



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 14-05003  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Braden M. Murphy, Esq., Department Counsel  
For Applicant: *Pro se*

January 13, 2016

**Decision**

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant is alleged to be indebted on 23 debts in the total approximate amount of \$81,223. He either repaid or is repaying 21 of them. He disputes one debt and has attempted, to no avail, to contact his remaining creditor. He has made a good-faith effort to resolve his delinquencies and is now acting responsibly with respect to his debt. Resulting security concerns were mitigated. Based on a review of the pleadings and exhibits, eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application on April 21, 2014.<sup>1</sup> On November 17, 2014, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F (Financial Considerations). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February

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<sup>1</sup>Item 4.

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 that came into effect in the Department of Defense on September 1, 2006.

Applicant submitted a written response to the SOR, dated January 14, 2015, and requested that his case be decided by an administrative judge on the written record without a hearing.<sup>2</sup> Department Counsel submitted the Government's written case on August 12, 2015, containing eight Items. A complete copy of the File of Relevant Material (FORM) was provided to Applicant, and he was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of his receipt of the FORM.

Applicant signed the document acknowledging receipt of his copy of the FORM on August 24, 2015. He submitted ten pages of additional material in response to the FORM (Response). Department Counsel had no objections to the Response, and it was admitted. I received the case assignment on October 13, 2015.

### **Findings of Fact**

Applicant is 29 years old, and has worked for a defense contractor since December 2011. He graduated with a bachelor's degree in 2009. He is single and reported no children.<sup>3</sup>

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information. The SOR alleged that Applicant is delinquent on 23 debts in the total amount of \$81,223. In Item 3, Applicant admitted all of the delinquent debts as set forth in SOR ¶¶ 1.a through 1.r, 1.u, and 1.v. He denied SOR ¶¶ 1.s, 1.t, and 1.w. Applicant's delinquent accounts appeared on his credit report dated April 25, 2014.<sup>4</sup>

Applicant's debts alleged in SOR ¶¶ 1.a through 1.f, and 1.h through 1.r pertain to student loans he incurred while attending undergraduate school. They total approximately \$78,793, as alleged on the SOR, and were owed to three separate creditors. Applicant explained that he was not aware his loans were "split and dispersed to multiple agents upon [his] graduation . . . [He] began making arrangements with one lender at that time that, to [his] knowledge, possesses the entirety of [his] student loans." He fell behind with that lender during an unidentified period of unemployment. In

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<sup>2</sup>Item 3.

<sup>3</sup>Item 4.

<sup>4</sup>Item 5.

May 2010, he entered into a rehabilitation program with that lender to rectify his missed payments, but was unaware of his student loans held by other lenders. A wage garnishment was filed with Applicant's employer on January 21, 2014, in connection with those delinquent student loans.<sup>5</sup> On June 5, 2015, Applicant consolidated all of his student loans with a single creditor. He provided documentation that shows his loans now total \$64,284.29. His account statement reflects he has repaid \$24,302.53 on these loans in the past "five months" and is not past due at the current time. Applicant is resolving these debts.<sup>6</sup>

Applicant was alleged to be indebted to a credit union on two accounts in the amounts of \$46 and \$62, respectively, as stated in SOR ¶¶ 1.g and 1.v. He presented a letter from this creditor offering to settle both debts for a payment of \$61.71. On January 28, 2015, he submitted a money order in the amount of \$61.71 to this creditor by certified mail.<sup>7</sup> These debts are resolved.

SOR ¶ 1.s alleged Applicant was indebted to a towing company in the amount of \$1,690. This debt appears on his April 25, 2014 credit report.<sup>8</sup> Applicant contacted this company after learning of this debt from the SOR. He was told the bill was for a vehicle towed in 2010 near Los Angeles, California. Applicant never lived or visited Los Angeles. He filed a dispute with the credit bureau.<sup>9</sup>

SOR ¶ 1.t alleged Applicant was indebted on a medical debt in the amount of \$386. This was a debt for medical care that should have been covered by Applicant's medical insurance. The claim was filed incorrectly, and resulted in a denial of coverage. After Applicant learned of the debt, he contacted the medical provider. The medical provider resubmitted the claim to Applicant's insurance properly, and it was paid. This debt is resolved.<sup>10</sup>

Applicant was indebted to a collection agent for a phone company in the amount of \$266, as alleged in SOR ¶ 1.u. Applicant paid this debt in full on February 3, 2015, as evidenced by a letter from the collection agent. This debt is resolved.<sup>11</sup>

Applicant is alleged to be indebted to a collection agent for a medical debt in the amount of \$61, as stated in SOR ¶ 1.w. He explained that he has "not been able to

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<sup>5</sup>Item 7.

