



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



In the matter of:

Applicant for Security Clearance

)  
)  
)  
)  
)

ISCR Case No. 17-02913

**Appearances**

For Government: Tara R. Karoian, Esq., Department Counsel

For Applicant: *Pro se*

12/20/2017

**Decision**

LYNCH, Noreen A., Administrative Judge:

Applicant did not provide sufficient documentation to mitigate security concerns for financial considerations under Guideline F and personal conduct under Guideline E. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 29, 2016, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for employment with a defense contractor. (Item 3) Applicant was interviewed by a security investigator from the Office of Personnel Management (OPM) in April 2017. (Item 7) After reviewing the results of the OPM investigation, the Department of Defense (DOD) could not make the affirmative findings required to issue a security clearance.

On September 7, 2017, DOD issued a Statement of Reasons (SOR) to Applicant detailing security concerns for financial considerations under Guideline F and personal conduct under Guideline E. (Item 1) The action was taken under Executive Order 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 in the DOD on September 1, 2006. On June 8, 2017, new AGs were implemented and are effective for decisions issued after that date.<sup>1</sup>

Applicant answered the SOR admitting seven allegations of delinquent debt under Guideline F. Applicant admitted the one allegation of falsification of information in his e-QIP under Guideline E. He elected to have the matter decided on the written record in lieu of a hearing. (Item 1) Department Counsel submitted the Government's written case on October 31, 2017. Applicant received a complete file of relevant material (FORM) on November 15, 2017. He was provided the opportunity to file objections and to submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant responded to the FORM with a 25 page submission. I was assigned the case on January 9, 2018.

### **Procedural Issues**

Applicant was advised in the FORM that the summary of the Personal Subject Interview (PSI) with an OPM investigator (Item 7) was not authenticated and could not be considered over his objection. He was further advised that he could make any corrections, additions, or deletions to the summary to make it clear and accurate, and could object to the admission of the summary as not authenticated by a Government witness. He was additionally advised that if no objection was raised to the summary, the Administrative Judge could determine that he waived any objection to the admissibility of the PSI summary. Applicant responded to the FORM, but he did not raise any objection to consideration of the PSI. Since there is no objection by Applicant, I will consider information in the PSI in my decision.

### **Findings of Fact**

After thoroughly reviewing the case file, I make the following findings of fact. Applicant is 37 years old. He graduated from high school in June 1998. Applicant married in 2000, and has five children from his marriage. (Item 3) He served on active duty in the U.S. Army from 2003 to 2011, receiving an honorable discharge. He held a security clearance while in the military. He has been employed with his current employer since 2016.

The SOR alleges, and credit reports (Items 4 and 5), confirm the following delinquent debts for Applicant: a loan charged off in the amount of \$6,641, (SOR 1.a); a charged off- auto loan account for \$3,375 (SOR 1.b); a collection account delinquent in the amount of \$989 (SOR 1.c); a collection account in the amount of \$2,421 SOR 1.d); a collection account in the amount of \$891 (SOR 1.e); a collection account in the amount of \$590 (SOR 1.f); and a collection account in the amount of \$4,811 (SOR 1.g). The amount of the delinquent debt is approximately \$20,000.

---

<sup>1</sup> I considered the previous AGs, effective September 1, 2006, as well as the new AGs, effective June 8, 2017. My decision would be the same if the case were considered under the previous AGs.

The SOR alleges under Guideline E, one personal conduct security concern for failing to provide full, accurate, and complete information on his June 29, 2016 e-QIP. Applicant allegedly did not disclose any delinquent collection accounts in response to question 26 of the e-QIP.

In his answer to the SOR, Applicant noted that he is in the process of resolving his debts and attached certain sections of his 2017 credit bureau report. The credit reports do not establish a pattern of responsible action or good-faith efforts to resolve his financial difficulties. The SOR debts shown on the report are noted as "charged off." An earlier account for a smaller amount that is not shown on the SOR has been resolved. Other accounts are noted as closed. (Attachment to SOR)

In his response to the FORM, Applicant elaborated on the fact that when he was discharged from the military in 2011, he did not gain stable employment until December 2012. He acknowledged that in 2004, he was preliminarily denied a clearance due to financial difficulties. (Item 6) He also noted that he had surgery on his ankle in 2005 due to the stress of repeated Army training. He explained that he accepted a low-paying job for three years, but left in 2015 for a better job. However, the job offer was rescinded due to passport issues. He started another job, which lasted until March 2016, but he moved to another state for a job in June 2016, which started in December 2016. He further explained that he was terminated in September 2017, but is eligible for rehire dependent on a security clearance. (Response to FORM) When he submitted the Response to FORM in December 2017, he stated that he was unemployed and dependent on state programs. He received unemployment benefits in the amount of \$475 a week. However, the latest review states that he is sponsored for a clearance.

