



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



In the matter of:)	
)	
)	ISCR Case No. 22-00132
)	
Applicant for Security Clearance)	

Appearances

For Government: Andrew H. Henderson, Esq., Department Counsel
For Applicant: *Pro se*

05/09/2023

Decision

LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On May 9, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant responded to the SOR on May 16, 2022, and requested a hearing before an administrative judge. The case was assigned to me on December 6, 2022.

The hearing was convened as scheduled on January 5, 2023. Government Exhibits (GE) 1 and 3 through 6 were admitted in evidence without objection. The objection to GE 2 was overruled. Applicant testified and submitted Applicant's Exhibits (AE) A through K, which were admitted without objection. The record was held open for Applicant to submit additional information. He submitted an email and ten attached documents. I have marked the email AE L. I have adopted Applicant's marking of the

attached documents, and they are marked AE 1 through 4, 5(a), 5(b), 6(a), 6(b), 7(a), and 7(b), and admitted without objection.

Findings of Fact

Applicant is a 42-year-old employee of a defense contractor. He has worked for his current employer or a successor company since October 2017. He earned a bachelor's degree in 2011. He is married with two children, ages 22 and 17, and an adult stepchild. (Tr. at 17, 21, 24-25, 41; GE 1)

Applicant developed financial problems between about 2014 and 2017. He attributed the problems to “[u]nexpected medical bills along with increased mortgage and utilities.” He and his wife bought a new home in 2013. The costs associated with home ownership, such as maintenance, repairs, and utilities, were more than he expected. In about 2016, they decided that they could not pay their mortgage and their credit cards, and they stopped paying their credit cards. He also did not pay his student loans. (Tr. at 16-18, 23-24; Applicant's response to SOR; GE 1, 2)

The SOR alleges eight delinquent consumer debts totaling about \$14,445 and nine defaulted student loans totaling about \$35,650. The debts are established through credit reports and Applicant's admissions.

Applicant's student loans were transferred to a new servicer to collect the loans in about 2019. He started making \$450 payments in December 2019, which was broken down into individual loans. From December 2019 through June 2020, he made nine \$450 payments (\$4,050). The loans were then considered rehabilitated and current, and they were transferred back to the original servicer. His federal student loan payments were then paused pursuant to COVID-19 relief. The pause was extended several times. It is currently extended through at least June 2023. (Tr. at 25, 32, 41-42; Applicant's response to SOR; GE 3-6; AE A-C, E, 1, 2)

Applicant settled and paid four of the alleged consumer debts. He settled an \$855 debt (SOR ¶ 1.h) for \$770 in January 2023; a \$1,022 debt (SOR ¶ 1.f) for \$766 in February 2023; a \$2,090 debt (SOR ¶ 1.d) for \$1,671 in March 2023; and a \$940 debt (SOR ¶ 1.g) for \$658 in March 2023. (Tr. at 30-32; GE 3-6; AE D, J, K, 1, 5(a)-7(b))

Applicant's finances have improved since he obtained his current job in 2017. He and his wife continued to pay their secured loans (mortgage, auto). They built up an emergency fund. As he progressed and received raises, he started paying his student loans and other debts. He paid a \$4,734 credit card debt that was not alleged in the SOR and at least one debt that was in his wife's name. He studied the advice of noted financial expert Dave Ramsey and is using his “snowball” method of paying the smallest debt first, and then moving on to the next smallest debt. His current salary is about \$105,000 a year, and his wife earns about \$60,000 as a teacher. He credibly testified that he intends to pay the remaining delinquent debts and his student loans when they come out of the pause. He is committed to obtaining and maintaining financial stability. (Tr. at 18, 22-23, 30-41, 44-46; GE 2-6; AE F-I)

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 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has a history of financial problems, including defaulted student loans and delinquent consumer debts. AG ¶¶ 19(a) and 19(c) are applicable.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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;
- (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

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

Applicant attributed his financial problems to “[u]nexpected medical bills along with increased mortgage and utilities.” He and his wife bought a new home in 2013. The costs associated with home ownership, such as maintenance, repairs, and utilities, were more than he expected. The costs of home ownership were not beyond his control. AG ¶ 20(b) is not applicable.

Applicant’s finances improved after he obtained his current job and earned raises. He started paying his debts long before the SOR was issued. He paid \$4,050 between December 2019 and June 2020 to rehabilitate his student loans. He paid a \$4,734 credit card debt that was not alleged in the SOR and at least one other debt that was in his wife’s name. He settled four of the delinquent consumer debts. He has about \$9,500 of delinquent debts still to be addressed. He credibly testified that he intends to pay the remaining delinquent debts and his student loans when they come out of the pause. He is committed to obtaining and maintaining financial stability.

Applicant’s finances are not perfect, but perfection is not required. A security clearance adjudication is not a debt collection procedure. It is a procedure designed to evaluate an applicant’s judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant established that he has a plan to resolve his financial problems, and he took significant action to implement that plan. He acted responsibly under the circumstances and made a good-faith effort to pay his debts. His finances do not cast doubt on his current judgment, reliability, trustworthiness, and ability to protect classified information. Security concerns about Applicant’s finances are mitigated.

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 have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

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.q: For Applicant

Conclusion

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Edward W. Loughran
Administrative Judge