



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



In the matter of:)	
)	
)	ISCR Case No. 20-02426
)	
)	
Applicant for Security Clearance)	

Appearances

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

October 12, 2021

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On August 19, 2019, Applicant submitted a security clearance application (e-QIP). On December 14, 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. 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 February 18, 2021, and requested a hearing before an administrative judge. The case was assigned to me on March 24, 2021. The Defense Office of Hearings and Appeals issued a notice of hearing on June 10, 2021, and the hearing was convened as scheduled on July 23, 2021, and August 9, 2021.

The Government offered six exhibits, referred to as Government Exhibits 1 through 6, which were admitted without objection. The Applicant offered one exhibit, referred to as Applicant's Exhibit A, which was admitted without objection. Applicant testified on his own behalf. The record remained open following the hearing, until close of business on August 23, 2021, to allow the Applicant to submit additional supporting documentation. Applicant did not submit any additional evidence. DOHA received the final transcript of the hearing (Tr.) on August 18, 2021.

Findings of Fact

Applicant is 33 years old. He is married, but separated, with one child. He has a high school diploma and one year of college. He holds the position of IT Manager. 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 alleged that Applicant incurred eleven delinquent debts owed to creditors on accounts that were charged off or placed for collection totaling approximately \$34,628. In his answer, Applicant admits each of the allegations set forth in the SOR. Credit reports of the Applicant dated September 27, 2019; January 21, 2020; and March 12, 2021, confirm that he is indebted to each of the creditors listed in the SOR. (Government Exhibits 3, 4, and 5.)

Applicant served in the U.S. Army from 2008 to 2019. He married in 2008 and separated in 2011. During his military career, Applicant was not financially responsible. He testified that beginning with his first duty station, and continuing throughout his various assignments and duty stations, he was behind on his bills and monthly expenses. In 2019, Applicant received an honorable discharge. Applicant began working for his current employer in October 2019.

Two months later, in December 2019, after receiving the SOR, Applicant began to "hustle" to get his debts resolved. In January or February 2021, he hired a debt relief company to assist him in resolving his delinquent debts. Beginning in May 2021, he pays \$336 every two weeks for their financial services. (Applicant's Exhibit A.) Applicant testified that he has placed three of the debts listed in the SOR in the program. The way the program works is that one debt gets paid off at a time. Once the three debts are paid off, they will move on to the others to get them resolved. (Tr. p. 26.) Applicant's intent is to have each of the debts listed in the SOR resolved through this program.

The following delinquent debts are of security concern:

1.a. Applicant is indebted to a creditor for a vehicle he purchased in 2015, which was repossessed in 2017, in the amount of \$20,825. The balance on the account grew to \$22,822. The account was charged off. The debt relief company has negotiated a settlement of this account in the amount of \$3,338. Applicant has not yet paid the settlement amount. (Tr. pp. 27-28.)

1.b. Applicant is indebted to a creditor in the amount of \$6,478 for an account that was charged off. The account is also included in the debt relief program. No settlement agreement has been negotiated as of yet. (Tr. p. 30.)

1.c. Applicant is indebted to a creditor for an apartment eviction in the amount of \$4,450. The account was placed for collection. This account is also included in the debt relief program. No settlement agreement has been negotiated as of yet. (Tr. p. 33.)

1.d. Applicant is indebted to a creditor for a credit card opened in 2009/2010, in the amount of \$1,100 for an account that was placed for collection. Applicant testified that this debt was satisfied with his 2019 income tax refund. (Tr. p. 34.)

1.e. Applicant is indebted to a creditor for cable and internet services opened in 2015, and last paid in 2016, in the amount of \$537. The account was placed for collection. This debt remains outstanding. (Tr. p. 35.)

1.f. Applicant is indebted to a creditor for a credit card in the amount of \$485 for an account that was placed for collection. The account was opened in 2014, and last paid in 2015. The debt remains outstanding. (Tr. p. 35.)

1.g. Applicant is indebted to a creditor in the amount of \$452 for an account that was charged off. The debt remains outstanding. (Government Exhibit 6.)

1.h. Applicant is indebted to a creditor for a cable bill in the amount of \$319. The account was placed for collection. The debt remains outstanding. (Government Exhibit 6.)

1.i. Applicant is indebted to a creditor for a medical bill in the amount of \$143. The account was placed for collection. Applicant believes that he used an on-line service to dispute the debt sometime in 2020. The debt remains outstanding. (Tr. p. 37.)

1.j. Applicant is indebted to a creditor for his family cellular services in the amount of \$766. The account was opened in 2018, and placed for collection. The debt remains outstanding. (Tr. p. 38.)

1.k. Applicant is indebted to a creditor for cell phone and cable services in the amount of \$173. The account was placed for collection. The debt remains outstanding. (Tr. p. 38.)

Applicant is just starting the process of cleaning up his credit. He plans to continue working with his debt relief company until all of his delinquent debts are resolved. He is no longer incurring new debt. In addition to the money he pays to the debt relief company each month to resolve his debts, Applicant makes regular monthly payments to his child's mother for child support for his son in the amount of \$600. He also pays rent of \$1,000 monthly. He has no car payment. He now lives frugally and within his means.

Applicant's current salary is \$83,000 annually. (Tr. p. 19.) He also receives VA disability benefits of \$1,100 monthly. (Tr. p. 20.)

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 has a history of financial hardship brought on by immaturity and irresponsibility. His actions or inactions both demonstrated 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 guideline are potentially applicable under AG ¶ 20.

(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, 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.

Applicant has recently directed his focus at resolving his delinquent debts. He now realizes the importance of being responsible and trustworthy in every aspect of his life, including his finances. He has just started the process. Applicant's financial irresponsibility and inaction in the past until recently, casts doubt on his current reliability, trustworthiness, or good judgment. Applicant needs more time to show the Government that he will continue to properly resolve his financial delinquencies with regular systematic payments and consistency. None of the mitigating conditions are applicable.

There is insufficient evidence in the record to show that Applicant's delinquent debts have been resolved. Overall, Applicant shows little 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.

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. In the event that Applicant follows through with his commitment to show financial responsibility, sometime in the future he can be found to be sufficiently reliable to properly protect and access classified information.

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 ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a. through 1.c.	Against Applicant
Subparagraph 1.d.	For Applicant
Subparagraphs 1.e., through 1.k	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