



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



In the matter of:

Applicant for Security Clearance

)  
)  
)  
)  
)

ISCR Case No: 17-02444

**Appearances**

For Government: Allison Marie, Esquire, Department Counsel

For Applicant: *Pro se*

06/05/2018

---

**Decision**

---

DAM, Shari, Administrative Judge:

Applicant failed to mitigate the financial considerations security concerns. Based upon a review of the pleadings and exhibits, national security eligibility for access to classified information is denied.

**Statement of Case**

On July 26, 2017, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F (Financial Considerations). 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DOD on June 8, 2017.

Applicant answered the SOR on August 4, 2017, and requested his case be decided by an administrative judge on the written record without a hearing (Answer). On

August 30, 2017, Department Counsel submitted the Government's written case. A complete copy of the File of Relevant Material (FORM), containing seven Items, was mailed to Applicant and received by him on September 18, 2017. The FORM notified Applicant that he had an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant did not submit a response to the FORM or object to the Government's evidence. Items 1 through 7 are admitted into evidence without objection. The Defense Office of Hearings and Appeals (DOHA) assigned this case to me on January 17, 2018.

### **Findings of Fact**

Applicant admitted 19 of the 20 alleged SOR debts. He denied the automobile loan in SOR ¶ 1.d for \$5,006 because he could not find it on two credit reports he obtained. However, during his interview on April 28, 2017, with a government investigator, he acknowledged the loan. The debt also appears on both record credit bureau reports (CBR). (Items 3, 6, 7)

Applicant is 36 years old and unmarried. He earned an associate's degree in 2012. He began working for a defense contractor in 2016. Prior to this position, he was self-employed and worked for various private businesses. (Item 4)

On May 26, 2016, Applicant submitted a security clearance application (SCA). In it he disclosed an automobile repossession and a delinquent credit card account. During the April 2017 interview, Applicant discussed additional delinquent debts and stated he was unfamiliar with other debts mentioned by the investigator. He attributed his financial problems to having insufficient money to pay his debts because of periods of underemployment and paying traffic tickets and fines. He said the financial problems started around 2009. (Item 5)

Based on Applicant's admissions and CBRs from August 2016 and July 2017, the SOR alleged 20 debts that became delinquent between 2009 and 2017, and totaled over \$45,386. They included student loans, credit cards, medical debts, an automobile repossession, and utility bills. (Item 6, Item 7)

In his Answer, Applicant submitted proof that he paid the two delinquent student loans alleged in SOR ¶¶ 1.p and 1.q. (Item 3) He also stated that on August 2, 2017, he enrolled eight SOR debts, totaling \$33,163, in a debt relief program (DRP) and established a payment plan for them. According to that plan, Applicant agreed to make monthly payments of \$533 for 45 months, beginning on August 9, 2017.<sup>1</sup> Although he asserted that he had payment plans with the other ten SOR creditors and anticipated having many of them resolved by October 2017, he did not submit documentation confirming those assertions. He did not provide a budget or other information related to

---

<sup>1</sup> Applicant did not submit proof that he made any payments on this plan.

his financial obligations from which to determine his current financial reliability, compliance with payment agreements, or ability to maintain payments on the debts.

## **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the pertinent AG. In addition to brief introductory explanations of the security concern, the guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing 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 applicable guidelines in the context 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 the 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person applying for national security eligibility seeks to enter 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 national security eligibility. 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 or sensitive information.

## Analysis

### Guideline F: Financial Considerations

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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 personal 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.

AG ¶ 19 describes three conditions that could raise security concerns and may be disqualifying 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.<sup>2</sup>

Based on his admissions and CBRs, Applicant has a history of being unable or unwilling to meet financial obligations, which began in 2009 and continued into 2017. The evidence raises security concerns under the above disqualifying conditions, and shifts the burden to Applicant to rebut, extenuate, or mitigate those concerns.

The guideline includes conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial problems. The following four are potentially applicable:

---

<sup>2</sup> See ISCR Case No. 11-05365 at 3 (App.Bd. May 1, 2012).

(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.

Applicant's delinquent debts arose between 2009 and 2017; 18 of the 20 debts remain unresolved. AG ¶ 20 (a) does not apply. Applicant attributed his financial problems to earning insufficient money and having to pay traffic tickets. While earning insufficient money may have been a circumstance beyond his control, incurring debts he could not afford to repay and receiving traffic tickets were circumstances within his control. He did not provide evidence that he has attempted to responsibly manage his financial obligations; thus, AG ¶ 20(b) provides minimal mitigation. There is evidence that he recently enrolled in a DRP, which may have included financial counseling, but there is insufficient evidence to conclude that the 18 delinquent debts are being resolved and are under control. AG ¶ 20(c) does not apply. He provided evidence that the debts alleged in SOR ¶¶ 1.p and 1.q. are paid. This established mitigation under AG ¶ 20(d) for those debts.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's national security eligibility 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.

According to AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the applicable guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

Applicant is a mature individual who began working for a defense contractor in 2016. In his May 2016 SCA, he disclosed two delinquent debts. During an April 2017 interview, he learned of other delinquent debts. In the July 2017 SOR, the Government placed him on notice that his debts raised security concerns. After reviewing his Answer to the SOR, the Government notified him in the FORM that the evidence he submitted in his Answer was considered by Department Counsel to be insufficient to mitigate the financial allegations. Despite that notice, he did not provide additional evidence to confirm that he was resolving debts as he stated in his Answer. At this time, he has failed to present sufficient evidence of mitigation, including a track record of responsibly managing debts and financial obligations. He failed to meet his burden to mitigate the security concerns arising under the guideline for financial considerations.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a through 1.o:	Against Applicant
Subparagraphs 1.p and 1.q:	For Applicant
Subparagraphs 1.r through 1.t:	Against 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 access to classified information. National security eligibility is denied.

SHARI DAM  
Administrative Judge