



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



In the matter of:)
)
) ISCR Case No. 19-00027
)
Applicant for Security Clearance)

Appearances

For Government: Dan O'Reilley, Esquire, Department Counsel
Julie R. Mendez, Esquire, Deputy Chief Department Counsel.
For Applicant: *Pro Se*

09/20/2019

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 31 January 2019, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 7 May

¹Consisting of the transcript (Tr.), Government exhibits (GE) 1-4, hearing exhibit (HE) I, and Applicant Exhibits (AE) A-J. AE E-J were timely received post hearing. The record in this case closed 28 June 2019, when Department Counsel stated no objection to AE E-J.

²DoD 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 Security Executive Agent Directive 4, effective on 8 June 2017.

2019 and I convened a hearing 10 June 2019. DOHA received the transcript 20 June 2019.

Findings of Fact

Applicant admitted the SOR allegations, except for SOR 1.p which he was unable to locate, and which no longer appears on his credit report. He is a 31-year-old information management officer employed by a U.S. defense contractor since April 2017. This is a different contractor than originally sponsored his clearance (GE 1; Tr. Tr. 100-107). He claims to have held an industrial clearance since 2006. He married in June 2016, and has a 16-year-old stepchild. (GE 1).

The SOR alleges, and Government exhibits (GE 3-4) substantiate, 16 delinquent debts totaling nearly \$39,000. Applicant admits 15 delinquent debts totaling nearly \$38,000. It appears that SOR debts 1.f and 1.l are the same. Applicant claimed to have settled the debt, but provided no corroboration.

Applicant reported SOR debt 1.b on his December 2016 clearance application (GE 1), and discussed his financial problems—including the SOR debts—during a January 2018 interview with a Government investigator (GE 2), based on his March 2017 credit report (GE 4). He stated he would investigate the allegedly delinquent accounts, and take steps to address them. In fact, he had paid SOR debt 1.n in November 2017 [Answer (letter from creditor)]. He obtained a copy of his credit report in summer 2018, but did not otherwise take steps to address the remaining SOR debts until after he received the SOR. His December 2018 credit report (GE 3) shows most of the SOR debts remain unresolved.

Enclosures to Applicant's Answer show that in February 2019, he reached a settlement agreement with SOR creditor 1.g, which was shown as paid in March 2019 (AE C, I). He reached a settlement with the same creditor for SOR 1.h in February 2019, which was also shown as paid in March 2019 (AE E) In February 2019, Applicant reached a settlement agreement with SOR creditor 1.i, which was shown as paid in March 2019 (AE J). He paid SOR creditor 1.j in February 2019 [Answer (letter from creditor)] In February 2019, SOR creditor 1.m offered to settle the debt at a 45% discount. Applicant annotated that offer to reflect six monthly payments of \$140. Applicant documented an April 2019 payment (AE D, H) and a May 2019 payment (AE H).

In March 2019, the SOR 1.c creditor offered to settle the debt for one lump-sum payment, a 36-month plan, an 18-month plan, or pay the full amount with easy monthly payments (AE A, G). Applicant stated that he opted to pay slightly more than the required monthly payment, but did not document any payments. In September 2018, the SOR 1.d creditor offered to settle the debt at a 70% discount. (AE B). Applicant negotiated the amount to an 80% discount, but did not authorize payments to begin until June 2019 (AE F). In March 2019, the SOR 1.o creditor stated that it would no longer pursue the debt, and was returning the debt to the original creditor (Answer). Applicant claims the original creditor now has no record of the debt.

Applicant claims, without corroboration, that he has tried to contact the remaining creditors with varying degrees of success, largely with no response from the creditors. He claimed to have paid SOR debt 1.k by check, but did not document the payment.

Although Applicant experienced brief periods of unemployment in June 2016 and April 2017, he acknowledges that his financial problems are due to his inaction (Tr. 98). He did not do what he was supposed to do when he was supposed to do it (Tr. 93). He and his wife earn about \$175,000 annually, and have about \$2,000 positive monthly cash flow. He has resolved to use his savings to address the remaining SOR debts (Tr. 88-90).

In addition to the thin documentation of his efforts to deal with the specific debts, Applicant documented no credit or financial counseling. He submitted no budget. He submitted no work or character references, or any evidence of civic or community involvement. His wife says he is frugal and trying to address their finances.

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.³

Analysis

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

The Government established a case for disqualification under Guideline F, and Applicant failed to mitigate the security concerns. Applicant accumulated over \$38,000 in delinquent debt due to his inattention to his finances. Despite being confronted with these debts during his January 2018 interview with a Government investigator, he took no meaningful action to resolve the debts until after he received the SOR.⁴

The mitigating conditions for financial considerations provide insufficient help to Applicant. The conduct was recent, frequent, although the circumstances might now be considered to be unlikely to recur.⁵ The circumstances of his financial problems were within his control, and even if his two brief periods of unemployment were beyond his control, he did not demonstrate any responsible resolution of his debts.⁶

Applicant has not documented credit and financial counseling, and submitted no budget. His belated efforts to resolve his debts do not demonstrate that they have been resolved or are under control.⁷ The Government is not the collection agent of last resort. Applicants are expected to pay their bills because of their legal and moral duty to do so. The late effort precludes a conclusion that Applicant has made a good-faith effort to address his debts because he cannot show a substantial track record of keeping his finances in order.⁸ Moreover, he provided no work or character references, or any evidence of civic or community involvement to support a whole-person assessment to overcome the security concerns raised by his current financial situation. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-m, o-p:	Against Applicant
Subparagraph n:	For Applicant

Conclusion

⁴¶19(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so; (c) a history of not meeting financial obligations;

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

⁶¶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;

⁷¶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;

⁸¶20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

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.

JOHN GRATTAN METZ, JR
Administrative Judge