



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



In the matter of:)	
)	
)	ISCR Case No. 20-01061
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Aubrey M. De Angelis, Department Counsel
For Applicant: *Pro se*

February 24, 2021

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On September 26, 2019, Applicant submitted a security clearance application (e-QIP). On August 20, 2020, 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant answered the SOR on a date uncertain. He requested that his case be decided by an administrative judge on the written record without a hearing. (Item 3.) On November 30, 2020, Department Counsel submitted the Government’s written case. A complete copy of the File of Relevant Material (FORM), containing seven exhibits, was

sent to the Applicant and received on December 17, 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 failed to respond to the FORM. DOHA assigned the case to me on January 28, 2021. Items 1 through 7 are admitted into evidence and hereinafter referred to as Government Exhibits 1 through 7.

Findings of Fact

Applicant is 30 years old and is married a second time. He has one biological child and three step-children. He has a high school diploma, and has taken some college courses. He holds the position of Sheet Metal Worker. 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.

Applicant served honorably in the U.S. Navy from July 2009 through January 2015. Applicant was married to his first wife from 2012 to 2016. They divorced in 2016. Applicant attributes his financial delinquencies to his divorce.

The SOR identified thirteen debts totaling in excess of \$26,561. Applicant admits allegations 1.a., 1.b., 1.c., 1.e., 1.f., 1.g., 1.i., 1.j., and 1.l. He denied allegations 1.d., 1.h., 1.k., and 1.m. Credit reports of the Applicant dated October 9, 2019; and November 12, 2020, confirm that he is indebted to each of the creditors listed in the SOR. (Government Exhibits 6 and 7.)

Applicant has been employed with his current employer since August 2019. He completed a security clearance application in September 2019. In his application, Applicant disclosed a number of financial delinquencies that he attributed to his divorce. Applicant identified those delinquent accounts as being closed, and provided nothing further.

On November 15, 2019, Applicant was interviewed by a DoD-authorized investigator. During the interview, Applicant was confronted with several delinquencies that he had not disclosed on the e-QIP, some of which he states he was not aware of at the time he filed the e-QIP. At that time, Applicant had not made any payment arrangements on the debts nor had he received any credit counseling or debt consolidation services.

In August 2020, in an effort to address his delinquent debts, Applicant hired a debt resolution company to assist him in negotiating settlements with his creditors to

resolve his debts. He enrolled debts totaling \$13,307 with the company, which includes six accounts listed in the SOR.

The following delinquent debts are of security concern:

1.a. Applicant is indebted to a creditor for a collection account in the amount of \$712. Applicant claims that he was not aware of the debt until his interview in November 2019 when he met with the authorized DoD investigator. (Government Exhibit 5.) This debt is included in the list of creditors given to the debt resolution company. There is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.b. Applicant is indebted to a creditor for a collection account in the amount of \$820. Applicant claims that he was not aware of the debt until his interview in November 2019 when he met with the DoD investigator. (Government Exhibit 5.) This debt is included in the list of creditors given to the debt resolution company. There is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.c. Applicant is indebted to a creditor for a collection account in the amount of \$138. Applicant claims that he was not aware of the debt until his interview in November 2019 when he met with the DoD investigator. (Government Exhibit 5.) This debt is not included in the list of creditors given to the debt resolution company. Applicant states that the debt no longer appears on his most recent credit report. However, there is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.d. Applicant is indebted to a creditor for a collection account in the amount of \$5,222. Applicant claims that he was not aware of the debt until his interview in November 2019 when he met with the DoD investigator. (Government Exhibit 5.) This debt is not included in the list of creditors given to the debt resolution company. Applicant states that the debt no longer appears on his most recent credit report. However, there is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.e. Applicant is indebted to a creditor for a collection account in the amount of \$1,396. Applicant claims that he was not aware of the debt until his interview in November 2019 when he met with the DoD investigator. (Government Exhibit 5.) This debt is included in the list of creditors given to the debt resolution company. There is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.f. Applicant is indebted to a creditor for a collection account in the amount of \$572. Applicant claims that he was not aware of the debt until his interview in November 2019 when he met with the DoD investigator. (Government Exhibit 5.) This debt is not included in the list of creditors given to the debt resolution company. There

is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.g. Applicant is indebted to a creditor for a collection account in the amount of \$13,102. Applicant claims that he was not aware of the debt until November 2019 when he met with the DoD investigator. (Government Exhibit 5.) This debt is included in the list of creditors given to the debt resolution company. There is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.) Applicant also remains indebted in the amount of \$7,988 for a second account owed to this creditor, which is not listed in the SOR.

