



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



In the matter of: )  
)  
) ISCR Case No. 15-01460  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esquire, Department Counsel  
For Applicant: *Pro se*

03/29/2016

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I deny Applicant’s clearance.

On 9 September 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 29 January 2016, when Department Counsel stated no objection to Applicant’s response to the FORM. DOHA assigned the case to me 11 March 2016.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-8.

<sup>2</sup>DoD acted 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 1 September 2006.

## **Findings of Fact**

Applicant denied the SOR financial allegations, except for SOR 1.a and 1.d, although he disputed the amount owed. He is a 53-year-old machinist employed by a U.S. defense contractor since April 2012. He was previously employed in similar positions from June 1999 to May 2011. He was unemployed from May 2011, when he was laid off, until April 2012. He has been separated from his second wife since July 2009, but they do not have a separation agreement, and neither party has instituted divorce proceedings. She handled the finances during their marriage, and for about 10 months after their separation. Applicant's 29 September 2015 Answer to the SOR states he has found a divorce lawyer. He has not previously held a clearance.

The SOR alleges, and Government exhibits (Items 6-8) substantiate, 13 delinquent debts totaling over \$43,000, as well as a Chapter 7 bankruptcy discharge in December 2003. Applicant admits the December 2003 Chapter 7 bankruptcy and a single \$917 debt (SOR 1.d), whose balance he questions. Record evidence establishes that SOR debt 1.n is a duplicate of SOR 1.c, and SOR debt 1.j is not Applicant's debt, as he is listed only as an authorized user on the account. Consequently, there are 11 delinquent debts totaling over \$37,000 at issue.

Applicant's July 2012 clearance application (Item 5) reported no financial issues. During a 17 September 2012 interview with a Government investigator (Item 8), Applicant stated that he had no financial problems, but was confronted with his August 2012 credit report (Item 7), which contains all the debts alleged in the SOR. Applicant claimed to be unaware of most of the debts, and ascribed the others to his wife. However, he undertook to explore the debts and make arrangements to resolve them. Nevertheless, eight of the delinquent debts are Applicant's individual debts. Only three are joint debts with his wife.

Applicant attributed his current financial problems to his July 2009 separation from his wife. His May 2011 to April 2012 unemployment also contributed to his problems. However, Applicant has been re-employed since April 2012, and aware of these debts since at least September 2012, without undertaking any action to resolve the debts.

He did not provide a current financial statement or budget. He has not documented any financial or credit counseling. He provided no work or character references, or any evidence of community involvement. He documented no contacts with his creditors. His only action, to date, is his January 2016 retention of a bankruptcy lawyer to explore an individual bankruptcy.

## **Policies**

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented.

Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.<sup>3</sup>

### **Analysis**

The Government established a case for disqualification under Guideline F, and Applicant failed to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.<sup>4</sup> Applicant's financial problems appear to date from at least July 2009 when he and his second wife separated.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; and the immediate causes of his problems are likely to continue until he and his wife reach a separation agreement, if not divorce.<sup>5</sup> Applicant's separation from his wife and later unemployment were certainly beyond his control, but he has not demonstrated that he has been responsible in addressing his debt either by pursuing a separation agreement, investigating his responsibility for the debts, or taking steps to resolve the debts after regaining employment in April 2012.<sup>6</sup>

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

<sup>5</sup>¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

<sup>6</sup>¶20(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.<sup>7</sup> There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, and thus he cannot establish that he has made a good-faith effort to address his debts.<sup>8</sup> Moreover, Applicant has mostly disregarded these financial obligations since becoming aware of them in September 2012, aside from retaining a bankruptcy lawyer after he received the FORM. His documented inaction for over three years raises significant security concerns that Applicant has not begun to address. Moreover, Applicant failed to provide any documentation of his current employment performance, or work or character references upon which I might base a favorable “whole-person” analysis. Accordingly, I conclude Guideline F against Applicant.

### **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-i:	Against Applicant
Subparagraph j:	For Applicant (not Applicant's)
Subparagraphs k-m:	Against Applicant
Subparagraph n:	For Applicant (duplicate)

### **Conclusion**

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

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JOHN GRATTAN METZ, JR  
Administrative Judge

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<sup>7</sup>¶20(c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

<sup>8</sup>¶20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.