Applicant addressed each SOR allegation and basically his response for each was similar. He had contacted the creditor and was attempting some type of resolution. If that did not materialize, he would begin a payment plan of \$50 per month for each delinquent debt. He did not include documentation that he has as yet made any payments on the debts alleged in the SOR. He included his DD214, his wage statement, a paid in full receipt for a non-SOR debt, dated November 2017, and an apartment rental revised account statement showing a zero balance. (Response to FORM, attachments)

Applicant included a personal budget and a projected pay out schedule for the delinquent debts paying a monthly amount of \$50. He also included a letter of reference from a coworker who endorsed Applicant as a valuable member of the team. He completed training in a short period of time and has proven himself valuable. The coworker acknowledged that he assisted Applicant in completing the projected payment sheet. The 2016 wage slip included in the information shows that Applicant 's actual monthly income is \$3,200 and at the end of the month after expenses, he has no net remainder.

In the PSI, Applicant reported that he was unemployed from March 2016 to June 2016, and used a tax refund to provide for his family. When confronted about financial delinquencies, he claimed that he was not aware of any. He then explained that he would address the delinquent debts and make arrangement to pay them. He wanted to see a copy of his credit report to verify the accuracy of the accounts. He summarized by saying that he has a stable salary and has every intention of clearing up his debt. He noted that he has never lived beyond his means. He noted that he has never used a credit counseling service because of privacy issues. (Item 7, PSI )

As to his failure to provide negative financial information on the e-QIP, Applicant admitted that he answered “No” to questions about debts in the past seven years. He explained that he did not know the time frame of the debts and did not think to look at a credit report. He stated that it was an oversight. However, he received his credit report before his PSI and still did not voluntarily disclose any information. When confronted about the various delinquent debts, he knew there was a repossession of a vehicle and a loan from 2011 when he was in the military. He had experience with the significance of financial issues from the military issue in 2004.

### **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 must be considered 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, 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. According to AG ¶ 2(a), 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 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.

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 applicant or proven by Department Counsel. . . .” The

applicant has the ultimate burden of persuasion for obtaining 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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 and sensitive information)

## **Analysis**

### **Financial Considerations**

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. (AG ¶ 18) An individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in his obligations to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

A person’s relationship with his creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to meet their financial obligations. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a situation of risk inconsistent with the holding of a security clearance. An applicant is required to manage his or her finances in such a way as to meet financial obligations.

Credit reports reveal, and Applicant admitted, that he has multiple delinquent debts dating to as early as 2004. The evidence is sufficient to raise security concerns under Financial Considerations Disqualifying Conditions AG ¶ 19:

(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.

The information raises issues about Applicant's willingness and ability to meet his financial obligations. Once the Government has established the adverse financial issue, the Applicant has the responsibility to refute or mitigate the issue.

I considered the following Financial Consideration Mitigating Conditions under 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;

(b) the conditions that resulted in the financial problems 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 person has received or is receiving 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 has initiated and is adhering to a good-faith effort to repay the overdue creditors or otherwise resolve debts.

The mitigating conditions do not apply. Applicant's debts are numerous, recent, and were not incurred under circumstances making recurrence unlikely. Applicant was unemployed after leaving the military, but he did not establish that the periods of unemployment prohibited him from attempting to resolve his financial problems. The conditions causing Applicant's financial problems were within his control. He stated that he did not resolve some of his financial issues because of his unemployment issues, but he has been employed since 2016. He just recently contacted the creditors in 2017, after the issuance of the SOR. Applicant did not provide information concerning financial counseling. He did not present a projected plan to resolve his financial problems, but he has not started the payments or presented any documentation of good-faith efforts to pay or resolve his delinquent debts. Accordingly, he has not established a good-faith effort to pay his debts.

Applicant was gainfully employed at the time of his security clearance application. During his interview, he stated that he had a stable income. He stated that he has a stable income and yet he has not yet paid or engaged himself in a payment plan. He also had financial issues when he was in the military in 2004, so he knows the importance of such matters. He has not acted responsibly because there is no clear

evidence that his debt problems have been resolved, or that his finances are under control. Overall, he has not acted with reason and responsibility towards his finances, despite his unemployment. He has not established that he will protect and safeguard classified information. Applicant did not present sufficient information to mitigate financial security concerns.

## **Personal Conduct**

Personal conduct is a security concern because conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified and sensitive information. Of special interest is any failure to provide truthful and candid answers during national security investigative or adjudicative processes. (AG ¶ 15). Personal conduct is always a security concern because it asks whether the person's past conduct justifies confidence that the person can be trusted to properly safeguard classified or sensitive information. Authorization for a security clearance depends on the individual providing correct and accurate information. If a person conceals or provides false information, the security clearance process cannot function properly to ensure that granting access to classified or sensitive information is in the best interest of the United States Government.

While there is a security concern for a deliberate omission, concealment, or falsification of a material fact in any written document or oral statement to the Government when applying for a security clearance, not every omission, concealment, or inaccurate statement is a falsification. A falsification must be deliberate and material. It is deliberate if done knowingly and willfully with intent to deceive.

The SOR alleges that Applicant did not provide full, complete, and accurate information concerning his delinquent debts in the past seven years. Applicant did not report on his e-QIP that he has any delinquent debts. Applicant's failure to list the delinquent debts raises a security concern under Personal Conduct Disqualifying Condition AG ¶ 16(a) (deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine eligibility or trustworthiness, or award fiduciary responsibilities).

Applicant admitted that he did not provide full, complete, and accurate information on his security clearance application because he did not check his credit report. He noted during his PSI, after being confronted, that he had a car repossession that he should have reported.

Applicant did not consult his credit report before completing the e-QIP. He did not list any delinquent debts on his e-QIP. Applicant must have known that he had loans and credit cards that he had not paid. He did not know all of the details of his financial situation, but he knew he had delinquent debt. Because Applicant should have known of his delinquent loans and credit cards, his failure to list any delinquent debt on the e-QIP

was deliberate with an intent not to present a true picture of his financial situation. His failure to provide the correct information obscured the full extent of his financial situation from adjudicators. I find Applicant deliberately failed to provide correct and accurate information concerning his debts on his security clearance application.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for access to classified information 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 access to classified information must be an overall common-sense 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 considered Applicant's many years of employment while holding a security clearance.

Applicant failed to provide documentary evidence that he has actually addressed the delinquent debts on the SOR. In his Response to FORM, he submitted a projected plan that he would make \$50 payments on each delinquent account, when he was working. He intends to pay his debts, but promises in the future are not sufficient to provide mitigation.

In requesting an administrative determination, Applicant chose to rely on the written record. In so doing, he failed to supplement the record with sufficient relevant and material facts regarding his financial circumstances, to adequately articulate his positions, and provide facts to mitigate the financial security concerns. In short, the file lacks sufficient evidence provided by Applicant to establish that he paid, arranged to pay, settled, compromised, disputed, or otherwise resolved his delinquent accounts. The record lacks corroborating or substantial documents and details to explain his finances. He noted that he was unemployed several times, but he is sponsored for a security clearance. Perhaps the record is not clear as to his current situation.



In addition, he deliberately failed to report his debts on his SCA. Applicant's failure to appropriately manage his finances, and his lack of action to resolve financial issues, are firm indications that he may not adequately safeguard classified information. Overall, the record evidence leaves me with questions and doubts concerning Applicant's judgment, reliability, and trustworthiness. He has not established his suitability for access to classified information. For all these reasons, I conclude Applicant did not mitigate the security concerns arising from his financial situation and personal conduct.

### **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
Subparagraphs 1.a - 1.g:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	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 eligibility for access to classified information. Eligibility for access to classified information is denied.

---

NOREEN A. LYNCH  
Administrative Judge