1.h. Applicant is indebted to a creditor for a collection account in the amount of \$223. Applicant claims that he was not aware of the debt until November 2019 when he met with the DoD investigator. (Government Exhibit 5.) Applicant states that he has disputed the debt. He has failed to provide any documentation pertaining to the dispute. There is no evidence in the record to show that the debt has been resolved. The debt remains owing. His most recent credit report shows the account has increased the balance owed to \$243.

1.i. Applicant is indebted to a creditor for a collection account in the amount of \$535. Applicant claims that he was not aware of the debt until November 2019 when he met with the DoD investigator. (Government Exhibit 5.) This debt is included in the list of creditors given to the debt resolution company. There is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.j. Applicant is indebted to a creditor for a collection account in the amount of \$1,741. Applicant claims that he was not aware of the debt until November 2019 when he met with the DoD investigator. This debt is included in the list of creditors given to the debt resolution company. There is no evidence in the record to show that the debt has been resolved. The debt has an increased balance due of \$1,891, and remains owing. (Government Exhibit 3.)

1.k. Applicant is indebted to a creditor for a collection account in the amount of \$1,232. Applicant claims that he was not aware of the debt until November 2019 when he met with the DoD investigator. Applicant states that he has disputed the debt. He has failed to provide any documentation pertaining to the dispute or the basis of the dispute. There is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.l. Applicant is indebted to a creditor for a collection account in the amount of \$344. Applicant claims that he was not aware of the debt until November 2019 when he met with the DoD investigator. (Government Exhibit 5.) There is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

1.m. Applicant is indebted to a creditor for a collection account in the amount of \$524. Applicant claims that he was not aware of the debt until November 2019 when he met with the DoD investigator. (Government Exhibit 5.) Applicant states that he has disputed the debt. He has failed to provide any documentation pertaining to the dispute. There is no evidence in the record to show that the debt has been resolved. The debt remains owing. (Government Exhibit 3.)

There is insufficient evidence in the record to show that Applicant's delinquent debts have been resolved. In August 2020, Applicant retained the services of a debt resolution company to help him settle his delinquent accounts for less than the balance due. Six of the debts alleged in the SOR totaling \$13,307 are included in the debt resolution settlement program. Applicant has not submitted any evidence showing that he has made any payments in accordance with the agreement. In regard to those debts that were not included in the debt resolution settlement program, Applicant has not shown that he has addressed them. There is no proof of payments, receipts, or any other documentation to show that he has paid off or is paying any of his outstanding debts. His credit reports do not show that any of his debts have been resolved. The effort he has made, which was to hire the debt resolution company, is not enough, and was done at such a late date that its meaning is insignificant. He has also not provided information regarding the delinquent accounts he disputes or the basis for the disputes. Overall, Applicant shows no progress towards resolving his debts. He still owes a significant amount of money to his creditors that he obviously cannot afford to pay. There is insufficient evidence 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 national security eligibility 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 \$26,500. 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 conditions under the Financial Considerations are 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;
- (d) the individual initiated and is adhering to a good faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

It is recognized that Applicant's divorce, which can be considered to be largely beyond his control, caused some financial difficulties that have contributed to his delinquent debts. However, five years have passed since his divorce in 2016 and he remains excessively indebted. Since then, Applicant has been gainfully employed and he has not sufficiently addressed his delinquent debts. His inaction casts doubt on his current reliability, trustworthiness, or good judgment. None of the mitigating conditions are applicable.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance 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 eligibility for a security clearance 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. through 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