



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



In the matter of:)
)
) ISCR Case No. 24-00747
)
Applicant for Security Clearance)

Appearances

For Government: Alison O'Connell, Esq., Department Counsel
For Applicant: *Pro se*

07/31/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines F (Financial Considerations) and E (Personal Conduct). Clearance is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on September 13, 2021. On July 26, 2024, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines F and E. The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on November 20, 2024, denied all the allegations, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on January 22, 2025, and the case was assigned to me on May 7, 2025. On May 12, 2025, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on June 3, 2025. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 14 were admitted in evidence over Applicant's objection on the ground that the credit reports offered by the Department Counsel were invalid and inaccurate.

Applicant testified but did not present the testimony of any other witnesses or submit any documentary evidence. I kept the record open until June 13, 2025, to enable him to submit documentary evidence. He timely submitted Applicant's Exhibits (AX) 1 through 5, which were admitted without objection. DOHA received the transcript on June 13, 2025.

Findings of Fact

Applicant is a 37-year-old aviation structural mechanic employed by a defense contractor since about June 2023. He served on active duty in the U.S. Navy from April 2018 to June 2023 and received an honorable discharge. After his discharge from the Navy, he continued to perform the same duties as a civilian employee of a defense contractor. He has held a security clearance since April 2018. He received a certificate of appreciation for service aboard a Navy ship during a combat operation in June 2020 (AX 4). He was awarded the Navy and Marine Corps Achievement Medal twice, in September 2020 (AX 2) and November 2021 (AX 3). He married in August 2017 and separated in 2022. He has an eight-year-old son and shares joint custody with his spouse.

Before Applicant enlisted in the Navy, he owned and operated a towing company from about 2011 to 2017. He registered his business as a sole proprietorship. He sometimes worked from home and sometimes from a separate location. He obtained garage space from his grandfather and did not pay rent but shared his business profits. He also worked part time for another towing company. He did not formally close his business, but simply "walked away from it." (Tr. 42-45) He did not retain any of his business records.

At the hearing, Applicant asserted that "[c]redit bureaus are private, for-profit companies, not official Government sources of Government verified information and are known to contain errors, particularly regarding old or unverified business-related accounts." (Tr. 25) However, it is well settled that adverse information from a credit report will normally meet the requirement in Directive ¶ E3.1.14 that an allegation be supported by substantial evidence. ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010.)

Applicant testified that he believes all the debts alleged in the SOR were incurred as business debts. In his answer to the SOR, he denied the debts alleged in SOR ¶¶ 1.a-1.f on the grounds that they were business debts incurred before he enlisted in the Navy, that collection of the debts was barred by the statute of limitations, and that the debts were unverifiable because they were no longer reflected on his credit reports. At the hearing, he testified that he believed that his business debts were separate from his

personal debts. He did not know that a sole proprietor is legally liable for business debts. (Tr. 55)

The evidence concerning the debts alleged in the SOR is summarized below:

SOR ¶ 1.a: Debt for banking services, placed for collection of \$13,173. When Applicant was interviewed by a security investigator in December 2021, he told the investigator that he was disputing the amount of the debt. (GX 8 at 8) The November 2021 credit report reflects that the dispute was resolved, and the case was closed. (GX 12 at 3) The evidence indicates that this debt has been resolved.

SOR ¶ 1.b: Department store credit card, placed for collection of \$5,766. At the hearing, Applicant testified that this credit card debt was a business debt, incurred to buy fuel and tools for a tow truck that he used to operate his business. (Tr. 30) The November 2021 credit report reflects that this debt was disputed following resolution and placed for collection. (GX 12 at 3) During the December 2021 security interview, Applicant asserted that he had paid this debt, but he did not provide any documentation to support his assertion. (GX 8 at 8) Applicants who claim that a debt has been resolved are expected to present documentary evidence supporting that claim. See ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 19, 2016).

SOR ¶ 1.c: Bank debt placed for collection of \$1,971. During the December 2021 security interview, Applicant was unable to provide information about this debt. (GX 8 at 8) The November 2021 credit report reflects that the debt is disputed. (GX 12 at 4) However, the record does not reflect the basis for the dispute or any resolution of the dispute.

SOR ¶ 1.d: Credit card used for Applicant's business, referred for collection of \$684. During the December 2021 security interview, Applicant stated that this was a credit card used for his business and that it has never been late. (GX 8 at 7) The November 2021 credit report reflects that this debt is disputed, but there is no evidence of the basis for the dispute or its resolution. (GX 12 at 4)

SOR ¶ 1.e: Credit card account referred for collection of \$559. During the December 2021 security interview, Applicant told the investigator that he used this credit card regularly and has never been late on his payments. (GX 8 at 7) The November 2021 credit report reflects that this debt is disputed, but the record does not reflect the basis for the dispute or its resolution. (GX 12 at 4)

SOR ¶ 1.f: Utility bill for \$504. During the December 2021 security interview, Applicant told the investigator that this bill was for electricity for his residence, and that when he moved out of the residence, he told the utility company to turn off the power, but the company failed to turn off the power and continued to charge him for the service. He told the investigator that he was disputing this debt. The credit reports in the record do not reflect that this debt is disputed.

SOR ¶ 1.g: Credit card account charged off for about \$2,099. In Applicant's answer to the SOR, he stated that he paid this debt so that it would be removed from his credit

record and enable him to obtain a home mortgage loan. He provided evidence that the debt was paid in full. (Enclosure to Answer) It is resolved.

