



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



In the matter of: )  
)  
) ISCR Case No. 14-06711  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Eric Borgstrom, Esq., Department Counsel  
For Applicant: *Pro se*

05/23/2016

**Decision**

CURRY, Marc E., Administrative Judge:

Although Applicant’s financial problems were significantly caused by circumstances beyond his control, he failed to provide evidence documenting what progress, if any, he has made in addressing them. Moreover, he provided no explanation for failing to disclose relevant financial information, as required, on his clearance application. Clearance is denied.

**Statement of the Case**

On June 16, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, and Guideline E, personal conduct. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006. On July 30, 2015, Applicant answered the SOR, admitting all of the allegations set forth in Paragraph 1. He did not provide an

answer for any of the allegations in Paragraph 2. On August 6, 2015, Applicant answered Paragraph 2, via e-mail, admitting the allegations. He requested a decision on the written record rather than a hearing.

On October 14, 2015, Department Counsel prepared a File of Relevant Materials (FORM) containing nine items including the SOR (Item 1), Applicant's Answer (Item 2), two security clearance applications (Items 3-4), three credit bureau reports (Items 5-7) a copy of a judgment (Item 8), and a copy of an unsworn personal subject interview dated June 30, 2014 (Item 9).<sup>1</sup> Applicant received the FORM on October 21, 2015. He did not submit a response. On December 17, 2015, the case was assigned to me.

### **Findings of Fact**

Applicant is a 48-year-old single man who lives with his fiancé. He is a high school graduate and has earned a certification in computer design from a trade school. (Item 9 at 2) Since 2003, he has worked in the computer design field for a defense contractor. Currently, he is a senior designer. He has held a security clearance since May 2004. (Item 3 at 25)

Since 2009, Applicant has incurred approximately \$50,000 in delinquent debt. Applicant attributes much of his financial problems to medical problems experienced first by him between 2009 and 2010, and later by his fiancé in 2013. (Item 9 at 2) The period when Applicant was sick exceeded the amount of his available sick leave. Consequently, over time, he exhausted his sick leave benefits, and began losing income.

About three years after Applicant recovered, his fiancé was diagnosed with a rare disorder that rendered her unable to work. Consequently, they experience recurrent income loss and incurred additional costly medical bills. Although Applicant's fiancé has health insurance, it did not cover the treatment for her disorder.

Applicant contends that he retained a credit counselor in July 2015, and that with the credit counselor's help, has developed a payment plan that he has begun executing. (Item 2) He provided no supporting documentary evidence.

Applicant completed a security clearance application in May 2014. He falsified it by intentionally failing to list delinquent debts, as required, in response to Section 26. He offered no explanation for the falsification.

### **Policies**

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the

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<sup>1</sup>Applicant did not object to the admissibility of any of these Items, therefore, I have considered all of them in this Decision.

complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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.”

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 applicant or proven by department counsel. . . .” The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

## **Analysis**

### **Guideline F, Financial Considerations**

Under this guideline, “failure or inability 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 information.” (AG ¶ 18) Applicant’s history of financial problems triggers the application of AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.”

The following mitigating conditions under AG ¶ 20 are potentially applicable:

- (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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debt; 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.

Applicant's financial problems stemmed from serious health problems experienced by his fiancé and him over the past seven years, that both generated costly medical bills and rendered his fiancé unable to earn any income to help with their expenses. Applicant, however, provided no documentary evidence supporting his contention that he has been taking concrete steps to satisfy his delinquencies. None of the mitigating conditions apply.

### **Personal Conduct**

Under this guideline, "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 information." (AG ¶ 15) Moreover, "of special interest is any failure to provide truthful and candid answers during the security clearance process . . ." (*Id.*)

Applicant falsified his 2014 security clearance application by intentionally failing to list financial information, as required, in response to Section 26. He provided no explanation, consequently, I conclude that no mitigating conditions apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

(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.

Circumstances beyond Applicant's control clearly contributed to his financial problems. However, he provided no supporting evidence documenting steps taken to get his financial problems under control. The failure to provide documentary evidence, together with his falsification of his security clearance application, compel me to conclude that he has not mitigated the two security concerns alleged in the SOR.

### **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.j:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

**Conclusion**

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

MARC E. CURRY  
Administrative Judge