



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



In the matter of:

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ISCR Case No. 23-00241

Applicant for Security Clearance

Appearances

For Government: Lauren A. Shure, Esq., Department Counsel; Andre M. Gregorian,
Department Counsel
For Applicant: *Pro se*

05/20/2025

Decision

PRICE, Eric C., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F (financial considerations). Eligibility for access to classified information is denied.

Statement of the Case

On November 11, 2021, Applicant submitted a security clearance application (SCA). On March 24, 2023, the Defense Counterintelligence and Security Agency (DCSA) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F. The action was taken under 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 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), for all adjudicative decisions on or after June 8, 2017.

Applicant responded to the SOR (Answer) on April 28, 2023, and requested a hearing before an administrative judge. The case was assigned to me on January 23, 2024. On April 5, 2024, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing scheduling the hearing via video teleconference. I convened the hearing as scheduled on May 9, 2024. Department Counsel offered Government Exhibits (GE) 1

through 5. Applicant testified and offered Applicant's Exhibits (AE) A through E. I held the record open to permit Applicant to submit additional documents. He timely submitted AE F through L. I sustained Applicant's objection to GE 5 (summary report of his March 2022 interview with a government investigator) and there were no other objections to the proffered exhibits. GE 1 through 4, and AE A through L, were admitted in evidence. DOHA received the hearing transcript (Tr.) on May 20, 2024, and the record closed on June 17, 2024. (Tr. 16-26, Hearing Exhibit V)

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

Findings of Fact

Applicant is a 62-year-old program manager employed by federal contractor since September 2017. He works part-time as a driver for a ride-sharing company. He was a senior leader for another federal contractor from February 2007 to March 2017, but when the office closed, he chose not to relocate for personal and family reasons. From March to September 2017, he was unemployed. He served on active duty in the U.S. military from May 1984 until honorably retiring in April 2007. He has held a security clearance since 1985. (GE 1; AE A-B; Tr. 11-12, 27-40)

Applicant earned a bachelor's degree in 1985 and a master's degree in 1997. He married his second wife in 2023. He was previously married from 1987 to 2023 and has two adult children from that marriage. (GE 1; AE C-D; Tr. 38-39)

The SOR alleges eight delinquent accounts totaling approximately \$247,436. (SOR ¶¶ 1.a through 1.h). In Applicant's Answer, he admitted all SOR allegations with explanations.

Applicant attributed his financial problems to overspending on an extramarital affair, unemployment, underemployment, his former wife's unemployment, family living expenses, and divorce. He incurred the debts alleged in the SOR by using personal credit to pay his then mistress's expenses from early 2015 to late 2017. He subsequently agreed with his wife to stop paying the debts he incurred to support his former mistress. His gross income was more than \$160,000 per year until March 2017. It decreased to about \$85,000 when he started with his current employer and increased to about \$119,000 by 2023. (Tr. 26-50; AE A)

As part of their September 2023 divorce, Applicant and his former spouse agreed to list their marital home for sale on or before January 15, 2024. He estimated they had about \$300,000 equity in the home. Under the agreement his former spouse would reside in the home, receive net proceeds from its sale, and, upon its sale, reimburse Applicant \$300 for each month from September 2023 until the home was sold. Both children reside with his former spouse in the marital home, and his son's health issues keep him close to home. Applicant has not attempted to enforce the agreement to list the property for sale. However, when the home is sold, he anticipates receiving \$300 for each month she

resided in the home from September 2023 until its sale, and intends to apply those funds towards his debts. (AE C; Tr. 27-43, 81-86, 115-116)

In early May 2024, Applicant enrolled 10 debts totaling \$254,879 with a debt consolidation company (DCC) including debts alleged in the SOR ¶¶ 1.a, 1.c, 1.e. He did not enroll some other SOR debts because they "have aged out." The remaining debts enrolled with the DCC were not alleged in the SOR, including three personal loans totaling \$87,014 that Applicant obtained in 2023 for divorce costs and the maintenance of two households, and to pay off other unspecified debts. He testified that he was required to make payments of \$1,511 to the DCC every two weeks and that he made his first payment on May 29, 2024. (Tr. 35-37, 62-65, 110-120; AE E)

The evidence concerning the specific SOR allegations is summarized below.

SOR ¶ 1.a: loan account in collection for \$70,837. Credit reports from December 2021, January 2023, and April 2024 show the account was placed for collection for \$70,837 in April 2018 and past due in that amount. (GE 2 at 2, GE 3 at 2, GE 4 at 5) In May 2024, this debt was enrolled with the DCC. (AE E) Applicant testified that his last payment on this loan was in 2017. (Tr. 53-54, 98-99; AE E) This debt is unresolved.

SOR ¶ 1.b: credit card charged off for \$58,203. Credit reports from December 2021 and January 2023 show the account was charged off with balances of \$59,696 and \$58,203, respectively. (GE 2 at 2, GE 3 at 2) This debt was the subject of a \$58,203 judgement in 2019, that Applicant agreed to settle in 2022 with two payments. He made the first payment, \$1,492 in May 2022, but did not make the second payment, \$16,416 by May 26, 2022, because his former spouse decided they should not sell their marital home. (Tr. 54-57, 99-101; AE J) He has made no additional payments on this debt since May 2022. This debt is unresolved.

SOR ¶ 1.c: credit-card collection account for \$33,761. Credit reports from December 2021, January 2023, and April 2024 show the account was placed for collection for \$33,761 in April 2018 and past due in that amount. (GE 2 at 3, GE 3 at 2, GE 4 at 9) Applicant acknowledged he has not made a payment on this debt since 2018. In May 2024, the DCC submitted an offer to resolve this debt for \$13,504 and the creditor apparently accepted the offer. (AE E, AE I; Tr. 57-58, 102-121) He did not submit documentary evidence of any payments under the settlement agreement.

SOR ¶ 1.d: credit card charged off for \$7,314. Credit reports from December 2021, January 2023, and April 2024 show the account was opened or assigned in June 2016 and charged off with balances of \$7,314, \$7,314, and \$0.00, respectively. (GE 2 at 3, GE 3 at 2-3, GE 4 at 10) Applicant testified this debt was incurred for his former mistress, that he had not made a payment on it since February 2018, and that he believed it had "terminated out." (Tr. 57-62, 102-104) This debt is not resolved.

SOR ¶ 1.e: credit card charged off for \$7,256. Credit reports from December 2021, January 2023, and April 2024 show the account was opened or assigned in December 2014 and charged off with a balance of \$7,256. (GE 2 at 4, GE 3 at 3, GE 4 at

5) Applicant testified his last payment on this debt was in February 2018. In May 2024, he enrolled the debt with the DCC. (AE E) After the hearing, he submitted evidence of an offer to settle the debt for \$1,814 with up to six monthly payments. (AE K; Tr. 62-63, 104-105) He did not submit documentary evidence that the settlement offer was accepted or of payment on this account.

SOR ¶ 1.f: loan charged off for \$30,000. Credit reports from December 2021 and January 2023 show the account was opened or assigned in April 2016 in the amount of \$35,000, charged off with a balance of \$0.00, and transferred to or purchased by another lender. (GE 2 at 5, GE 3 at 3-4) Although this debt was transferred or sold to an unidentified creditor no later than December 2021, Applicant testified that he made no effort to resolve or pay this debt since 2017 and believed it had a zero balance because of its age. (Tr. 63, 106-108) This debt is not resolved.

SOR ¶ 1.g: unsecured credit account charged off for \$37,000. Credit reports from December 2021 and January 2023 show the account was opened or assigned in June 2016 in the amount of \$50,000 and charged off with a balance of \$0.00. (GE 2 at 5, GE 3 at 4) An April 2024 credit report shows the account with a high credit of \$45,550, last payment in August 2017, and charged off with a balance of \$0.00. (GE 4 at 11) Applicant acknowledged the account was charged off and that he had made no effort to resolve it since his last payment in 2017. (Tr. 63-64, 108) This debt is not resolved.

SOR ¶ 1.h: auto loan charged off for \$3,065. Credit reports from December 2021, January 2023, and April 2024 show the account was opened in October 2014, the vehicle was repossessed, and the loan was charged off with a balance of \$3,065. (GE 2 at 6, GE 3 at 4, GE 4 at 12) Applicant testified the vehicle was related to the affair, that he had not made any payments since 2017, and believed that \$3,065 was the deficiency balance after the vehicle was sold at auction. (Tr. 108-110) This debt is unresolved.

