



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



In the matter of: )  
 )  
 ) ISCR Case No. 16-01866  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Gatha Manns, Esquire, Department Counsel  
For Applicant: *Pro Se*

08/01/2018

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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 grant Applicant's clearance.

On 9 September 2016, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 20

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<sup>1</sup>The record consists of the transcript (Tr.), Government exhibits (GE) 1-4, and Applicant exhibits (AE) A-B. AE A-B were timely received post-hearing. The record closed 13 September 2017, when Department Counsel stated no objection to AE B.

<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. However, on 10 December 2016, the Director of National Intelligence (DNI) signed Security Executive Agent Directive 4, implementing new AG, effective with any decision issued on or after 8 June 2017. My decision is the same under both guidelines.

July 2017, and I convened a hearing 28 August 2017. DOHA received the transcript (Tr.) 6 September 2017.

### **Findings of Fact**

Applicant admitted the SOR allegations, except for 1.e, which he claimed to have paid. Applicant's July 2017 credit report (GE 4) shows the account paid in April 2016.

Applicant is a 28-year-old project manager employed by a defense contractor since October 2015. He has not previously held a clearance. He married in June 2012, separated in March 2014, and divorced in April 2015. He has no children.

The SOR alleges, and GE 2-4 establish, five delinquent debts totaling nearly \$48,000. Applicant admits four debts totaling over \$46,000. The debt he denies (SOR 1.e) was paid in April 2016, before the SOR was written. Applicant's Answer and GE 4 documented that the account was paid.

Applicant disclosed the admitted SOR debts on his January 2016 clearance application (GE 1) and discussed them at length during a March 2016 interview with a Government investigator (GE 2). He told the investigator that he was paying \$300 monthly to the creditor for SOR debts 1.a-1.c. He stated that he planned to address the repossession at SOR 1.d by December 2017. Finally, he told the investigator that he was going to pay the SOR 1.e creditor in May 2016.

The partial November 2016 credit report that Applicant sent with his Answer showed reduced balances, consistent with claimed payments, for SOR debts 1.a-1.c, and showed SOR debt 1.e as paid. The reported balance for SOR debt 1.d was \$3,358, not the nearly \$10,000 charged-off balance alleged in the SOR.

AE B documents that Applicant had made \$100 monthly payments to the collection agent for each SOR debt 1.a-1.c account between November 2015 and August 2017 (22 months), further reducing his outstanding balances. In addition, he has authorized payments from September 2017 to June 2018 for SOR debt 1.c.

Finally, Applicant began \$100 monthly payments to the repossession collection agent for SOR debt 1.d in September 2016, after he received the SOR, but had made all the required payments through September 2007. Moreover, he had reached an agreement with the collection agent to pay \$100 monthly from October 2017 to August 2018.

In addition to these payment arrangements, Applicant's credit reports reflect that Applicant worked with the creditors who held his myriad education loans and kept all his loans current during the period of his financial problems. Moreover, his other commercial credit accounts remained current during this time.

Applicant traces his financial problems to several distinct events: First, he left his job in December 2013.<sup>3</sup> Initially, he was not overly concerned because his wife was within six months of graduating from college, and their plan moving forward was that she would work while he tried to start a business. That plan fell apart when, second, she left Applicant in February 2014. He took on what little joint debt there was. Finally, his financial problems were exacerbated when he took out a personal loan from the same creditor who held his credit card accounts (SOR 1.a-1.c). He thought that he would be able to use the proceeds from the loan to keep up with the credit card payments, deal with any divorce issues, and start his business. He had not counted upon being functionally unemployed from December 2013 to October 2015: actually unemployed from December 2013 to August 2014, trying to sell real estate in a down market from August 2015 to March 2015 (with a stint in Christmas retail in December 2014), and wholly unemployed from March 2015 until he got this job in October 2015. Applicant estimates that between November 2014 and September 2015, he applied for over 300 jobs.

Applicant claims to have \$200 positive monthly cash flow after making his required loan payments. He describes his current finances as poor, but credibly states that he has been working since November 2015 to resolve his debts.

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

### **Policies**

The adjudicative guidelines (AG) list factors to evaluate 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 show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. 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, disputed facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case.

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<sup>3</sup>The circumstances of his departure are muddled. He told the investigator that his departure was more or less by mutual consent, after he was a less-than-perfect employee—whose evaluations nevertheless had positive comments on them. He testified (Tr 29-30) that he left because he thought the company engaged in unethical business practices.

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 required judgement, reliability, and trustworthiness of those who must protect national interests as their own. The “clearly consistent with the national interest” standard compels deciding any reasonable doubt about an Applicant’s suitability for access in favor of the Government.<sup>4</sup>

### **Analysis**

The Government established a case for disqualification under Guideline F, but Applicant mitigated the security concerns. Applicant paid SOR debt 1.e in April 2016, before the SOR was issued. He has been making regular monthly payments on SOR debts 1.a-1.c since November 2015, also before the SOR was issued. He has made regular monthly payments on SOR debt 1.d from September 2016, after he received the SOR, through the hearing date. He has an agreement with the creditor to continue those payments through at least August 2018.

The mitigating factors for financial considerations provide considerable help to Applicant. His financial difficulties are not recent and frequent, and the major cause is unlikely to recur now that Applicant has been consistently employed since October 2015.<sup>5</sup> Applicant’s leaving his job and later taking out a personal loan are not circumstance beyond his control, but not being able to find a job for nearly two years certainly is, Applicant has been responsible in dealing with his debts.<sup>6</sup> He began repaying SOR creditors 1.a-1.c within a month of becoming re-employed. He paid SOR debt 1.e within about six months. He projected being able to address SOR debt 1.d by December 2017, and was able to start payments in September 2016. These efforts have certainly been undertaken in good faith.<sup>7</sup> The debts are clearly being resolved.<sup>8</sup>

The Appeal Board has stated that an Applicant need not have paid every debt alleged in the SOR, need not pay the SOR debts first, and need not be paying on all debts simultaneously. Applicant need only establish that there is a credible and realistic

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<sup>4</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<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;

<sup>7</sup>¶ 20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;

<sup>8</sup>¶ 20 (c) 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;

plan to resolve the financial problems, accompanied by significant actions to implement the plan.<sup>9</sup> Applicant's actions constitute such a plan and execution. I conclude Guideline F for Applicant.

### **Formal Findings**

Paragraph 1. Guideline F: FOR APPLICANT

Subparagraphs a-e: For Applicant

### **Conclusion**

Under the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

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JOHN GRATTAN METZ, JR  
Administrative Judge

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<sup>9</sup>ISCR Case No. 07-06482 (App. Bd. 21 May 2008).