



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



In the matter of:)	
)	
)	ISCR Case No. 22-00602
)	
Applicant for Security Clearance)	

Appearances

For Government: Bryan Olmos, Esq., Department Counsel
 For Applicant: *Pro se*
 10/24/2022

Decision

HEINTZELMAN, Caroline E., Administrative Judge:

Applicant did not mitigate the financial considerations security concern. He has numerous unresolved delinquent debts. National security eligibility for access to classified information is denied.

History of the Case

Applicant submitted a security clearance application (SCA) on June 7, 2021. On April 5, 2022, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F (financial considerations). Applicant submitted an answer to the SOR on April 19, 2022, and requested a decision based upon the administrative record in lieu of a hearing (Answer).

A copy of the file of relevant material (FORM), dated June 9, 2022, was provided to Applicant by letter on the same date. Department Counsel attached as evidence to the FORM Items 1 through 6. Applicant received the FORM on June 16, 2022, and he was afforded a period of 30 days to file objections and submit material in refutation, extenuation, or mitigation. He did not respond to the FORM. On October 3, 2021, the case was assigned to me.

Findings of Fact

Applicant is 39 years old. He has never been married and has no children. He received a high school diploma in 2003. He served on active duty in the U.S. Army from February 2006 until May 2008, when he was honorably discharged. He has worked as an aircraft structural mechanic for his current employer, a DOD contractor, since May 2021. He previously held a secret clearance when he served in the Army. (Item 3; Item 4)

The SOR alleges that Applicant has ten delinquent debts totaling approximately \$23,310. He admitted all SOR allegations and provided no explanation or supporting documentation in his response to the SOR. (Items 2-4)

In Applicant's June 2021 SCA, he disclosed some of the debts alleged in the SOR. He indicated his debts became delinquent after his previous job was "restructured," and he lost pay; therefore, he could not afford to pay his credit card bills. Additionally, he wrote that he was taking a new job and could start paying his debts. He did not provide details regarding the new job, but he was most likely referencing the DOD contractor position that he started in May 2021, as he disclosed no periods of unemployment. (Item 3)

Applicant was interviewed by a government investigator in July 2021, and he provided additional information regarding the "restructuring" of his previous job. He worked for his former employer from April 2013 to April 2021. In 2017 or 2018, his supervisory position was eliminated, and he took a \$5 an hour pay cut to continue working for his employer. At the time of the interview, he stated that he had a plan to pay his debts by July 2024, but did not provide details. (Items 2-3)

Applicant provided no documentation in his response to the SOR, nor a response to the FORM. There is no evidence in the record that he has resolved or is resolving any of the debts alleged in the SOR. (Items 2-4)

The \$7,224 debt alleged in SOR ¶ 1.a is for a credit-card account that was opened in December 2016, and charged off in approximately August 2020. (Items 2-6)

The \$3,089, \$2,389, and \$1,963 debts alleged in SOR ¶¶ 1.b through 1.d are credit-card accounts that were opened with the same creditor in approximately 2016. Applicant's last payment toward each account was in 2018. They were placed for collection and ultimately purchased by another creditor. (Items 2-6)

The \$1,918 debt alleged in SOR ¶ 1.e is for a credit-card account that was opened in approximately August 2015. The account was charged off in June 2021. (Items 2-6)

The \$1,866 debt alleged in SOR ¶ 1.f is a credit-card account opened in 2016 at a jewelry store. It became delinquent in approximately August 2018. (Items 2-6)

The \$1,502 debt alleged in SOR ¶ 1.g is for a credit-card account that was placed for collection. During Applicant's interview, he claimed that he paid this account in 2017, and provided documentation that he disputed this account in July 2021. This debt still

appeared on his February 2022 credit bureau report without any reference to a dispute. (Items 2-6)

The \$1,496 debt alleged in SOR ¶ 1.h is for a credit-card account that was opened in approximately November 2016. It was charged off in 2018, when Applicant stopped making payments toward this account in 2018. (Items 2-6)

The \$1,329 debt alleged in SOR ¶ 1.i is for a credit-card account that was opened in approximately May 2017, and charged off in April 2021. (Items 2-6)

The \$514 debt alleged in SOR ¶ 1.j is for a cellular phone account that was opened in approximately 2013 or 2014. During Applicant's interview, he told the investigator that he turned in his phone to one of the company stores in 2017, after a merger with another provider. At the time of the interview, he intended to dispute this debt. It appeared on his February 2022 credit report without any reference to a dispute. (Items 2-6)

Policies

This case is adjudicated under Executive Order (EO) 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), which became effective on June 8, 2017.

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(c), 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 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 concern under Guideline F (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

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.

The record evidence of Applicant's delinquent debts establishes the following disqualifying conditions under AG ¶ 19:

- (a) inability to satisfy debts; and

- (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;
- (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 or provides evidence or actions to resolve the issue.

Applicant has over \$23,000 in delinquent consumer debt. He incurred this debt, in part, due to a reduction in his hourly pay in 2017 or 2018. However, despite repeated promises to start repaying his debts, he provided no evidence of any payments or other resolution of his debts. He also failed to provide any evidence that he has contacted any of creditors of the SOR debts to establish payment arrangements. Accordingly, there is no evidence that he has acted responsibly to resolve his financial issues.

The ten alleged debts remain outstanding and unpaid. Therefore, Applicant's behavior continues to cast doubt on his reliability, trustworthiness, and good judgment. He has not provided any evidence of a good-faith effort to repay or resolve his delinquent debts. Although he admitted all of the allegations in his response to the SOR, he indicated he had reasons to dispute several of the debts during his 2021 interview. However, he failed to provide any documentation to substantiate the basis for his disputes. For the forgoing reasons, Applicant failed to establish mitigation under AG ¶¶ 20 (a), (b), (d), or (e).

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 Applicant's honorable military service and 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. I conclude Applicant has not met his burden of proof and persuasion. He did not mitigate the financial considerations security concerns or establish his eligibility for a security clearance.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a – 1.j:	Against Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security of the United States to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

CAROLINE E. HEINTZELMAN
Administrative Judge