



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



In the matter of:)
)
) ISCR Case No. 14-05142
)
Applicant for Security Clearance)

Appearances

For Government: Ross Hyams, Esq., Department Counsel
For Applicant: *Pro se*

12/03/2015

Decision

CURRY, Marc E., Administrative Judge:

Applicant financially overextended herself in assisting relatives. Consequently, she incurred approximately \$16,000 of delinquent debt. In January 2015, she began contacting creditors to develop payment plans and negotiate settlements. Since then, she has either satisfied all of the delinquencies in their entirety, or has been steadily satisfying them with monthly payments. Applicant has mitigated the financial considerations security concerns.

Statement of the Case

On March 27, 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. 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.

Applicant answered the SOR, denying all of the allegations except 1.b and 1.e, and requested a hearing. The case was assigned to me on July 18, 2015. On August 4, 2015, the Defense Office of Hearings and Appeals issued a notice of hearing scheduling the case for September 1, 2015.

At the hearing, I received seven Government exhibits marked and identified as Government Exhibits (GE) 1, and GE 3 through GE 8,¹ and I received two Applicant exhibits that I marked and identified as Applicant Exhibits (AE) A and B. Also, I considered the testimony of Applicant, and took administrative notice of the discovery letter (Hearing Exhibit I), that Department Counsel mailed to Applicant on July 2, 2015.

At the close of the hearing, I left the record open to allow Applicant to submit exhibits. Within the time allotted, she submitted nine additional exhibits (AE C-AE K). DOHA received the transcript (Tr.) on September 10, 2015.

Findings of Fact

Applicant is a 47-year-old single woman with an adult daughter. Applicant is a high school graduate and has earned two years of college credit over the years. (Tr. 14) She is a U.S. Army veteran, having served on active duty from 1978 to 1995, and as a reservist from 1995 to 2003. (Tr. 15) She was honorably discharged.

Since 2007, Applicant has worked for a defense contractor as a network engineer. (Tr. 16) She services routers and switches. She has held a clearance continuously since 1988. (Tr. 16)

In 2009, both of Applicant's brothers lost their jobs. (Tr. 17) One of these brothers has four children, and had been the sole income provider of his family before losing his job. (Tr. 17) Consequently, Applicant decided to help both brothers financially. (Tr. 17)

At the time when Applicant chose to help her brothers, she was already providing financial assistance to her daughter, who was a then a private in the U.S. Air Force. (Tr. 18) Gradually, Applicant financially overextended herself and began falling behind on her bills. She contacted creditors to discuss resolving debts, but "they weren't cooperative." (Tr. 17) Subsequently, Applicant stopped paying many bills in their entirety, "just kind of put[ting] them on the back burner until [she] could get back on stable ground." (Tr. 18)

¹At Department Counsel's request, I marked GE 2 for identification purposes only. (Tr. 10)

By 2011, Applicant had incurred \$16,000 of delinquent debt, including credit cards (SOR subparagraphs 1.a - 1.d, 1.j), medical bills (SOR subparagraphs 1.e, 1.g, and 1.k), a loan (SOR subparagraph 1.h), and multiple parking tickets (SOR subparagraphs 1.l - 1.o).

SOR subparagraph 1.a, (duplicated in SOR subparagraph 1.i), totals \$2,089. In January 2015, Applicant contacted the creditor and negotiated a reduction in the payoff amount to \$900. (Tr. 21) She satisfied the balance by April 2015. (AE A at 1; AE C)

The debt listed in SOR subparagraph 1.b, (duplicated in SOR subparagraph 1.f), totals \$2,279. Applicant contacted the creditor listed in SOR subparagraph 1.b in May 2015 to arrange a payment plan. (Tr. 21) Since then, she has been making \$300 payments twice per month. (AE A at 2) By September 2015, she had completely satisfied it. (AE J)

The debt listed in SOR subparagraph 1.c totals \$1,425. The creditor obtained a judgement in 2011. Applicant satisfied this judgment through a wage garnishment. (AE A at 3)

The debt listed in SOR subparagraph 1.d totals \$943. Applicant arranged to satisfy this debt in three monthly increments in June 2015. By August 2015, she had satisfied it entirely. (AE D)

The debt listed in SOR subparagraph 1.e, totalling \$54, is a medical bill. Applicant paid this bill in April 2015. (AE E)

SOR subparagraph 1.g is a medical bill totalling \$1,464. Applicant organized a payment plan in August 2015. She has been paying it in \$215 increments since September 2015. (AE B, AE F) The balance is approximately \$1,000.

The debt listed in SOR subparagraph 1.h, totals \$7,979, Applicant opened this loan to finance the renovation of her home in 2009. It became delinquent in 2010. (GE 2 at 2) She satisfied it in 2012. (AE A at 4; AE G)

SOR subparagraph 1.j, a credit card debt owed to a hardware store, totals \$226. It became delinquent in 2010. Applicant satisfied this debt in September 2015. (AE I)

SOR subparagraph 1.k is a delinquent hospital bill totalling \$133, for emergency room treatment received in early 2013. Applicant satisfied it later that year. (AE H)

SOR subparagraphs 1.l through 1.n are outstanding parking tickets totaling \$265. Applicant incurred them between 2009 and 2012. She paid them in 2013, shortly after discovering they were still outstanding. (Tr. 27; AE H)

SOR subparagraph 1.o is a medical bill totalling \$48. Applicant satisfied this debt in 2013. (AE H)

Applicant earns \$135,000 annually, and has approximately \$750 of monthly discretionary income. (Tr. 50) Her checking account has a balance of approximately \$4,000. (Tr. 47) In order to get control of her finances, she “had to make some pretty tough calls in terms of not allowing [her] family to put [her] in a position that [she] experience[s] financial issues of [her] own.” She no longer gives money to one brother, and her daughter is thriving financially and needs no help. (Tr. 27) Although she still helps her brother with the four children, she does so consistently within her budget. (Tr. 48)

Policies

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the 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) Between 2009 and 2011, Applicant incurred approximately \$16,000 of delinquent debt. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply.

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; and

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Because Applicant could have chosen not to help her relatives, the resulting financial difficulties she experienced cannot be attributed to circumstances beyond her control. Nevertheless, she has satisfied all of her debts, except SOR subparagraph 1.g, which she has been paying monthly since September 2015. She is only providing financial assistance to one relative now, and that assistance is provided consistently within her budget. She makes \$135,000, has \$750 in monthly, discretionary income, and has a \$4,000 checking account balance. I conclude that all of the mitigating conditions, as set forth above, except for AG ¶ 20(b) are applicable.

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.

Applicant's financial problems, at their core, stemmed from compassion - the desire to help relatives - rather than overindulgence, or frivolous overspending on material items. Consequently, these surrounding circumstances are to an extent mitigating factors regardless of whether they were circumstances beyond her control.

Also, Applicant's honorable military service and maintenance of a security clearance for nearly 30 years weigh in her favor. Upon considering this case in the context of the whole-person concept, I conclude that Applicant has mitigated the security concern.

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.o: For Applicant

Conclusion

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

MARC E. CURRY
Administrative Judge