



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



In the matter of:)
)
) ISCR Case No. 21-01580
)
Applicant for Security Clearance)

Appearances

For Government: Allison Marie, Esq., Department Counsel
For Applicant: *Pro se*

01/12/2022

Decision

LYNCH, Noreen A., Administrative Judge:

Applicant mitigated the security concerns under the financial considerations guideline. He presented sufficient documentation to support his burden of proof. Eligibility for access to classified information is granted.

Statement of the Case

On August 6, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Adjudicative Guideline F (financial considerations). The action was taken under Executive Order (Exec. Or.) 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 adjudicative guidelines (AG) implemented by DOD on June 8, 2017. Applicant responded to the SOR and elected to have his case decided on the written record in lieu of a hearing.

Department Counsel submitted the Government’s file of relevant material (FORM) on September 28, 2021. Applicant received the FORM on October 11, 2021, 2021. Applicant responded to the FORM (Item 7). The Government’s evidence, included

in the FORM and identified as Items 1 through 6, is admitted without objection. The case was assigned to me on January 6, 2022. Based on my review of the documentary evidence, I find that Applicant mitigated financial considerations security concerns.

Findings of Fact

In response to the SOR, Applicant admitted SOR allegations 1.a through 1.e, totaling about \$91,000, with explanations. (Item 2) He is 32 years old, and married. Applicant attended college obtaining his undergraduate degree in 2012. He reports no military service. He completed a security clearance application on February 27, 2020. He worked for his employer from January 2020 until March 2020. (Item 3 4) He is now sponsored by another company for his initial security clearance.

Financial

Applicant disclosed his financial issues in his security clearance application. Application. He attributes his delinquent debts to spending too much on credit cards in 2016 and 2017. He was unable to maintain the payments. Applicant tried working with a debt management company to resolve the debts. He was building up a settlement fund. He soon realized that this was damaging, because they advised him to stop paying on the credit accounts and let them go to default status. In 2019, he stopped dealing with them and worked with the creditors directly.

In his answer to the SOR, Applicant stated that he has been working to resolve his debts. His credit report (Item 6) confirms that he has maintained regular monthly payments on some accounts for about 14 months. He also has resolved two other accounts. He did not provide documentation when he answered the SOR.

Applicant stated, in his subject interview (Item 4) that he was unemployed from 2010 to 2012, while he was a student. He was supported by his family. He also acknowledged that he was young and not responsible with the credit cards, but he has learned.

As to SOR 1.a, a charged-off account in the amount of \$2,049, Applicant provided documentation in response to the FORM that the account has been settled. (Item 7) The debt has been cancelled.

As to SOR 1.b, a charged-off account in the amount of \$16,193, Applicant has been paying \$163 a month consistently since March 2020. (Item 5) His credit report confirms the information.

As to SOR 1.c, a collection account in the approximate amount of \$40,741, Applicant has not settled the debt, but he is paying \$100 a month toward a resolution of the debt. He provided bank transactions showing payments made. (Item 7)

As to SOR 1.d, a charged-off account in the amount of \$27,813, Applicant was working with the debt company. He has received information and will proceed with the current collection agency. (Item 7)

As to SOR 1.e, a collection account in the amount of \$4,264, Applicant settled the account and provided a cancellation of debt in response to the FORM. (Item 7)

Applicant was young and admitted to not being responsible in those years. However, he has been working to resolve his debts prior to the security clearance process. He disclosed his financial situation. He has taken concrete steps to resolve delinquent accounts and provided documentation concerning his efforts. He did not realize at first that the debt consolidation company would not give him good advice. He has shown that he has a plan for each debt that he incurred.

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 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 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 national security eligibility will be resolved in favor of the national security."

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 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 the applicant may deliberately or inadvertently fail to safeguard

classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Exec. Or. 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F (Financial Considerations)

The concern under this guideline 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

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions, corroborated by his credit reports, establish two disqualifying conditions under this guideline: AG ¶¶ 19(a) (“inability to satisfy debts”), and 19(c) (“a history of not meeting financial obligations”).

The security concerns raised in the SOR may be mitigated by the following potentially applicable factors:

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;

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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(c): the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

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

Applicant admitted, and his credit reports confirm, that he is responsible for the delinquent debts that started in 2016 and 2017. He obtained the services of a debt management company, but learned that their advice to stop paying on the accounts and let them go to default was damaging to him. He has learned from his mistakes and is actively addressing the accounts. He has shown that he can maintain consistent monthly payments.

Based on the evidence produced by Applicant, it is concluded he made a sufficient good-faith effort to resolve his debts. He is beginning a meaningful track record of financial responsibility. He has met his burden and some of the mitigating conditions apply.

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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence presented shows that Applicant has realized the importance of financial responsibility and continues to address and resolve the various credit accounts. Eligibility is granted.

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:	FOR APPLICANT
Subparagraphs 1.a –1.e:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Noreen A. Lynch
Administrative Judge