



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



In the matter of:)
)
) ISCR Case No. 23-02177
)
Applicant for Security Clearance)

Appearances

For Government: Cindy Ruckno, Esq., Department Counsel
For Applicant: *Pro se*

01/30/2025

Decision

OLMOS, Bryan J., Administrative Judge:

Applicant mitigated the security concerns under Guideline F, Financial Considerations. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on March 10, 2023. On September 29, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F. The DOD issued the SOR under Executive Order (Exec. Or.) 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 Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on October 16, 2023, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On

September 5, 2024, DOHA issued a notice scheduling the hearing for October 1, 2024. However, Applicant was impacted by a weather event and the hearing was rescheduled to November 14, 2024.

I convened the hearing as scheduled. Department Counsel offered into evidence Government Exhibits (GX) 1-4. Applicant testified and offered into evidence Applicant Exhibits (AX) A-B. I held the record open through December 6, 2024, to allow both parties the opportunity to submit additional documents. Applicant timely submitted AX C-F. All exhibits were admitted without objection. DOHA received the hearing transcript (Tr.) on November 21, 2024.

Findings of Fact

In his Answer to the SOR, Applicant admitted all of the SOR allegations and provided explanations. His admissions are incorporated into my findings of fact. After a thorough and careful review of the pleadings and evidence submitted, I make the following additional findings of fact.

Applicant is 47 years old. He is married and has two adult-aged children who live with him. He served in the United States Coast Guard from 1998 through his retirement as a Chief Petty Officer (E-7) in 2019. While in service, he received five achievement medals, several good conduct medals and various other unit or individual awards. He has been with his sponsoring employer since January 2022 and is a senior electrical engineer. He does not currently hold a security clearance. (GX 1; Tr: 8, 19-23, 71-73)

Applicant described that, following his retirement from the Coast Guard, he experienced nearly a 75% reduction in his income. He admitted he retired without a good plan. He struggled to secure consistent employment while in State A and began to fall behind on bills. During this time, Applicant and his wife made the decision to sell their home in State A that they had owned since about 2014. They began purchasing appliances, kitchen cabinets and flooring in order to fix up the property. (GX 1-2; AX A, C; Tr. 32-43)

Applicant secured employment in State B and moved in 2020. His family followed to State B about six months later. Applicant and his wife continued to manage repairs on their home in State A while securing a rental in State B. However, they became so focused on settling in State B, that they failed to properly winterize and monitor their home in State A, even though its location necessitated such preparation. In about January 2021, State A experienced a significant winter storm. Applicant failed to have their heating oil refilled in time. The heater ran out of fuel and a water pipe froze and burst. By the time a neighbor checked on the property for them, significant damage had already occurred. Several of the ongoing renovations were completely destroyed. Applicant acknowledged that he could have done more to protect the property. (GX 1-2; Tr: 23-30)

Because Applicant and his family moved without notifying their insurer that the property would be vacant, the insurer refused to cover the damage. Instead of using funds from the eventual property sale to resolve some of his delinquent debts, Applicant now found himself paying on a mortgage for a property that he could no longer sell and was worth less than what he owed. He described experiencing significant mental anguish over the situation as he felt he was “throwing [] money away” by paying the mortgage and related bills. (Tr. 26) At an unspecified time in 2021, he stopped making payments on the mortgage and several credit cards he had used to fund the renovations. (GX 1-2; Tr. 23-45)

Applicant contemplated filing for bankruptcy. He contacted the mortgagee, submitted a “hardship package” and received some reprieve on payments. (Tr. 27) However, he did not submit any regular payments, even under a hardship plan. Instead, he described that, over the next two years, he submitted sporadic payments and did just enough to keep the property out of foreclosure. He described feeling “paralyzed to make a decision” about the property. (Tr. 42) It took time to convince himself that “this [was] not the end of the world.” (GX 1-2; Tr. 27-43)

Applicant also described that, when he started his work with his current employer in 2022, he claimed more dependents than he was entitled on his initial employment paperwork. He did this as he initially needed more funds to cover his monthly expenditures. He further admitted that he did not make any adjustments to his tax paperwork in 2023 and filed that return late. He detailed that he had initially owed taxes for tax year (TY) 2022, but those had been paid. He further admitted that he owed about \$4,000 for TY 2023 and was in the process of setting up payments. Applicant testified that his late filings and taxes owed were limited to TYs 2022 and 2023. He admitted that he had made a “poor decision” regarding his taxes for 2022 and 2023 and had since corrected and reduced his listed dependents to zero. (Tr. 42) These tax issues were not alleged in the SOR. (GX 1-2; Tr. 42-48, 60-67)

