



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 19-02933  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis, Esq., Department Counsel  
For Applicant: *Pro Se*  
10/21/2020

**Decision**

HEINTZELMAN, Caroline E., Administrative Judge:

Applicant mitigated the financial considerations security concerns raised by his delinquent debts. National security eligibility for access to classified information is granted.

**History of the Case**

Applicant submitted a security clearance application on October 21, 2016. On December 12, 2019, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F, Financial Considerations. Applicant answered (Answer) the SOR on January 17, 2020, and requested a decision on the written record without a hearing.

On April 30, 2010, a complete copy of the File of Relevant Material (FORM), containing eight items, was mailed to Applicant. He received the FORM on May 8, 2020. 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 responded to the FORM in a timely manner on May 26, 2020, and he submitted Appellant Exhibits (AE) A and B. The case was assigned to me on July 2, 2020. Items 1 through 8, and AE A and B are admitted into evidence without objection.

## **Findings of Fact**

Applicant is 49 years old. He has been married since 2003, and has two teenage children. In 1999, he received an associate's degree. From 2005 until 2014, he worked for a defense contractor. He was self-employed from 2014 until April 2016, when he went back to work for his former employer as a designer/drafter. (Item 4; Item 5, AE A)

The SOR alleges two consumer debts totaling \$51,238. In his answer to the SOR, Applicant admitted the \$50,757 home equity line of credit (HELOC) and denied the \$481 credit card debt. He provided explanations and documentation. (Item 3)

In June 2006, Applicant purchased a home and opened a HELOC to make repairs to the house. He made interest-only payments toward the HELOC until approximately September 2015, when the account was sold to another creditor. The new creditor refused payments, and Applicant was told by the original creditor to wait to make payments until he was contacted by the new creditor. The debt subsequently became delinquent, and in July 2016, the HELOC was charged off in the amount of \$51,399. (Item 5 at 1-2; Item 6 at 3; AE A)

On January 30, 2020, Applicant and his wife entered into a forbearance agreement to make \$200 monthly payments from January 30, 2020 through December 30, 2020, toward the HELOC debt. His credit reports reflect that the balance was reduced from \$51,399 in January 2017 to \$50,757 in July 2019 and to \$50,557 in April 2020. These balances demonstrate that he made additional payments before the 2020 payment agreement. In his May 2020 response to the FORM, Applicant provided documentation that he made five timely \$200 payments between January and May 2020, in accordance with the agreement. (Item 3, Item 6, Item 7, Item 8, AE B)

Applicant provided proof that he paid in full the \$481 credit card debt in January 2020, and his most recent credit bureau report reflects that it has been resolved. It appears that he made payments toward this debt between January 2017 and July 2019 as the delinquent amount decreased from \$581 to \$481. The account originally became delinquent because Applicant was under the impression that his wife had paid the debt in a timely manner. (Item 3; Item 5 at 1; Item 6 at 3; Item 8 at 2)

Applicant's April 2020 credit bureau report reflects no new delinquent debts. There is no record evidence of credit counseling. (Item 8)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG 2(a), 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.

Under Directive E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion to obtain a favorable security 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 that an 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 Executive Order (Exec. Or.) 10865 provides that 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F: Financial Considerations**

The security concern under Guideline F 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. . . .

Applicant's admissions and the record evidence establish two disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts") and AG ¶ 19(c) ("a history of not meeting financial obligations").

AG ¶ 20 describes conditions that could mitigate security concerns. The following are potentially applicable in this case:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant resolved one of the alleged debts and is in a payment plan for the other alleged debt. He has no other new delinquent debt and is able and willing to resolve his financial obligations, as demonstrated by his payments on his outstanding debt. The record evidence does not indicate that Applicant's failure to pay his debts was the result of circumstances beyond his control; therefore, mitigation under AG ¶ 20(b) was not established; however, mitigation under AG ¶¶ 20(a) and 20(d) was established.

### **Whole-Person Concept**

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall common sense judgment based upon careful consideration of the applicable guidelines, each of which is to be evaluated in the context of the whole person. An 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.

I have incorporated my comments under Guideline F in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under this guideline, and evaluating all the evidence in the context of the whole person, I conclude that Applicant has mitigated the financial considerations security concerns raised by his delinquent debts. Accordingly, it is clearly consistent with the interests of national security of the United States to grant him eligibility for access to classified information.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:                      FOR APPLICANT

Subparagraphs 1.a – 1.b:                      For Applicant

### **Conclusion**

I conclude that it is clearly consistent with the interests of national security of the United States to grant or continue Applicant's eligibility for access to classified information. National security eligibility is granted.

---

CAROLINE E. HEINTZELMAN  
Administrative Judge