



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



In the matter of: )  
)  
) ISCR Case No. 16-03631  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tara Karoian, Department Counsel  
For Applicant: *Pro se*

July 10, 2018  
\_\_\_\_\_

**Decision**  
\_\_\_\_\_

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of the Case**

On January 12, 2018, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing 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; 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 for cases after June 8, 2017.

Applicant answered the SOR on March 7, 2018, and requested a hearing before an administrative judge. The case was assigned to me on April 17, 2018. The Defense Office of Hearings and Appeals issued a notice of hearing on April 18, 2018, and the hearing was convened as scheduled on May 9, 2018. The Government offered six exhibits, referred to as Government Exhibits 1 through 6, which were admitted without objection. The Applicant offered seven exhibits at the hearing, referred to as Applicant's Exhibits A through G. Applicant testified on his own behalf. The record remained open

until close of business on May 21, 2018, to allow the Applicant the opportunity to submit additional supporting documentation. Applicant submitted no additional documents. DOHA received the transcript of the hearing (Tr.) on May 17, 2018.

### **Findings of Fact**

Applicant is 32 years old. He is unmarried and has no children. He has a high school diploma, and a year and a half of college. He holds the position of Aircraft Mechanic for a defense contractor. He seeks to obtain a security clearance in connection with his employment in the defense industry.

Paragraph 1 Guideline F – Financial Considerations The Government alleges that the Applicant is ineligible for clearance because he is financially overextended and at risk of having to engage in illegal acts to generate funds.

The SOR alleges that Applicant has seventeen delinquent debts totaling in excess of \$27,000. In his Answer, Applicant admits all of the allegations, except 1.c., 1.m., 1.n., 1.o, 1.p., and 1.q. Credit reports of the Applicant dated August 28, 2015; October 20, 2016; January 6, 2018; and April 22, 2018, reflect that each of these debts were owing at some point. (Government Exhibits 3, 4, 5, and 6.)

Applicant served on active duty in the United States Air Force from March 2006 through March 2012. While in the military, Applicant has no financial problems. He paid his bills and did not use his credit cards, as they had a zero balance. From 2012 to 2014, Applicant was placed on inactive reserve duty for two years, and was honorably discharged in 2014. During this two year period, Applicant was unable to find employment. He moved in with his now ex-girlfriend and her four children, and together they used Applicant's credit cards to pay bills and make ends meet. His girlfriend worked full time, and she made the monthly payments to keep him afloat. In 2014, he and his girlfriend separated. At that point, Applicant was supported only by unemployment benefits of about \$1,200 monthly, and was unable to stay current on his credit card debt. He fell delinquent on most of his bills incurred during the relationship. Those delinquent debts are listed in the SOR:

In early 2017, Applicant hired an internet-based law firm to assist him in repairing his credit report. Since then, Applicant has paid the firm \$119 each month for their service. Applicant does not know exactly what they are doing for him as none of the monthly payment he makes goes toward resolving his debt. He only knows that they have sent out letters of dispute to some of his creditors. (Tr. p. 45.) Applicant has contacted each of his creditors without the help of the law firm, and has informed them of his current financial situation. He has set up payment plans with some of them, and others he plans to pay when sufficient monies become available from resolving debt he is currently paying. He states that he intends to pay all of the creditors listed in the SOR.

1.a. A delinquent credit card debt was charged off in the amount of approximately \$4,596. Applicant states that the account was settled for \$2,527. Since March 2018, he has been making regular monthly payments of \$210.67 that he plans to continue until the debt is paid in full. (Applicant's Exhibit A.)

1.b. A delinquent credit card was charged off in the amount of \$3,117. The debt remains outstanding. Applicant intends to pay it once he has resolved other debt. He believes this debt to be the same debt alleged in allegation 1.p. (Tr. pp. 33 and 53)

1.c. A debt owed to a creditor for an account that was placed for collection in the approximate amount of \$972. The debt was paid in full through garnishment, and his most recent credit report no longer shows it as owing. (Applicant's Exhibit C, and Government Exhibit 7.)

1.d. A delinquent credit card debt was charged off in the amount of approximately \$820. This debt remains outstanding. Applicant intends to pay it once he has resolved other debt. (Tr. p. 35.)

1.e. A debt owed to a University for an account placed for collection in the approximate amount of \$677. Applicant is currently making regular monthly payments of \$52.07 that he plans to continue until the debt is paid in full. (Applicant's Exhibit D.)

