



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



In the matter of:	)	
	)	
XXXXXXXX, Xxxx Xxxxxxx	)	ISCR Case No. 14-03134
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Jeff A. Nagel, Esquire, Department Counsel  
For Applicant: *Pro se*

04/20/2015

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**Decision**

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METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I deny Applicant's clearance.

On 19 September 2014, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 9 February 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 2 April 2015.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-8,

<sup>2</sup>DoD acted under Executive Order 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 adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

## **Findings of Fact**

Applicant admitted the SOR financial allegations. He is a 35-year-old packaging engineer employed by a U.S. defense contractor since October 2004. He seeks to retain the clearance he has held since October 2004.

The SOR alleges, Government exhibits (Items 6-8) substantiate, and Applicant admits seven delinquent debts totaling over \$78,000. Nearly \$68,000 of the debt is for delinquent educational loans, at least \$29,000 of which was underwritten by the federal Government.

Applicant claims, without corroboration, to have paid or settled SOR debts 1.a, 1.b, and 1.d, and to be paying \$226 monthly on the educational loans at SOR 1.f and 1.g. Applicant's December 2014 credit report (Item 8) appears to confirm that he settled SOR debts 1.b and 1.d for less than the full amount owed. However, the entries do not reflect when the payments were made. Applicant asserts, again without corroboration, that he was able to make these payments with proceeds from the sale of his house.

Applicant's September 2011 clearance application (Item 4) reported only SOR debt 1.g. In his September 2014 response to DOHA interrogatories (Item 5), Applicant attributed his financial problems to his wife's being unemployed for many years. However, he failed to provide details of that unemployment. Although he asserted that she now had a full-time job which would allow them to address their debts, their September 2014 personal finance statement (PFS) shows negative monthly cash flow, with no payments on any of the SOR debts.

Applicant has not documented any of the claimed contacts with his creditors. He has not documented his claimed payments on the educational loans at SOR 1.f and 1.g, and has apparently had no contact with the holder of the educational loan at SOR 1.c. While the interplay between the state originators of educational loans and the federal guarantor of those loans is murky at best, Applicant has the burden of establishing whether the federal educational loan debt at SOR 1.c is the same or different from the educational loan debts alleged at SOR 1.f and 1.g.

Applicant has not received any financial or credit counseling. He provided no work or character references.

## **Policies**

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to

classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.<sup>3</sup>

### Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.<sup>4</sup> Applicant provided no details for his wife's unemployment, making it impossible to fix a time line by which that event created or continued his financial problems.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple, and potential unemployment for either himself or his wife cannot be considered unlikely to recur.<sup>5</sup> While her unemployment was certainly beyond his control, he cannot be considered responsible in addressing his debt,<sup>6</sup> because he has documented no details which would permit such a conclusion. Applicant has presented no evidence of credit or financial counseling, and his educational debts are clearly not being resolved.<sup>7</sup> Applicant has documented no contacts with any of his creditors, and thus he cannot establish that he has made a

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

<sup>5</sup>¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

<sup>6</sup>¶20 (b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

<sup>7</sup>¶20 (c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

good-faith effort to address his debts.<sup>8</sup> Accordingly, I conclude Guideline F against Applicant.

### **Formal Findings**

Paragraph 1. Guideline F:                   AGAINST APPLICANT

Subparagraphs a-g:                       Against Applicant

### **Conclusion**

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

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JOHN GRATTAN METZ, JR  
Administrative Judge

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<sup>8</sup>¶20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.