



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 17-00585

**Appearances**

For Government: Nicholas T. Temple, Esquire, Department Counsel  
For Applicant: *Pro se*

03/23/2018

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

**Statement of the Case**

On April 17, 2017, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations).<sup>1</sup> In a response signed on May 1, 2017, he answered the nine allegations raised and requested a determination based on the written record. The Government issued a File of Relevant Material (FORM), dated September 28, 2017, with six attachments ("Items"). The case was assigned to me on February 27, 2018. Based on my review of the record, I find Applicant failed to mitigate financial considerations security concerns.

**Findings of Fact**

Applicant is a 57-year-old information assurance systems engineer who has worked for the same employer since October 2015. He has worked in a similar capacity at other entities since a brief period of unemployment from September 2009 through

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<sup>1</sup> The action was taken 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 or after September 1, 2006. The AG has since been revised for any adjudication on or after June 8, 2017. The revised AG is applied here.

January 2010. He is married with four children, two of whom are over 18. He has earned a bachelor's degree and is soon to graduate with a master's degree. At issue in the SOR are eight delinquent accounts, representing about \$291,068 in debt, and a September 2014 home foreclosure. There is no documentary evidence Applicant has received financial counseling.

In responding to the SOR, Applicant chose to only highlight facts directly related to each allegation, rather than provide an overview of his finances. He admitted responsibility for the debts at 1.a-1.b and 1.h-1.i; denied responsibility for the debts at 1.d-1.e; and is verifying the balances represented in the SOR at allegations 1.c and 1.f-1.e.<sup>2</sup> The allegations, remarks, and related issues are as follows:

1.a – Telecommunications collection (\$698) – Paid. Applicant wrote that this account was paid, and provided proof of payment of \$698 on April 21, 2017, shortly after the SOR was issued. (Ex. A)

1.b – Adverse judgment (\$5,012) – No evidence of action. Applicant wrote he has made arrangements to pay this homeowner's association-related debt. Applicant submitted a letter outlining an offered payment schedule. There is no documentary evidence reflecting the offer was accepted or the plan was implemented. (Ex. B)

1.c – Adverse judgment (\$1,810) – No evidence of action. Applicant wrote that he is trying to locate this party regarding a January 2014 judgment. No documentation was offered reflecting his effort.

1.d – Defaulted mortgage led to a September 2014 foreclosure on Applicant's property, later reclaimed to satisfy Applicant's debt – (no amount noted) - Successfully disputed.. Applicant denied this allegation. He wrote: "I only have one family home which we live in and paid in full from [another mortgagor] proof from [yet another mortgagor] attached . . . now [the mortgagor noted in the SOR] generated a new loan on my property which I was not aware of and transferred it to [a fourth mortgagor] but never foreclosed." (Exs. D.1, D.2) Applicant's home address today is the same as the home address referenced as having been foreclosed and reclaimed. Applicant's exhibits corroborate what Applicant appears to be claiming. A separate document shows this newer mortgagor as the mortgagor holder on Applicant's home during the July 1, 2016-June 30, 2017, tax cycle. (Ex. J)

1.e – Real estate mortgage account past-due in the approximate amount of \$280,858. In dispute. Applicant provided a letter from this mortgage holder showing it received a mortgage loan from the mortgagor noted above in 1.e. The Government's credit report at Ex. 5 at 4 reflects that this account is in dispute.

1.f – Telecommunication collection account (\$2,398) – No evidence of action. Applicant wrote that he contacted this creditor, made an offer to pay the debt, and is

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<sup>2</sup> The SOR allegations are based on the three credit reports included in the FORM at Items 4-6.

awaiting a response. No documentary evidence, however, was provided to substantiate his assertion.

1.g – Collection account for telecommunications entity (\$172) - No evidence of action. Applicant wrote: “I am not aware of this debt; I have reached out to them to validate the debt[. If it’s my debt I will settle it in full.” No documentary evidence of his effort to contact the entity was submitted.

1.h – Collection account (\$80) – Paid. Applicant showed he has no outstanding speeding tickets with this entity. (Ex. H) This ticket appears to have been paid with the ticket noted below.