1.f. A debt owed to a creditor for an account placed for collection in the approximate amount of \$626. Since March 2018, Applicant has been making regular monthly payments of \$52.15 that he plans to continue until the debt is paid in full. (Applicant's Exhibit B.)

1.g. A delinquent cable service account was placed for collection in the approximate amount of \$572. The debt is still outstanding. Applicant intends immediately settle the account, and start a payment plan to resolve it. (Tr. p. 40.)

1.h. A delinquent credit card account was charged off in the approximate amount of \$435. Applicant tried to pay the debt but the creditor states that they are no longer accepting payments, as the account has been closed. The debt has not been paid. (Tr. pp. 40-41.)

1.i. A delinquent credit card account was charged off in the approximate amount of \$349. Applicant states that the creditor is no longer accepting payments, as the account has been closed. The debt has not been paid.

1.j. A delinquent credit card account was placed for collection in the approximate amount of \$317. Applicant is currently making regular monthly payments of \$26.41 that he plans to continue until the debt is paid in full. (Applicant's Exhibit D.)

1.k. A debt owed to creditor for a small loan was placed for collection in the approximate amount of \$315. The debt is remains outstanding.

1.l. A debt owed to a creditor for a payday loan was placed for collection in the approximate amount of \$112. The debt has been paid in full

1.m. A debt owed to a jewelry store for an account placed for collection in the approximate amount of \$796. Applicant contends that the creditor has no record of the debt. Applicant's most recent credit report no longer shows the debt as owing. (Tr. p. 49.)

1.n. A debt owed to a creditor for an account placed for collection in the approximate amount of \$9,195. Applicant has no knowledge of the account and is trying to find out more information about it. If it is determined to be his debt, he plans to pay it.

1.o. A debt owed to a creditor for an account placed for collection in the approximate amount of \$976. This debt is no longer outstanding. (Tr. p. 50.)

1.p. A debt owed to a creditor for an account placed for collection in the approximate amount of \$3,342. The debt remains outstanding. Applicant believes the debt to be the same as the debt alleged in allegation 1.b. (Tr. p. 53)

1.q. A debt owed to a creditor for an account placed for collection in the approximate amount of \$137. Applicant has no knowledge of the debt, however it was removed from his credit report by the law firm.

In regard to each of the debts listed in the SOR, Applicant contacted each of the creditors concerning resolution of the debt. He is either on a payment plan to resolve the debt, planning on being on a payment plan to resolve the debt when he has completed payment of others, or is disputing the debt through the law firm he hired to assist him in repairing his credit report.

## **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 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.

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 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.

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 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 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, as follows:

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. Affluence that cannot be explained by known sources of income is also a

security concern insofar as it may result from criminal activity, including espionage.

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

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Following his military career, Applicant was unable to find employment. He incurred excessive delinquent debt that he could not afford to pay. The evidence is sufficient to raise the above disqualifying conditions.

Four Financial Considerations Mitigating Conditions under AG ¶ 20 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, or 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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

After leaving active duty, Applicant was unemployed for about two years. This situation was beyond his control, and led to his financial difficulties. During his relationship with his girlfriend, who had four children to support, he allowed her to use his credit cards, and she paid the bills accordingly. When the relationship ended, Applicant was left with the debt. He has taken certain responsible action for his debts by contacting his creditors and explaining his situation, and hiring a law firm to help him repair his credit report. He has already paid off several of the debts, and is making payments to resolve others. He intends to pay all of the debts listed in the SOR as money opens up from other debt that has been paid. Under the circumstances, Applicant has made a good-faith effort to resolve his debts, and continues to act reasonably and responsibly with the intention of resolving all of his debt.

## 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. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has 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:	FOR APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraph 1.b.:	For Applicant
Subparagraph 1.c.:	For Applicant
Subparagraph 1.d.:	For Applicant
Subparagraph 1.e.:	For Applicant
Subparagraph 1.f.:	For Applicant
Subparagraph 1.g.:	For Applicant
Subparagraph 1.h.:	For Applicant
Subparagraph 1.i.:	For Applicant
Subparagraph 1.j.:	For Applicant
Subparagraph 1.k.:	For Applicant
Subparagraph 1.l.:	For Applicant

Subparagraph 1.m.:	For Applicant
Subparagraph 1.n.:	For Applicant
Subparagraph 1.o.:	For Applicant
Subparagraph 1.p.:	For Applicant
Subparagraph 1.q.:	For Applicant

### **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 national security eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge