



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



In the matter of:

)
)
)
)
)

ISCR Case No. 24-02035

Applicant for Security Clearance

Appearances

For Government: Aubrey De Angelis, Esq., Department Counsel
For Applicant: *Pro se*

08/05/2025

Decision

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On November 21, 2023, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On February 21, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine

whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline F. (HE 2) On March 12, 2025, Applicant provided his response to the SOR. On April 28, 2025, Department Counsel was ready to proceed. On May 5, 2025, the case was assigned to me.

On May 14, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing on June 4, 2025. The hearing was held as scheduled using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered six exhibits into evidence, and Applicant offered three exhibits into evidence. (Tr. 12-13, 15-17; GEs 1-GE 6; Applicant Exhibits (AEs) A-AE C) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 16-17) On June 13, 2025, DOHA received a copy of the transcript. No documents were received after the hearing.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a through 1.d. His admissions are accepted as findings of fact.

Applicant is a 41-year-old manufacturing support team member. (Tr. 6, 9, 18) He has worked in this position since November 2024. (Tr. 9) He worked in a warehouse from January to November 2024. (Tr. 9) In 2002, he graduated from high school (Tr. 7) He completed four or five college classes. (Tr. 7) He served on active duty in the Army from 2011 to 2014, and in the Inactive Army Reserve until 2018. (Tr. 7) He received an honorable discharge, and he was a specialist when he was discharged. (Tr. 7-8) He served a tour in Afghanistan, and he received a Combat Infantryman Badge (CIB). (Tr. 7) The Department of Veterans Affairs (VA) issued an 80-percent disability rating for his service-connected disabilities. (Tr. 8) He has a 70-percent disability rating for post-traumatic stress disorder (PTSD). (Tr. 9) He started receiving VA-disability payments in 2018. (Tr. 40) He receives medication for PTSD and anxiety. (Tr. 32)

In 2012, Applicant married. (Tr. 9) Two children live in his home, and they are ages 11 and 18. (Tr. 10) His spouse is not employed outside their home. (Tr. 20)

Financial Considerations

Applicant's annual salary since January 2024 has been about \$73,000. (Tr. 18) In addition, he receives \$2,300 monthly from the VA. (Tr. 20) He received a substantial pay increase in January 2024 when he began his employment with his current employer. (Tr. 20) Applicant indicated his financial problems originated with him playing games on his phone to help him with PTSD. (Tr. 21) The games helped alleviate his depression. (Tr. 42-43) He used credit cards to buy items for the games for several years, and he accumulated debts he could not afford to pay. (Tr. 22, 38) He estimated he spent about

\$20,000 on gaming. (Tr. 39) He stopped playing the expensive games around 2021 or 2022. (Tr. 23, 38) He currently plays a game, which costs \$15 a month. (Tr. 33) Applicant had difficulty maintaining his financial standard of living. (Tr. 24) His 18-year-old stepson had expenses from sports, and his 11-year-old son has been attending private school for six years. (Tr. 24-25)

Around 2022, Applicant's spouse was unhappy when she learned of the gaming expenses through notices they received about his delinquent debts. (Tr. 30-31) He said after she learned about the delinquent debts, "She didn't trust me with the money, rightfully so, and now she takes care of everything – and budgets everything." (Tr. 31, 32-33, 42)

Applicant's SOR alleges he has four delinquent debts totaling about \$23,000. The debts are substantiated in his credit bureau reports (CBRs). Their status is as follows:

SOR ¶ 1.a alleges Applicant has a charged-off debt owed to a bank for \$13,209. Most of the debt resulted from playing games. (Tr. 23) His most recent payment was \$10 in November 2023. (Tr. 23) He made the \$10 payment because he was completing his November 2023 SCA. (Tr. 24; GE 1)

SOR ¶ 1.b alleges Applicant has a charged-off credit card debt for \$5,521. This debt resulted from expenses from gaming. (Tr. 25) He fell behind on the debt in 2022. (Tr. 25) A collection law firm garnished \$1,676 from his pay. (Tr. 27) He believes the current balance owed is \$5,521. (Tr. 27; GE 6) It was previously over \$7,000. (Tr. 27-28) He attempted to contact the creditor on May 29, 2025. (Tr. 27-28) It is unclear whether his pay is currently being garnished to address this debt.