1.i – Collection account (\$80) – Paid. Applicant denied responsibility for this speeding camera ticket, writing: “I only had two current speed camera tickets which I paid in full.” As evidence, he showed that he paid for two such tickets in May 2017, after his receipt of the SOR. (Ex. I) He also showed he has no outstanding balance with this governmental entity. (Ex. H)

## **Policies**

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 AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to sensitive or classified information.

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 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 a number of variables known as the “whole-person concept.” The administrative judge must consider all available information in making a decision.

The protection of the national security is the paramount consideration. Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security. Under the Directive, the Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.

A person seeking access to sensitive or classified information enters into a fiduciary relationship with the Government based on trust and confidence. This relationship transcends normal duty hours. Decisions include consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard such

information. Such 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.

## **Analysis**

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

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that failure or inability 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.

Here, the Government provided documentary evidence reflecting that Applicant had delinquent debts amounting to about \$291,068, and that a lender foreclosed on his property in 2014 after he defaulted on his mortgage. Such information is sufficient to invoke financial considerations disqualifying conditions:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the ability to do so;  
and

AG ¶ 19(c): a history of not meeting financial obligations.

Five conditions could mitigate the finance related security concerns posed here:

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(c) the person has received or is receiving counseling for the problem from a legitimate and credible source, such as a non-profit counseling service, and there are clear indications that the problem is being resolved or is under control;

AG ¶ 20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(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.

Because Applicant provided such scant information about his life, finances, and circumstances, neither AG ¶ 20(a) nor AG ¶ 20(b) can be found in his favor. Lacking evidence Applicant has received financial counseling, the qualification set forth in AG ¶ 20(c) cannot be met.

Applicant showed the he paid three (1.a, 1.h, and 1.i) of the eight debts at issue, or about \$858 of the approximately \$291,068 at issue. Payment of those three debts is insufficient to show that Applicant, in terms of all the accounts at issue, has initiated and is adhering to an overall good-faith effort to repay his multiple creditors or resolve debts. This is particularly true given the fact they were paid after the issuance of the SOR and when compared to the comparatively neglected accounts at 1.b, 1.c, 1.f, and 1.g, where there is scant documentation of action. At best, AG ¶ 20(e) applies in part.

Applicant provided sufficient documentation to indicate the allegation at 1.d may be imprecise, and while his documents fail to show it is clearly erroneous, they provide a firm basis for a legitimate dispute. However, he failed to provide documentary evidence showing that he has effectively put the matter in dispute. This is not the case, however, with regard to the debt at 1.e, where a credit report clearly reflects the account has been put into dispute. Therefore, with regard to 1.e, AG ¶ 20(e) applies in part.

### **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 adjudicative process factors listed in the AG. Under AG ¶ 2(a), the need to utilize a "whole-person" evaluation is set forth. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I incorporated my comments under the guideline at issue in my whole-person analysis.

Applicant is a 57-year-old information assurance systems engineer who has maintained employment in that or a similar capacity since 2010. He is married and has four children. He will soon graduate with a master's degree.

Applicant provided practically no information indicating what led him to acquire the delinquent debt at issue. To his credit, he did show that he had paid three of the smaller delinquencies, albeit after the SOR was issued, and provided sufficient documentation to show two of the accounts at issue are legitimately disputable or in dispute. Yet he failed to provide any insight into what his overall strategy is. At present, and going forward, it

cannot be discerned what his next measures will be or whether he has the financial resources to establish a comprehensive strategy.

This process does not require an Applicant to satisfy or even address every debt at issue. It does, however, expect a showing that some genuine effort has been successfully made and a reasonable strategy has been devised to address one's delinquent accounts. At best, given the highly limited information and documentation provided, Applicant has thus far only provided evidence that some effort has been exerted. Consequently, lacking more information, financial considerations security concerns remain unmitigated. Therefore, I find financial considerations security concerns remain unmitigated.

### **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
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b-1.c:	Against Applicant
Subparagraph 1.d-1.e:	For Applicant
Subparagraph 1.f-1.g:	Against Applicant
Subparagraph 1.h-1.i:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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Arthur E. Marshall, Jr.  
Administrative Judge