41, 58; GE 1; AE G.

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

<sup>3</sup> Tr. at 16-18, 22-23, 29-46, 50; GE 2.

<sup>4</sup> Tr. at 17-18, 27; Applicant's response to SOR; GE 2; AE C.

<sup>5</sup> Tr. at 17-20, 28-29; Applicant's response to SOR; GE 2; AE F.

Education for collection and was part of the loans that he was paying. He stated that he would research the matter and make arrangements to pay the debt if it is not already being paid.<sup>6</sup>

Applicant denied owing the remaining two miscellaneous delinquent debts. He stated that no member of his family ever had service with the creditor alleged in SOR ¶ 1.l and that the debt alleged in SOR ¶ 1.q was paid in 2015. Neither debt is listed on the April 2016 credit report.<sup>7</sup>

Applicant has become more involved in the family's finances. He stated that his finances have improved and stabilized. He maintains a budget. He credibly testified that he intends to pay or settle all his debts. He retained an attorney to assist him with his finances and credit.<sup>8</sup>

Applicant submitted letters attesting to his excellent job performance. He is praised for his dedication, leadership, professionalism, work ethic, reliability, and trustworthiness.<sup>9</sup>

## **Policies**

This case is adjudicated 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), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used 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, 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. According to AG ¶ 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.

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<sup>6</sup> Tr. at 23-27 Applicant's response to SOR; GE 2.

<sup>7</sup> Tr. at 46-47; Applicant's response to SOR; GE 2.

<sup>8</sup> Tr. at 17-18, 44-59; Applicant's response to SOR; AE G.

<sup>9</sup> AE A, B, E.

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.”

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.

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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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**

### **Guideline F, Financial Considerations**

The security concern for financial considerations is set out in AG ¶ 18:

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 personnel 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has a history of financial problems, mostly related to medical debts. The evidence is sufficient to raise the above disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's wife is disabled and unable to work. Their children also have medical issues. Their family had health insurance, but there were costly co-payments and deductibles. The vast majority of the debts in the SOR are medical debts. Applicant paid 5 medical debts totaling \$1,136. He paid an additional 12 medical debts assigned to the same collection company. Those 12 debts do not appear to be connected to other debts alleged in the SOR, likely because they were paid before the SOR was issued. He has payment arrangements with another collection company. He paid \$383 to that collection company, which resolved 6 debts. In summary, he paid 23 medical debts. He still has

more than \$7,800 owed to that collection company, but I am convinced that he will continue his efforts to pay his debts.

Applicant is current on three student loans. He thought the online university loan alleged in the SOR had been assigned to the Department of Education and was part of the loans that he was paying. I am satisfied that he will pay it in either event. Applicant denied owing the remaining two miscellaneous delinquent debts, and neither debt is listed on the April 2016 credit report.

A security clearance adjudication is not a debt collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant established that he has a plan to resolve his financial problems, and he took significant action to implement that plan. His financial issues are mitigated.

### **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 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.

Under AG ¶ 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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. I also considered Applicant's favorable character evidence.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

### **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-1.u: <sup>10</sup>	For Applicant
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### **Conclusion**

In light of all of the circumstances presented by the record in this case, 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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Edward W. Loughran  
Administrative Judge

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<sup>10</sup> The SOR alleges two 1.n allegations. They are both found for Applicant.