<sup>6</sup>Response.

<sup>7</sup>Response.

<sup>8</sup>Item 5.

<sup>9</sup>Response.

<sup>10</sup>Response.

<sup>11</sup>Response.

track down who or what [the creditor] is.” He is attempting to reach the creditor and is willing to pay this debt in full, but he has been unable to locate the creditor.<sup>12</sup>

In his Response, Applicant explained:

Since the time of the first statement of reasons that I received that I was required to respond back in November I have made great strides in repairing the excessive debts that were not under control which caused the Department of Hearings and Appeals [to] initially view me as a potential risk factor for maintaining my security clearance. I truly enjoy what I do for a living and made me realize that I needed to ensure I got these circumstances alleviated properly to enable myself to keep doing what I enjoy and allow your office to have faith restored in me that I do deserve to maintain my clearance.<sup>13</sup>

### **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 (DCs) and mitigating conditions (MCs), which are to be 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 AG ¶ 2 describing the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶¶ 2(a) and 2(c), 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 access to classified information 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. Likewise, I have avoided drawing 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, “[t]he applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or

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<sup>12</sup>Response.

<sup>13</sup>Response.

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.” Section 7 of Executive Order 10865 provides: “[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.”

A person applying for access to classified information 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 access to classified information. 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 information.

## **Analysis**

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

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

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 having to engage in illegal acts to generate funds.

Department Counsel asserted, and the record evidence established, security concerns under two Guideline F DCs, as set forth in AG ¶ 19:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has a history of delinquent debt. From 2009 to 2015, he failed to address his multiple student loan debts. He also incurred other unresolved accounts during that period. His ongoing pattern of delinquent debt, and history of inability or unwillingness to pay his lawful debts from 2009 to 2015, raise security concerns under DCs 19(a) and (c), and shifts the burden to Applicant to rebut, extenuate, or mitigate those concerns.

The guideline includes three conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial difficulties:

(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;

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

Applicant presented evidence to support a finding that he has made a good-faith effort to repay and/or resolve his debts, and they are being resolved or are under control. He established mitigation under AG ¶¶ 20 (c) and 20 (d). He has consolidated all of his student loans with one creditor, paid over \$24,000 on them, and is current with his payments to this creditor. He has fully resolved four other debts to the satisfaction of his creditors. Of his 23 debts, only two remain unresolved. He credibly indicated that he filed a dispute with the larger of his remaining two debts after researching it and discovering it was not his account. His final unresolved debt of \$61 remains so only because he has been unable to ascertain who the creditor is, despite his attempts to do so and willingness to pay the debt. Applicant's actions, albeit recent and after receipt of the SOR, show he has matured and is now acting in good faith with respect to his debts. He mitigated the Government's security concerns relating to his financial delinquencies.

### **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):

(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 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 pertinent facts and circumstances surrounding this case. Applicant is an accountable adult, who is responsible for his voluntary choices and conduct that underlie the security

concerns expressed in the SOR. His SOR-listed delinquent debts arose over the past seven years. However, he has recently made great strides to contact his creditors and repay his legitimate debts. He offered sufficient evidence of recent financial rehabilitation, better judgment, and responsible conduct, which offset the security concerns under Guideline F. Overall, the record evidence leaves me without substantial doubt as to Applicant's present eligibility and suitability for a security clearance. He met his burden to mitigate the security concerns arising from his 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:	FOR APPLICANT
Subparagraphs 1.a through 1.w	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Jennifer I. Goldstein  
Administrative Judge