In 2023, Applicant began to feel more financially stable. His family had settled in State B, his work was steady, and he was making a good income. He began to resolve some debts and admitted there were times where he could have initiated payments on his debts sooner or more aggressively as his income improved. (GX 1-4; Tr. 25-42)

In November 2023, Applicant entered into an agreement with the mortgagee to list the property through a short sale. The property sold and the escrow closed in 2024. Applicant provided a copy of the sales contract which reflected that the property was sold as a short sale. However, Applicant believed that the property sold for sufficient funds to cover the full mortgage balance. In either circumstance, Applicant’s November 2024 credit report reflects that the mortgage account was reported as closed in about May 2024. (GX 2; AX A-C; Tr. 29-35, 77-80)

In 2024, through the Department of Veterans Affairs (VA), Applicant met with a financial advisor and learned about budgeting strategies, starting an emergency fund and

the “snowball” method of paying debts where an individual pays off small debts first and then rolls those payment into increasingly larger debts. He described that his wife had previously managed the finances. However, given their recent financial difficulties. Applicant had taken a more active role in monitoring his family’s financial situation. (Tr.12-15, 48-50)

Since maintaining his current employment and resolving the house issue, Applicant’s financial situation has significantly improved. In addition to his annual salary of about \$106,000, he receives a military retirement of about \$42,000 annually along with VA disability payments based on a 100% rating. Applicant commented that he is currently the sole wage earner in the house and that he financially supports his two children including paying on a student loan. Still, he described having sufficient funds to meet his monthly expenditures while continuing to make payments to resolve his delinquent debts. He expressed his commitment to maintaining his financial health. (GX 2-4; AX B; Tr. 28, 47-56)

The evidence regarding the SOR allegations is summarized below:

SOR ¶ 1.a (\$206,483) is a mortgage account that was reflected in Applicant’s March 2023 credit report as past due with a foreclosure initiated. Applicant detailed that this was the mortgage on his property in State A. As discussed above, he reached an agreement with the mortgagee to list the property as a short sale in November 2023 and it subsequently sold. A September 2024 credit report reflects that foreclosure proceedings had initiated, but that the account had been paid for less than the full balance and closed in about May 2024. A November 2024 credit report confirms that the account is closed. This debt is resolved. (GX 2-4; AX A-C; Tr. 58-65)

SOR ¶ 1.b (\$4,914) is a credit card that Applicant began using shortly after his retirement from the Coast Guard. The account was listed as charged off in his March 2023 and September 2024 credit reports. He described making sporadic payments on the debt in early 2023. Records reflect that, in October 2023, he initiated a payment plan with a collection agency on behalf of the creditor and has since maintained consistent monthly payments toward the debt, which is scheduled to be paid in full by April 2025. This debt is being resolved. (GX 2-4; AX B, F; Tr. 32-40)

SOR ¶ 1.c (\$7,941) is a credit card that Applicant opened to purchase cabinets and various other items as part of the renovations of his property in State A. He stopped paying on this debt when he stopped paying on the mortgage. The account was listed as charged off in his March 2023 and September 2024 credit reports. Records reflect that, in April 2023, he initiated a payment plan with a collection agency on behalf of the creditor and has since maintained consistent monthly payments toward the debt. As of December 2024, he had reduced the balance to \$3,824 with monthly payments occurring automatically. This debt is being resolved. (GX 2-4; AX B, E; Tr. 41-45)

SOR ¶ 1.d (\$2,041) is a credit card that Applicant opened shortly after his retirement from the Coast Guard. The account was listed as charged off in his March 2023 credit report and was not listed in his subsequent credit reports. Records reflect that Applicant made several payments in 2023 toward the account and it was closed as paid in May 2023. (GX 2-3; AX D; Tr. 46-48)

Credit reports also show that Applicant resolved additional delinquent accounts not alleged in the SOR. In 2023, he settled and paid two delinquent credit card accounts that had balances of \$5,253 and \$754. He was also paying to resolve another delinquent credit card and, as of September 2024, had reduced the balance from \$1,685 to \$839. His September 2024 and November 2024 credit reports show no new delinquent accounts. (GX 2-4; AX B)

Applicant's wife testified and provided additional details regarding the financial difficulties they faced after Applicant's retirement from the Coast Guard and their struggles with managing the property in State A after it was significantly damaged. She described that they maintain a whiteboard at home to manage their monthly budget and that they had worked to be more financially sound since moving to State B. She expressed that Applicant had always been a hard worker and was a responsible individual who exercised good judgment in helping to manage family matters. (Tr. 77-88)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held in *Department of the Navy v. Egan*, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." 484 U.S. 518, 531 (1988)

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny 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 national security

eligibility 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 not drawn 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, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.”