None of the debts alleged in the SOR are reflected in the December 2023 credit report. (GX 10) or subsequent credit reports (GX 9 and 14). Under the Fair Credit Reporting Act, 15 U.S.C. § 1681c, a credit report may not list accounts placed for collection, charged off debts, or civil judgments that antedate the credit report by more than seven years, or until the statute of limitations has run, whichever is longer.

When Applicant submitted his SCA in September 2021, he answered “No” to the questions asking if, in the last seven years, he had any bills or debts turned over to a collection agency and asking if, in the last seven years, he had an account or credit card suspended, charged off, or cancelled for failing to pay as agreed. At the hearing, he testified that he answered “No” to the financial questions because he did not believe he had any personal financial liabilities. (Tr. 50)

Applicant’s net monthly income is \$8,974. His monthly expenses are about \$2,740. His monthly payments on his home mortgage loan are \$2,290, leaving a net monthly remainder of about \$3,944. (GX 7 at 10)

Applicant’s most recent credit report, dated May 19, 2025, reflects that all debts in the report are current. (GX 14) After the hearing, he submitted a credit report dated June 12, 2025, reflecting that he has 16 open accounts, no late accounts, and no accounts in collection. (AX 5)

Policies

“[N]o 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 applicants 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 § 2.

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, an administrative judge applies these guidelines 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 and 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 that 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 made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense 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* at 531. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “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. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan* at 531.

Analysis

Guideline F, Financial Considerations

The security concern under this guideline is set out in AG ¶ 18:

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. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The following disqualifying conditions under this guideline are potentially applicable:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the ability to do so; and

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

The evidence of Applicant's financial history during the period preceding his Navy service establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c). The evidence of his unwillingness to satisfy his old business debts due to his ignorance of his legal responsibilities as a sole proprietor and his belief in the unreliability of credit reports is sufficient to establish AG ¶ 19(b).

The following mitigating conditions are potentially applicable:

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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and

AG ¶ 20(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.

AG ¶ 20(a) is established. Applicant's delinquent debts were frequent, but they were incurred before he enlisted in the Navy in April 2017. Since then, he has served on active duty with distinction for five years. He has been entrusted with a security clearance, acquired important technical skills, and has been employed for more than two years as a trusted employee of a defense contractor. The circumstances under which he incurred delinquent business-related debts are not likely to recur. He is no longer an inexperienced tow truck driver. He is now a skilled and responsible technician. His conduct since his

enlistment in the Navy and continuing through his current employment by a defense contractor reflects his current reliability, trustworthiness, and good judgment.

AG ¶ 20(b) is not established. Applicant's business failure was largely beyond his control, but he did not act responsibly. Instead of attempting to minimize the financial income of his loss, he simply "walked away" from it, without any effort toward an orderly dissolution.

AG ¶ 20(e) is not established. Applicant's description of the dispute with the utility company alleged in SOR ¶ 1.f, if supported by evidence, would qualify under this mitigating condition, but he submitted no evidence to support it. He has disputed several of the other debts alleged in the SOR, but he has provided no documentary evidence to support his assertions. He disputed several debts alleged in the SOR on the ground that they were business debts and not personal debts. He apparently did not understand that a sole proprietorship is "a business in which one person owns all the assets, **owes all the liabilities**, and operates in his or her personal capacity." See Black's Law Dictionary (12th ed. 2024).

Applicant's recent credit reports do not reflect the debts alleged in the SOR. However, the fact that a debt no longer appears on a credit report does not establish any meaningful, independent evidence as to the disposition of the debt. Debts may fall off credit reports for various reasons, including the passage of time. See, e.g., ISCR Case No. 18-01250 at 2 (App. Bd. Feb. 13, 2019). While Applicant was on active duty, enforcement of the debts was barred by the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. §§ 3901 *et seq.* There is no evidence that any of his former creditors attempted to collect the debts after he was discharged in June 2023, more than two years ago, and was no longer protected by the SCRA.

Guideline E, Personal Conduct

The security concern under this guideline is set out in AG ¶ 15:

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 or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

The relevant disqualifying condition under this guideline is AG ¶16(a):

[D]eliberate 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 national security eligibility or trustworthiness, or award fiduciary responsibilities;

Applicant credibly testified that he answered “No” to the financial questions in his SCA because he did not believe that he had any delinquent personal debts. Thus, I conclude that AG ¶ 16(a) is not established. No other disqualifying conditions under this guideline are alleged or established.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate an applicant’s security eligibility by considering the totality of the applicant’s conduct and all the relevant circumstances. An 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.

I have incorporated my comments under Guidelines F and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Applicant was candid, sincere at credible at the hearing. Since his enlistment in the Navy and subsequent employment by a defense contractor, he has demonstrated financial responsibility. His recent credit reports reflect a clean financial record. After weighing the disqualifying and mitigating conditions under Guidelines F and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has refuted the allegation in Guideline E that he intentionally falsified his SCA, and he has mitigated the security concerns under Guideline F, raised by his history of delinquent debts.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): FOR APPLICANT

Subparagraphs 1.a-1.g: For Applicant

Paragraph 2, Guideline E (Personal Conduct): FOR APPLICANT

Subparagraph 2.a: For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

LeRoy F. Foreman
Administrative Judge