SOR ¶ 1.c alleges Applicant has a charged-off debt owed to a bank for \$4,091. Applicant said he paid this debt on May 29, 2025; however, he said he was unable to obtain documentation showing resolution of the debt. (Tr. 26)

SOR ¶ 1.d alleges Applicant has a debt placed for collection for \$888. On May 29, 2025, Applicant paid \$888, and he provided proof that he resolved this debt. (Tr. 26; AE A)

Applicant has a non-SOR medical debt for \$2,411, which was filed in his CBR in December 2024. (Tr. 34) Applicant believes it is paid. (Tr. 34) He hopes his insurance company will reimburse him for his payment. (Tr. 34) No negative finance inference is made for this debt.

On March 12, 2025, Applicant said, "My wife and I are expecting to receive an inheritance, which we intend to use to pay off these debts within the next couple of months. Previously, our plans to settle these debts were delayed due to the inheritance being tied up in court proceedings." (SOR response)

Applicant's mother-in-law passed away, and her estate was about \$400,000. (Tr. 29) The division of the estate was to her children and grandchildren. (Tr. 29) The

beneficiary in Applicant's immediate family was Applicant's stepson. (Tr. 43) As the result of court proceedings, Applicant's spouse received control of about \$200,000 in the beginning of May 2025. (Tr. 29, 44-45) Applicant said that some of the funds were used to pay the debts in SOR ¶¶ 1.c and 1.d. (Tr. 43-44) They expect to use the inheritance to pay the SOR debts, pay off their mortgage, and replace the roof on their residence. (Tr. 29, 36) Applicant also expects to receive about \$10,000 from an inheritance in his family. (Tr. 30-31) He has about \$18,000 in a retirement account. (Tr. 36-37)

Applicant said his treatments for PTSD have been very helpful. (Tr. 46) He had access to classified information in Afghanistan, and he did not have any security issues. (Tr. 46-47) He said he has learned from his financial mistakes, and he will not repeat them. (Tr. 46)

Character Evidence

Applicant provided two written character statements, which support approval of his access to classified information. (AE B; AE C) Applicant's coworker in the warehouse, who has known him for 18 months, said:

[Applicant] is a dedicated and hardworking individual who consistently strives for excellence in everything he does. He is a team player who is always willing to lend a hand, offer support, and provide guidance when needed. His positive attitude and energy are contagious, and he has been a valuable asset to our team.

One of [Applicant's] greatest strengths is his ability to build strong relationships with his colleagues. He is a kind, considerate, and empathetic person who is always willing to listen and offer help when needed. He is also an honest and transparent individual who is quick to admit when he has made a mistake and is always willing to learn and grow from his experiences.

I have witnessed [Applicant] take on additional responsibilities and consistently deliver high-quality results. He is a quick learner, and his attention to detail and ability to work accurately and efficiently have been impressive. [He] is a valuable member of our team, and I strongly believe that he would be a great addition to any organization. (AE C)

Applicant's supervisor who worked with him in the warehouse said:

Throughout his time [working in the warehouse and in his current position], I have formed a very positive opinion of [Applicant]. As a warehouse team member, he has consistently demonstrated a strong work ethic and a commitment to excellence. He has always been a top performer, never one to wait around for work to be assigned, and has consistently shown initiative and a willingness to take on additional responsibilities. His attention to detail and ability to work accurately and efficiently have been impressive, and he

has continuously gone the extra mile to help the warehouse and his coworkers ensure that work is completed on time or early.

One of [Applicant's] greatest strengths is his ability to work well with others. He is very considerate of his coworkers, empathetic towards any issues they may be having, and always willing to lend a helping hand. He is an honest man who is quick to admit his mistakes and find the best solutions to not only correct them but also share the lessons learned and find ways to prevent the errors from happening again. (AE B)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority "to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable, and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. 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. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from

being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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 personnel 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 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability to satisfy debts”; and “(c) a history of not meeting financial obligations.”

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant’s financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant’s self-control,

judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained the role of CBRs in financial considerations analysis:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted).

The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case are as follows:

- (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, 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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

AG ¶ 20(a) does not apply to the SOR debts. "It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

The SOR lists four debts. Applicant's PTSD resulting from his service in Afghanistan is a circumstance largely beyond his control. However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the applicant] has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007). The DOHA Appeal Board has said:

[A]n applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). What constitutes responsible behavior depends on the facts of a given case and the fact that an applicant's debts will not be paid off for a long time, in and of itself, may be of limited security concern. ISCR Case No. 09-08462 at 4. Relevant to the equation is an assessment as to whether an applicant acted responsibly given [his or] her limited resources. See, e.g., ISCR Case No. 08-06567 at 3-4 (App. Bd. Oct. 29, 2009).