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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations 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. 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. . . .

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

The adjudicative guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable:

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

Applicant's admissions and the evidence reflect that he incurred multiple delinquent accounts over the last several years. The above disqualifying conditions are established.

Once delinquent debts are established, an applicant has the burden of presenting evidence to refute, explain, extenuate, or mitigate the security concerns arising from those debts. ISCR Case No. 20-03146 at 3 (App. Bd. June 6, 2022).

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant's financial difficulties began after he retired from the Coast Guard in 2019 following over twenty years of service. He admitted he did not have a financial plan in place and was unprepared for a 75% reduction in his income. He began using credit cards to cover his expenditures while he attempted to secure new employment. During this time, he also decided to sell his property in State A and went into further debt fixing it up for sale. Following his family's move to State B, a 2021 winter storm in State A caused a pipe to burst in his property resulting in significant damage that his insurer refused to cover. This caused him great emotional stress. He described feeling "paralyzed" over what to do with the property and his overall financial situation. While he admitted that he could have

done more to protect the property, the extent of his financial loss was unforeseen and is unlikely to recur. Mitigation under AG ¶¶ 20(a) and 20(b) must be considered.

By 2023, having stabilized his income and family's circumstances in State B, Applicant began to address his delinquent financial accounts. A review of his credit reports and additional record evidence reflect he began to make payments on his delinquent debts and enter payment plans. In about November 2023, he came to an agreement with the mortgagee to sell his property in State A through a short sale and the transaction closed in 2024. The mortgage account (SOR ¶ 1.a) has been resolved. He also paid and closed the delinquent account listed as (SOR ¶ 1.d). Per agreement, he is paying on his remaining delinquent debts alleged within the SOR as well as additional delinquent debts. He initiated and is adhering to a good-faith effort to repay overdue creditors. AG ¶ 20(d) is applicable. While the damage to his property could have been foreseen, he has acted responsibly under the circumstances. AG ¶¶ 20(a) and 20(b) are partially applicable.

Applicant also detailed that he met with a financial advisor in 2024 that was sponsored through the VA. While it was only a single meeting, it was apparent that Applicant took the advisor's recommendations seriously and began to implement a budget and better manage his debts. He committed to seeing the financial advisor again in the future. AG ¶ 20(c) is applicable.

It is also noted that Applicant disclosed he experienced tax difficulties in 2022 and 2023 when he claimed more dependents than he was entitled on his initial employment paperwork. He admitted that he still owed taxes for TY 2023 and was establishing a payment plan. Although this conduct was not alleged within the SOR, it may still be considered in assessing credibility, determining whether an applicant has established successful rehabilitation and in evaluating evidence of mitigation. Applicant candidly stated that he made a "poor decision" that led to his tax problem. There is no evidence that he had tax problems before 2022 and he testified that he made changes to his tax filings and was committed to resolving his tax issues going forward. Given his efforts to resolve his other financial issues, Applicant's tax situation does not negate mitigation of the financial security concerns.

Applicant's financial issues occurred under circumstances that are unlikely to recur, and do not cast doubt on his current reliability, trustworthiness, or judgment. All of the above mitigating conditions are applicable or partially applicable as discussed.

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(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), 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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis.

Applicant experienced difficulty securing a steady income after his retirement from the Coast Guard in 2019. His financial difficulties were expanded when his property in State A was damaged, and his insurer refused to provide coverage. The damage to his property and financial loss took an emotional toll on Applicant. Nonetheless, once he secured his current position in State B, he began to take reasonable action to resolve his delinquent debts. He has paid and closed several delinquent debts and established a meaningful track record of payments for his remaining delinquent debts. He is committed to maintaining a budget and continuing to improve his financial situation.

Having had the opportunity to observe Applicant's demeanor during his hearing, I found his testimony credible and candid. Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the 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: **FOR APPLICANT**

Subparagraphs 1.a-1.d: **For Applicant**

Conclusion

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Bryan J. Olmos
Administrative Judge