



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



In the matter of:	)	
	)	
	)	ISCR Case No. 14-03730
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Caroline E. Heintzelman, Esq., Department Counsel  
 For Applicant: *Pro se*  
 02/25/2016

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**Decision**

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance to work in the defense industry. Applicant has demonstrated a good-faith effort to resolve his delinquent accounts. He has also demonstrated financial reform and rehabilitation. Clearance is granted.

**Statement of the Case**

On April 27, 2015, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue Applicant’s security clearance and recommended that the case be submitted to an administrative judge for a determination whether to revoke or deny Applicant’s security clearance.

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<sup>1</sup> This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

Applicant timely answered the SOR and requested a hearing. On August 6, 2015, I issued a prehearing order to the parties regarding the exchange and submission of discovery, the filing of motions, and the disclosure of any witnesses.<sup>2</sup> The parties complied with the terms of the order.<sup>3</sup> At the hearing, convened on August 27, 2015, I admitted Government's Exhibits (GE) 1 through 4 and Applicant's Exhibits (AE) A through C, without objection. I received the transcript (Tr.) on September 2, 2015.

### Findings of Fact

Applicant, 36, has worked for a federal contractor since February 2014. Applicant works as a repair technician providing maintenance support to a U.S military intelligence unit. On his security clearance application, dated March 2014, Applicant disclosed a 2009 home foreclosure and a delinquent consumer credit account. The ensuing investigation revealed additional delinquent accounts. The SOR alleges that Applicant is indebted to 11 creditors for approximately \$39,800.<sup>4</sup>

Applicant blames his financial problems on underemployment between 2009 and 2013 and poor financial habits from the early days of his marriage. Applicant and his wife married in 2000. They were both 20 years old. Applicant says they were financially immature and negligent. For the first half of his marriage, Applicant worked as a journeyman plumber. He was the sole source of income for his family until 2005 when his wife began working part time. Applicant earned enough money to comfortably support his family, but he admitted that they were living beyond their means. His financial problems became acute in 2009, when he was laid off by his employer. Although he was able to find work as a butcher, he no longer earned enough money to meet all of his financial obligations. He began to fall behind on his bills. In 2009, he lost his home to foreclosure, resulting in a \$19,194 deficiency balance on his mortgage loan (SOR ¶ 1.c). Between 2009 and 2013, the accounts alleged in the SOR became delinquent, including a \$8,797 medical debt for an emergency surgery when he did not have health insurance (SOR ¶ 1.d).<sup>5</sup>

Applicant and his wife now earn a household income of approximately \$58,000 annually. For the first time in their 15-year marriage, Applicant believes that he and his wife are working toward financial stability. Since he began his current employment, Applicant and his wife have directed the majority of their disposable income to resolving his delinquent accounts. Applicant has resolved the debts alleged in SOR ¶¶ 1.a, 1.f, 1.g, 1.h, 1.i, 1.j, and 1.k, totaling \$4,400. He has entered into a payment plan for the medical debt alleged in SOR ¶ 1.d. By the time of the hearing, he had paid \$4,700 toward the resolution of that debt, reducing the outstanding balance by more than 50%. In addition to the debts alleged in the SOR, Applicant has also resolved three other

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<sup>2</sup> The prehearing scheduling order is appended to the record as Hearing Exhibit (HE) I.

<sup>3</sup> The discovery letter, dated July 13, 2015, is appended to the record as HE II.

<sup>4</sup> Tr. 17-19; GE 1, 3-4.

<sup>5</sup> Tr. 19-21, 22-24.

delinquent accounts, totaling \$5,500. The debt alleged in SOR ¶ 1.c for the deficiency balance on his foreclosed home remains unresolved, but he plans to resolve it in the future.<sup>6</sup>

Applicant's current supervisor testified at the hearing. He described Applicant as a hard worker. He also testified that Applicant disclosed his financial problems to him when he became Applicant's supervisor in July 2015. Applicant's former supervisor also provided a favorable character reference and recommendation. He acknowledged the efforts Applicant and his wife have taken to rehabilitate their finances.<sup>7</sup>

Applicant testified that applying for his security clearance provided a wake-up call for his financial issues. The process required him to examine and reform his financial habits. Although he has not taken a financial counseling class, he has read a book by financial guru Dave Ramsey. Applicant credits the book for providing him a roadmap for resolving his delinquent debts. Applicant's wife testified at hearing about the changes they have made in handling their finances. They now manage their finances together so that they both have a good understanding of their financial picture. They discuss their budget and other financial issues on a weekly basis. Applicant's wife testified that they are able to live within their means and comfortably meet their financial obligations.<sup>8</sup>

### **Policies**

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 to be 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, administrative judges apply the guidelines 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(c), 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 access to classified information will be resolved in favor of 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.

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<sup>6</sup> Tr. 21-22, 25-47, 63-65; GE 4; AE A-B.

<sup>7</sup> Tr. 51-56; AE C.

<sup>8</sup> Tr. 48-50, 57-62.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, 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.” The applicant 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.

Section 7 of EO 10865 provides that adverse 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

Unresolved delinquent debt is a serious security concern because failure to “satisfy debts [or] 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 information.”<sup>9</sup> Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.

The SOR alleges that Applicant owes 11 delinquent accounts, totaling \$39,800. However, the record supports Applicant’s contention that the debts alleged in SOR ¶¶ 1.b, 1.e are duplicates of the debt alleged in SOR ¶ 1.a.<sup>10</sup> Accordingly SOR ¶¶ 1.b and 1.e are decided in Applicant’s favor. Applicant’s admissions and the credit reports in the record establish a *prima facie* case that Applicant had a history of not meeting his financial obligations and that he demonstrated an inability to pay his bills.<sup>11</sup> Although Applicant’s financial problems were exacerbated by a period of underemployment from 2009 to 2013, his financial problems were not entirely beyond his control because he was admittedly financially overextended. However, Applicant has demonstrated a good-

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<sup>9</sup> AG ¶ 18.

<sup>10</sup> GE 4.

<sup>11</sup> AG ¶¶ 19(a) and (c).

faith effort to resolve his delinquent accounts. Since February 2014, he has dedicated almost 25% of his household income to debt reduction. He has paid off \$14,600 in delinquent debt, including those accounts alleged in SOR ¶¶ 1.a and 1.f-1.k. Applicant's efforts establish a positive history of debt repayment. Applicant has not opened a consumer credit account since 2012. He is living within his means, and his finances are under control.<sup>12</sup>

After reviewing the record, I have no doubts about his suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(a). The Appeal Board has held that, "an applicant is not required to be debt-free or to develop a plan for paying off all debts immediately or simultaneously. All that is required is that an applicant act responsibly given his circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct," that is, actions which evidence a serious intent to effectuate the plan.<sup>13</sup> Applicant has done so, thereby mitigating the security concerns raised by his past financial habits and resulting delinquent accounts.

### **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.k:	For Applicant

### **Conclusion**

In light of all of the circumstances presented, it is clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is granted.

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Nichole L. Noel  
Administrative Judge

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<sup>12</sup> AG ¶¶ 20(c) and (d).

<sup>13</sup> See, e.g., ISCR Case No. 08-06567 at 3 (App. Bd. Oct 29, 2009).