ADP Case No. 23-00547 at 3 (App. Bd. Apr. 23, 2024). A component is whether he maintained contact with creditors and attempted to negotiate partial payments to keep debts current. Applicant did not describe in sufficient detail how the circumstances beyond his control affected his finances. He did not provide correspondence from or to the creditors showing he maintained contact with them. He did not provide an opinion from a mental-health provider indicating how PTSD caused him to spend excessively on games. He did not prove that he acted responsibly under the circumstances.

Applicant's SOR alleges he has four delinquent debts totaling about \$23,000. “[A] single debt can be sufficient to raise Guideline F security concerns.” ISCR Case No. 19-02667 at 3 (App. Bd. Nov. 3, 2021) (citing ISCR Case No. 14-05366 at 3 (App. Bd. Feb. 5, 2016)). “Additionally, a single debt that remains unpaid over a period of years can properly be characterized as a history of not meeting financial obligations.” *Id.*

Applicant conceded that his delinquent debts resulted from payments for gaming. He admitted that these expenditures showed poor judgment and said depression and PTSD caused him to make these poor decisions.

Applicant is credited with mitigating the SOR debt in ¶ 1.d (\$888), which he paid on May 29, 2025. He did not mitigate the debts in SOR ¶¶ 1.a, 1.b, and 1.c.

The Appeal Board has previously stated that it is reasonable for a Judge to expect an applicant to present documentation corroborating actions taken to resolve debts. ISCR Case No. 19-03757 at 3 (App. Bd. Aug. 18, 2021) (citing ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 15, 2020)). For the debts in SOR ¶¶ 1.a, 1.b, and 1.c, Applicant did not provide documentation showing: (1) proof of payments, such as checking account statements, photocopies of checks, or a letter from the creditor proving that he paid or made any payments to the creditors; (2) correspondence to or from the creditors to establish maintenance of contact; (3) correspondence to creditors or CBRs showing credible debt disputes indicating he did not believe he was responsible for the debts and why he held such a belief; (4) more evidence of attempts to negotiate payment plans, such as settlement offers or agreements to show that he was attempting to resolve his delinquent debts; or (5) other evidence of progress or resolution. Applicant failed to establish mitigation under AG ¶ 20(e) because he did not provide documented proof to substantiate the existence, basis, or the result of any debt disputes related to the three unmitigated SOR debts.

None of the mitigating conditions fully apply to the three unmitigated debts. “[U]ntil an applicant has a meaningful financial track record, it cannot be said as a matter of law that he has initiated a good-faith effort to repay overdue creditors or otherwise resolved debts. The phrase ‘meaningful track record’ necessarily includes evidence of actual debt reduction through payment on debts.” ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007)). There is no **documentation** establishing that Applicant is working to establish payment plans to address three of his SOR debts. I am not confident that he will establish payment plans, pay, or otherwise resolve any of the three unmitigated SOR debts, and maintain his financial responsibility. Financial considerations security concerns are not mitigated.

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 the 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), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall common-sense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guideline F are incorporated 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 41-year-old manufacturing support team member. He has been employed and receiving an annual salary of about \$73,000 since January 2024. He completed four or five college classes. He served on active duty in the Army from 2011 to 2014, and in the Inactive Army Reserve until 2018. He was a specialist when he received an honorable discharge. He served a tour in Afghanistan, and he received a CIB. He received an 80-percent VA disability rating, of which 70 percent is for PTSD. He receives \$2,300 monthly from the VA. Two coworkers provided character statements, which laud his diligence, responsibility, honesty, and contributions to mission accomplishment. The character evidence supports approval of his access to classified information.

The evidence against grant of a security clearance is detailed in the financial considerations analysis section, *supra*, and this evidence is more substantial than the evidence of mitigation. He did not establish that he was unable to make more timely and significant documented progress resolving his SOR debts. The financial evidence raises unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards documented resolution of his debts and maintenance of his financial responsibility, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed 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 through 1.c: Against Applicant
Subparagraph 1.d: For Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge