



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



In the matter of:)	
)	
)	ISCR Case No. 18-01241
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah Minster., Department Counsel
For Applicant: *Pro se*

January 11, 2019

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On June 11, 2015, Applicant submitted a security clearance application (e-QIP). On May 25, 2018, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. (Item 1.) The action was taken 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 for Determining Eligibility for Access to Classified Information*, effective within the DoD after July 8, 2017.

Applicant answered the SOR on June 24, 2018. He requested that his case be decided by an administrative judge on the written record without a hearing. (Item 2.) On July 11, 2018, Department Counsel submitted the Government's written case. A complete copy of the File of Relevant Material (FORM), containing 6 Items, was mailed to Applicant on July 12, 2018, and received by him on August 1, 2018. The FORM

notified Applicant that he had an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of his receipt of the FORM. Applicant failed to respond to the FORM. DOHA assigned the case to me on December 3, 2018. Applicant had no objection to the Government's Items. Accordingly, Items 1 through 6 are admitted into evidence and hereinafter are referred to as Government Exhibits 1 through 6.

Findings of Fact

Applicant is 38 years old. He is divorced since 2011, and has four children. It is unclear what position he holds with the defense contractor who has sponsored him for his security clearance or when he was hired. He is seeking to obtain a security clearance in connection with his employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information.

The SOR identified thirteen debts totaling in excess of \$39,000. (Government Exhibit 1.) Applicant denies eight of the alleged accounts, which total approximately \$1,670. (Government Exhibit 2.) Applicant states that these accounts, specifically subparagraphs 1.h. through 1.m. are not his, but are his father's that have been mixed up in his credit report. There has been no evidence presented by the Applicant that he has disputed these debts on his credit report. Applicant currently resides with his parents in their home since December 2010.

Applicant attributes his delinquent debt to a two year period of unemployment. (Government Exhibit 3.) In his e-QIP, he lists two periods of unemployment from September 2007 until January 2008, and May 2013 until when the application was completed in 2015. The record is not clear as to when Applicant began working for his current employer. Applicant failed to provide any documentation showing the current status of any of the debts alleged. He also failed to provide any evidence to show that he has contacted any of his creditors to set up payment plans or otherwise resolve the debt. Credit reports of the Applicant dated June 23, 2015; and February 20, 2018, confirm that Applicant has not resolved any of the delinquent debts listed in the SOR. (Government Exhibits 5 and 6.)

Since receiving the SOR, Applicant has done nothing to resolve his delinquent debt. There has been no evidence presented that demonstrates that Applicant has taken any steps to resolve the debt by setting up payment plans or otherwise demonstrate an established track record of debt resolution efforts. Applicant states that he has worked with an accountant to create a budget and plans to become debt-free within the next 12 months and that he has not accrued any new debt in the last five

years. The personal financial statement he submitted shows a \$1,700 net monthly remainder after payment toward his child support accounts and those debts listed in 1.c., 1.d., 1.f., and 1.g. (Government Exhibit 4.) He states that he is in the process of making arrangements to satisfy those debts listed in subparagraphs 1.c. through 1.g., but failed to provide documentation to corroborate this. No further details were provided. The following debts listed in the SOR remain owing:

(a) a debt for child support arrears in the amount of \$16,928 remains delinquent. Applicant attributes his delinquent child support debt to a two year period of unemployment

(b) a debt for child support arrears in the amount of \$10,342 remains delinquent. Applicant attributes his delinquent child support debt to a two year period of unemployment.

(c) a debt owed to a creditor was placed in collection in the approximate amount of \$2,599. The debt remains delinquent.

(d) a debt owed to a creditor was placed in collection in the approximate amount of \$909. The debt remains delinquent.

(e) a debt owed to a creditor for a medical bill was placed for collection in the approximate amount of \$179. The debt remains delinquent.

(f) a debt owed to a creditor was charged off in the approximate amount of \$6,757. The debt remains delinquent.

(g) a debt owed to a creditor was charged off in the approximate amount of \$431. The debt remains delinquent.

(h) a debt owed to a creditor was placed for collection in the approximate amount of \$300. The debt remains delinquent.

(i) a debt owed to a creditor was placed in collection in the approximate amount of \$300. The debt remains delinquent.

(j) a debt owed to a creditor was placed for collection in the approximate amount of \$250. The debt remains delinquent.

(k) a debt owed to a creditor was placed for collection in the approximate amount of \$100. The debt remains delinquent.

(l) a debt owed to a creditor was placed for collection in the approximate amount of \$55. The debt remains delinquent.

(m) a debt owed to a creditor was placed for collection in the approximate amount of \$55. The debt remains delinquent.

There is nothing in the record to show that the Applicant has carried his burden of proof to establish mitigation of the government security concerns under Guideline F.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 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 avoided drawing 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, 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 clearance 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 as to 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

The security concern 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Three are potentially applicable in this case:

- (a) inability or unwillingness to satisfy debts;
- (b) unwillingness to satisfy debt regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant is delinquently indebted in excess of \$39,000. His actions demonstrated both a history of not addressing his debt and an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating condition under the Financial Considerations is potentially applicable under AG ¶ 20.

- (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.

It is unclear from the record how long the Applicant has been working with his current employer. What is clear, however, is the fact that he has not addressed his

delinquent debt in any form or fashion. There is no evidence that he has acted responsibly under the circumstances. His inaction is an action which casts doubt on his current reliability, trustworthiness, or good judgment.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's national security eligibility 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 national security eligibility 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 relevant facts and circumstances surrounding this case. I conclude Applicant has not mitigated the Financial Considerations 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:	AGAINST APPLICANT
Subparagraphs 1.a.:	Against Applicant
Subparagraphs 1.b.:	Against Applicant
Subparagraphs 1.c.:	Against Applicant
Subparagraphs 1.d.:	Against Applicant
Subparagraphs 1.e.:	Against Applicant
Subparagraphs 1.f.:	Against Applicant
Subparagraphs 1.g.:	Against Applicant
Subparagraphs 1.h.:	Against Applicant
Subparagraphs 1.i.:	Against Applicant
Subparagraphs 1.j.:	Against Applicant
Subparagraphs 1.k.:	Against Applicant

Subparagraphs 1.l.: Against Applicant
Subparagraphs 1.m: 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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge