



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



In the matter of: )  
)  
) ISCR Case No. 17-01759  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Bryan Olmos, Esq., Department Counsel  
For Applicant: *Pro se*

06/29/2018

---

**Decision**

---

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense's (DOD) intent to deny his continued eligibility for a security clearance. Applicant failed to mitigate the security concerns raised by his unresolved delinquent accounts. Applicant's access to classified information is denied.

**Statement of the Case**

On July 7, 2017, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant's security clearance and recommended his case be submitted to an administrative judge for consideration.

---

<sup>1</sup> The DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive), and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, implemented on June 8, 2017.

Applicant answered the SOR and requested a decision without a hearing.<sup>2</sup> The Government submitted its written case on August 30, 2017. A complete copy of the file of relevant material (FORM) and the Directive were provided to Applicant. He received the FORM on October 23, 2017 and provided a response. The parties' documents are admitted as Government's Exhibits (GE) 1 through 7 and Applicant's Exhibits (AE) A through I, without objection.

### **Findings of Fact**

Applicant, 53, is the owner of a small business and is seeking access to classified information. He previously held access for 15 of the 20 years he served in the U.S. Army from 1989 to 2008. He completed his most recent security clearance application in April 2016, disclosing six delinquent accounts. The SOR alleges that Applicant is indebted to four creditors for approximately \$32,800.<sup>3</sup>

Applicant's financial problems began after he started a business in 2013. According to Applicant, his company received an 8(a) designation from the Small Business Administration, recognizing his business as being owned by a service-disabled veteran. With this designation came the restriction that Applicant pursue the development of his business full time, which he believes precludes him from seeking other employment. He is not in a position to draw a salary from his company. Applicant's financial problems were exacerbated by his November 2015 separation from his wife and the loss of the income she contributed to their household. As a result, Applicant's only sources of income were his military retirement and 90% disability award, which as of December 2016 totaled \$3,563 per month. The record does not contain evidence regarding the total decrease in household income Applicant experienced before these changes. Applicant claims the decrease in income necessitated a change in his lifestyle, which included him voluntarily surrendering a vehicle in May 2016.<sup>4</sup>

Between April 2016, when he completed his security clearance application, and July 2017 when the SOR was issued, Applicant resolved five delinquent accounts, including the account alleged in SOR ¶ 1.d. Since DOD issued the SOR, Applicant has not resolved any other alleged delinquent accounts. According to Applicant, SOR ¶ 1.a is the subject of a lawsuit between himself and the creditor; however, he did not provide any details regarding the cause of action or status of the litigation. Applicant has been in contact with the creditor holding the car loan deficiency balance alleged in SOR ¶ 1.b. He plans to enter into a payment arrangement with the creditor when he is able. Applicant has disputed SOR ¶ 1.c because he is unfamiliar with the debt and it does not appear on the credit reports he has obtained. However, the debt appears on the three credit reports the Government provided to Applicant with the FORM. Applicant

---

<sup>2</sup> GE 2-3.

<sup>3</sup> GE 3-7.

<sup>4</sup> GE 2; AE A, H-I.

admitted in his June 2016 subject interview that the debt was for a travel club he participated in between the fall 2014 and spring 2015.<sup>5</sup>

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. 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. 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.

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.

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**

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgement, or willingness 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.<sup>6</sup>

The record supports a *prima facie* case that Applicant has a history of not meeting his financial obligations and an inability to pay his debts.<sup>7</sup> However, the record contains some evidence in mitigation. Applicant's history of financial problems is brief. His financial history prior to 2015 is favorable. While starting a business is always a

---

<sup>5</sup> GE 2, 4-7; AE B-F.

<sup>6</sup> AG ¶ 18.

<sup>7</sup> AG ¶¶ 19(a) and (c).

financially risky proposition, his finances were also negatively impacted by an event beyond his control, his November 2015 separation from his wife and the resulting loss of income. Initially, Applicant acted responsibly in light of these changes by resolving SOR ¶ 1.d and four non-SOR debts between 2016 and 2017.<sup>8</sup>

However, these actions do not fully mitigate the financial considerations concerns. To date, Applicant still owes over \$25,000 in delinquent debt. He did not provide evidence showing his efforts to resolve the remaining SOR debts or articulate a plan for doing so. Furthermore, the record does not contain enough information about Applicant's current finances to determine if his lack of progress since the SOR is the result of an inability or unwillingness to pay his debts. While, it does not appear that Applicant has accumulated any additional delinquent debt, the record does not contain enough information to determine if Applicant is living within his means or if his finances are otherwise under control.

After reviewing the record and taking into consideration the whole person factors listed in AG ¶ 2(d), the record does not support Applicant's petition for continued access classified information. Applicant is a disabled, retired veteran who served in the military for 20 years. He previously held a security clearance for many years without incident. However, this favorable evidence along with payments of some of his delinquent debt is not enough to mitigate the financial considerations concerns. Ultimately, Applicant failed to meet his burdens of persuasion and production regarding his financial problems.

### **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, Financial Considerations:	AGANST APPLICANT
Subparagraphs 1.a – 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant

### **Conclusion**

Based on the record, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Nichole L. Noel  
Administrative Judge

---

<sup>8</sup> AG ¶ 20(b).