

Applicant responded to the SOR on February 3, 2019, and elected to have his case decided on the basis of the written record. Applicant received the File of Relevant Material (FORM) on July 11, 2019, and interposed no objections to the materials in the FORM. He timely supplemented the record with a payment agreement with the only creditor listed in the SOR (§ 1.a). Applicant's post-FORM submission was admitted without objection. The case was assigned to me on July 29, 2019.

Summary of Pleadings

Under Guideline F, Applicant allegedly accumulated one delinquent debt of \$10,733. (Item 1) Allegedly, his accrued delinquent debt remains unresolved and outstanding.

In his response to the SOR, Applicant admitted the allegation with explanations. He claimed he experienced financial hardships: losing his job, house, and fiancé, facing unemployment for six months, and having to help his son who was diagnosed with cancer. Applicant expressed shame for the neglect he exhibited in handling his SOR § 1.a debt. He claimed his morals, values, ethics, and integrity remain unbroken. And, he claimed he is now financially stable and is working to resolve the SOR § 1.a debt.

Findings of Fact

Applicant is a 31-year-old systems administrator for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant never married and has one child. (Item 3) He earned a bachelor's degree in criminal justice from an accredited college in July 2011. (Item 7)

Since September 2016, Applicant has worked for his current defense contractor. (Item 3) Previously, he worked for other firms in various types of jobs. He reported unemployment between March and September 2014. (Item 3)

Applicant's finances

During times of struggle with his employment and personal relationships with his family, Applicant defaulted on a credit card account. His credit reports reveal that Applicant opened this account (SOR § 1.a) in March 2004 with a high credit balance of \$13,200, and he became delinquent on the account in June 2013. (Item 3-6) At the time of his first delinquency, he owed \$10,733 on the account. (Items 3-6)

Records confirm that Applicant took no actions to address his delinquent SOR § 1.a account until July 2019. (Item 7) At this time, he entered into an installment agreement with creditor 1.a as follows: Settlement of the balance due for a reduced

payment of \$4,293, payable in monthly increments of \$357, beginning in June 2019. (Item 6) His bank statement documented one initial payment of \$357 in July 2019. (Item 7) Applicant documented that he is in full compliance with his payment agreement with creditor 1.a.

Policies

The SEAD 4, App. A lists guidelines to be used by administrative judges in the decision-making process covering security clearance cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and many of the conditions that could mitigate security concerns.

These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with App. A. AG ¶ 2©.

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in App. A, AG ¶ 2(d) of the AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person.

The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk. The following App A, AG ¶ 2(d) factors are pertinent: (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.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent in this case:

Financial Considerations

The Concern: 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 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 of dependence. An individual who is financially overextended is at greater risk of having to engage in illegal acts or otherwise questionable acts to generate funds. . . . AG ¶ 18.

Burden of Proof

By virtue of the principles and policies framed by the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995).

As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. "[S]ecurity-clearance determinations should err, if they must, on the side of denials." See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

Analysis

Security concerns are raised over Applicant's accumulation of one sizable delinquent debt in 2013. Applicant's history of financial difficulties warrant the application of three of the disqualifying conditions (DC) of the Guidelines: DC ¶¶ 19(a),

“inability to satisfy debts”; 19(b), “unwillingness to satisfy debts regardless of ability to do so”; and 19(c), “a history of not meeting financial obligations.”

Applicant’s admitted delinquent debt negates the need for any independent proof. See Directive 5220.6 at E3.1.14; *McCormick on Evidence*, § 262 (6th ed. 2006). Each of Applicant’s admitted debt is fully documented and creates some judgment issues. See ISCR Case 03-01059 at 3 (App. Bd. Sept. 24, 2004).

Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that entitles him to access classified information. While the principal concern of a security clearance holder’s demonstrated financial difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving debt delinquencies.

Historically, the timing of addressing and resolving debt delinquencies are critical to an assessment of an applicant’s trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). Applicant’s cited circumstances (brief unemployment in 2014) provide some extenuating benefit. MC ¶ 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,” applies to Applicant’s situation.

In evaluating Guideline F cases, the Appeal Board has stressed the importance of a “meaningful track record” that includes evidence of actual debt reduction through voluntary payment of debts, and implicitly where applicable the timely resolution of delinquent debts. ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) In Applicant’s case, his documented settlement of his SOR ¶ 1.a debt with arranged monthly payments on a reduced debt, enables him to achieve favorable findings and conclusions with respect to raised security concerns over the state of his finances.

Whole-Person Assessment

Whole-person assessment is favorable to Applicant. He has shown sufficient progress to date in addressing his delinquent debts to merit enough positive credit to mitigate financial concerns. Overall, Applicant’s actions to date in addressing his single cited debt reflects sufficient evidence of restored financial responsibility and judgment to overcome reasonable doubts about his trustworthiness, reliability, and ability to protect classified information. See AG ¶ 18. Conclusions are warranted that his finances are sufficiently stabilized at this time to meet minimum eligibility requirements for holding a security clearance. Eligibility to hold a security clearance under the facts and circumstances of this case is consistent with the national interest.

Formal Findings

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

GUIDELINE F (FINANCIAL CONSIDERATIONS): FOR APPLICANT

Subparagraph 1.a: For Applicant

Conclusions

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's eligibility to hold a security clearance. Clearance is granted.

Roger C. Wesley
Administrative Judge

