



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



In the matter of: )  
 )  
----- ) ISCR Case No. 14-03362  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Braden Murphy, Esquire, Department Counsel  
For Applicant: *Pro se*

04/23/2015

**Decision**

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

Applicant failed to submit sufficient documentary evidence to mitigate Guideline F security concerns. Applicant's eligibility for a security clearance is denied.

**Statement of the Case**

On August 29, 2014, 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; 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 within the DOD on September 1, 2006. Applicant received the SOR on September 9, 2014.

In an October 30, 2014, response, Applicant admitted the 12 allegations raised in the SOR and requested a determination based on the written record. On February 18, 2014, the Government issued a File of Relevant Material (FORM) that contained six attachments. Applicant timely responded to the FORM with four documents accepted in the record as exhibits (Exs.) 1-4, including a copy of the FORM with hand-written comments in the margins. The case was assigned to me on April 13, 2015. Based on

my review of the case file and submissions, I find Applicant failed to mitigate financial considerations security concerns.

### **Findings of Fact**

Applicant is a 64-year-old logistics manager who has worked for the same Defense contractor since 2002. After earning a high school diploma, Applicant enlisted in the United States Army. He was honorably discharged from the Army for medical reasons a few months later. Applicant has been married to his current spouse for over 25 years. He is the father of three grown children.

Applicant disclosed multiple delinquent debts on his February 2014 security clearance application (SCA). Neither his personal subject interview of March 18, 2014, nor any subsequently offered materials cite to how or why his debts became delinquent. FORM Item 6. At most, Applicant either denies knowledge of how they became delinquent, or references to having insufficient funds to make payments. FORM Item 6. There is no evidence he has had financial counseling.

The 12 debts at issue in the August 2014 SOR amount to over \$17,225 in delinquent debts, ranging from \$40 to \$9,498. In his October 30, 2014, SOR response, Applicant noted that the \$2,986 delinquent debt was “written off on 2-28-2008. It will come off credit report Dec. 14, 2014.” FORM Item 3. He later noted that the court had stated that the creditor was “no longer around.” Response to the FORM, attachment.

Applicant provided evidence of sporadic \$50 payments in 2014 toward the debt at 1.b for \$9,498. FORM Item 3. Payments were irregularly made of \$146.54 per month on the debt noted at 1.c for \$1,825. FORM Item 3. The debts noted at 1.d through 1.i are for medical balances amounting to about \$3,000. Scant information was provided as to the origin of these debts. In general terms, payments on most of these debts were irregularly made between April 2014 and September 2014. In his undated Response to the FORM, Applicant specifically expressed his intent to pay the \$138 debt reflected in allegation 1.i on March 23, 2014. Although his response was not due until April 3, 2014, no evidence of a March 2014 or other payment to this credit was offered. Little more information was offered by Applicant regarding his situation and his delinquent debts.

### **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 adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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, 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(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 access to classified information 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. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must 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 applicant or proven by Department Counsel and 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. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information.

Section 7 of Executive Order 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 or sensitive information).

## **Analysis**

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

Under Guideline F, AG ¶ 18 states 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 information. An individual who is financially overextended is at risk of engaging in illegal acts to generate funds.

Here, the Government introduced credible evidence showing Applicant had 12 delinquent debts totaling over \$17,225. This is sufficient to invoke two of the financial considerations disqualifying conditions:

AG ¶ 19(a) inability or unwillingness to satisfy debts, and

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

Four conditions could mitigate these finance related security concerns:

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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

AG ¶ 20(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control; and

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

Multiple delinquent debts, varying in amounts upward from \$40, remain unpaid. The circumstances that gave rise to their delinquency are largely unexplained, and there is scant information regarding Applicant's behavior regarding these debts before 2014. The facts do not indicate whether Applicant has received financial counseling.

Applicant did provide evidence indicating that some payments were made on most of the debts in 2014. Those payments, however, were sporadic and erratic. They do not establish a record of timely and regular payment. Instead, they demonstrate a haphazard approach to addressing his delinquent debts. Applicant's minimal information fails to give rise to any of the available mitigating conditions.

### **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(a). 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 incorporated my comments under the guideline at issue in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant is a 64-year-old logistics manager who has worked for the same Defense contractor since 2002. He has a high school diploma and briefly served in the military before being honorably discharged for medical reasons. He is married and has raised three adult children. Applicant has been continuously employed by the same employer for over a decade. He has multiple delinquent debts amounting to over \$17,000. He alternatively denies knowledge of the status of the debts or cites to a lack of funds for their delinquent status, but gives scant information regarding the creation of the debts and of their delinquency. No details have been sufficiently divulged to determine how or why Applicant had insufficient funds to meet his obligations.

This process does not require an applicant to address all debts at issue. It does, however, demand that applicants articulate a workable plan to address their delinquent debts, and show that their plan has been successfully implemented. Here, Applicant showed that payments have been made on many of the debts at issue. Those payments, however, were sporadic and erratic; they do not reflect a pattern of thoughtfully-planned, methodical, and timely payments indicating a consistent, realistic, and on-going commitment to regular debt repayment. In short, the limited evidence presented fails to mitigate 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:	AGAINST APPLICANT
Subparagraphs 1.a-1.l	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 a security clearance. Eligibility for access to classified information is denied.

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Arthur E. Marshall, Jr.  
Administrative Judge