Applicant testified that his financial situation is not good but improving. He submitted a written budget that reflected he has \$760 in funds available after monthly expenses. He reported net monthly income of \$14,819 including his salary (\$7,262), military retired pay (\$5,257), U.S. Department of Veterans Affairs (VA) disability compensation (\$338), his current spouse's income (\$733), and money earned as a driver for a ride-sharing company (\$1,229). He reported monthly expenses totaling \$14,059 including debt resolution (\$3,024), spousal support to his former wife (\$1,500), and a portion of his military retirement paid to his former wife (\$2,628). He has a few thousand dollars in the bank, a \$2,600 health savings account, and about \$6,000 in a retirement account. He has not received formal financial counseling. (AE A, AE C at 5-6, AE L; Tr. 26-50, 73-89)

Applicant submitted evidence he settled several debts not alleged in the SOR including debts of \$575 and \$334 in March 2022 (AE G-H), and a \$21,668 debt on or before May 2022 (AE F; GE 2 at 3, GE 3 at 3) He pays about \$700 a month under a payment plan for overdue federal income taxes for tax years 2015 through 2017 and 2020. (Tr. 52-59, 87-89; AE C at 6, AE L) I informed him of the importance of submitting

documentary evidence of debt payments, efforts to contact creditors or to resolve or otherwise address delinquent debts. (Tr. 91-98, 113, 121-122)

Applicant testified that, while on active duty, he worked in acquisitions or logistics for over 19 years, was part of major acquisition programs, commanded two units and served in leadership positions at several other commands, and had extensive experience in budgeting and planning requirements. Following the attacks on September 11, 2001, he was responsible for many significant matters including critical, time-sensitive upgrades to a national security asset. He earned decorations, medals, and other citations including three Meritorious Service Medals, two service Commendation Medals, Joint Service Commendation and Achievement Medals, and other personal and unit awards and citations. He also worked on challenging and innovative programs for a federal contractor from February 2007 to March 2017. (Tr. 27-43, 81-86; AE B)

Policies

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. 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 that an applicant may deliberately or inadvertently fail to 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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. 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 applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or 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." 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 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." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988); see AG ¶ 2(b).

The protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt "will be resolved in favor of the national security." Section 7 of EO 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

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

Applicant's admissions and record evidence, including credit bureau reports, establish two disqualifying conditions under this guideline: AG ¶ 19(a) (inability to satisfy debts) and AG ¶ 19(c) (a history of not meeting financial obligations). The following mitigating conditions are potentially applicable:

- (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.

AG ¶ 20(a) is not established. Although Applicant's behavior resulting in his delinquent debts happened long ago and is unlikely to recur, the delinquent debts are long-standing, ongoing, and continue to cast doubt on his reliability, trustworthiness, or good judgment.

AG ¶ 20(b) is not fully established. Applicant's decision to use personal credit to financially support his then mistress for more than two years was within his control. His former spouse's unemployment, family expenses, his divorce, and his unemployment and underemployment were conditions largely beyond his control. However, he has not produced sufficient evidence that he acted responsibly under the circumstances.

AG ¶¶ 20(c) and 20(e) are not established. Applicant denied receiving financial counseling and did not dispute the legitimacy of any delinquent debt alleged in the SOR.

AG ¶ 20(d) is not established for the debts alleged in SOR ¶¶ 1.b, 1.d and 1.f through 1.h. These debts are long-standing, and except for a \$1,500 payment on the debt alleged in SOR ¶ 1.b in May 2022, he has made no effort to repay or otherwise resolve these debts since at least February 2018.

AG ¶ 20(d) is not fully established for the debts alleged in SOR ¶¶ 1.a, 1.c and 1.e. Although Applicant entered an agreement with a DCC to attempt to address these debts in May 2024, and even assuming he has paid some or all of these debts, the timing of his actions is insufficient to fully establish that he adhered to a good faith effort to resolve these debts. The timing of an Applicant's actions, including repayment of delinquent debts, impacts the degree to which the mitigating factors apply. ISCR Case No. 08-06058 at 5 (App. Bd. Sep. 21, 2009). Waiting to pay legitimate debts until forced to do so by the security clearance process does not constitute good-faith debt resolution. See ISCR Case No. 10-05909 at 3 (App. Bd. Sep. 27, 2012).

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.

I have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I found Applicant's testimony to be sincere and credible. I considered his age, highly successful military career, work history, security clearance history, and that his financial problems were caused in part by conditions beyond his control. I also considered that his financial problems were largely attributable to his decision to provide financial support to his then mistress for more than two years, and that he has not attempted to pay or otherwise resolve five of those debts since at least February 2018. I also considered that he enrolled three of the eight debts alleged in the SOR with a DCC in May 2024, made offers to settle two of them shortly thereafter, and that one of those offers was accepted by the creditor.

After weighing the disqualifying and mitigating conditions under Guideline F and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his delinquent debts.

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 a longer track record of financial responsibility, he may be able to demonstrate persuasive evidence of his security clearance worthiness. Overall, the record evidence leaves me with questions and doubts as to his eligibility and suitability for a security clearance at this time.

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.h:

Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Eric C. Price
Administrative Judge