



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



In the matter of:)
)
) ISCR Case No. 22-00343
)
Applicant for Security Clearance)

Appearances

For Government: Tovah A. Minster, Esq., Department Counsel
For Applicant: *Pro se*

07/26/2023

Decision

Curry, Marc E., Administrative Judge:

There are clear indications that Applicant’s financial problems are under control. I conclude he has mitigated the financial considerations security concern. Clearance is granted.

Statement of the Case

On April 1, 2022, Department of Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DCSA CAS took the action 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On May 4, 2022, Applicant answered the SOR, admitting the allegations and requested a hearing, whereupon the case was assigned to me on March 9, 2023. On May 2, 2023,

DOHA issued a notice of video teleconference hearing, scheduling the hearing on May 26, 2023. The hearing was held as scheduled. At the hearing, I considered Applicant's testimony, together with four Government Exhibits (GE), marked and incorporated into the record as GE 1 through GE 4, and three Applicant Exhibits (AE), marked and incorporated into the record as AE A through AE C. Also, I took administrative notice of a discovery letter mailed from department counsel to Applicant, dated, June 22, 2022, identifying it as Hearing Exhibit I. At Applicant's request, I enlarged the record through June 9, 2023 to afford him the opportunity to submit additional exhibits. Within the time allotted, he submitted one additional exhibit, marked and incorporated into the record as AE D. The transcript (Tr.) was received on June 13, 2023.

Findings of Fact

Applicant is a 29-year-old married man with one child, age six. He is a veteran of the U.S. Navy, serving from 2013 to 2017. His discharge was honorable. He is a high school graduate and has earned some college credits. (Tr. 14) He works for a defense contractor as an electrician. (Tr. 14)

Over the years, Applicant incurred eight delinquent debts, as alleged in the SOR, totaling approximately \$26,000. They include three car loans, as alleged in subparagraphs 1.a, b, and g, two personal loans, as alleged in subparagraphs 1.c and 1.d., a credit card balance, as alleged in subparagraph 1.e, an outstanding municipal fine, totaling \$87, as alleged in subparagraph 1.f, and a line of credit, as alleged in subparagraph 1.h. (Tr. 15-17) Applicant attributes his financial problems to youth and stupidity. (Tr. 15) He "wanted everything," and "[threw] caution to the wind" to obtain it. (Tr. 15)

Applicant purchased his first car in 2014. (Tr. 20) He financed it with the loan alleged in subparagraph 1.a. After the car began repeatedly breaking down, he voluntarily surrendered it. (Tr. 20) He was unaware that he remained responsible for the loan after the return of the car. Applicant purchased another car, financed with the loan alleged in subparagraph 1.b. After he "got bored with" the car, he returned it to the dealer. (Tr. 16) Applicant then purchased another car financed through the loan set forth in subparagraph 1.g. After this car began experiencing mechanical problems, he "let [it] go to collections." (Tr. 18)

In May 2023, Applicant contacted the creditor of the debts alleged in subparagraphs 1.a and 1.b, and negotiated a payment plan. Under the plan, Applicant will pay the debt alleged in subparagraph 1.a with 116 monthly payments of \$50, and he will pay the debt alleged in subparagraph 1.b in 107 monthly payments of \$50. (AE D at 1 and 2) He has not made arrangements to pay the delinquent car note alleged in subparagraph 1.g yet because he cannot afford to begin paying it until he satisfies the other car notes. (Tr. 28)

Applicant used the personal loan alleged in subparagraph 1.c to cover the flight cost he paid to attend his grandmother's funeral. (Tr. 16) He made a few payments, then

“kind of pushed it to the back of [his] mind, and forgot about it for several years.” (Tr. 16) He contacted the creditor approximately two months ago, but has not yet begun making payments. (Tr. 26)

In May 2023, Applicant reached out to the creditor of the debt alleged in subparagraph 1.d and arranged a payment plan. Under the plan, he will satisfy it in 28 monthly payments of \$100. (AE D at 3)

Applicant has been making \$200 payments towards the satisfaction of the debt alleged in subparagraph 1.e, since October 2022. (Tr. 27; AE A at 3) He completed the payment plan approximately one week before the hearing. (Tr. 27)

Applicant satisfied the debt alleged in subparagraph 1.f in May 2022. (Tr. 27; AE C) The balance on the line of credit alleged in subparagraph 1.h is \$494, and the amount past due is allegedly \$120. Applicant contacted a bank representative who looked up the account and told him that he had a zero balance. (Tr. 18)

Applicant has minimal monthly discretionary income. (Tr. 31-32) He intends to satisfy his debt by “slowly chipping away” at it, satisfying one account in its entirety before moving to another. (Tr. 33) In 2018, he consulted a financial counselor who rejected his request to work with him. Applicant has not attempted to retain a financial counselor since then. (Tr. 29) Shortly before the hearing, Applicant’s wife took a job. Previously she was a stay-at-home mother. (Tr.21)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall 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 ¶ 1(d) 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. 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 applicant or proven by Department Counsel. . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline F: Financial Considerations

Under this concern, “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.” (AG ¶ 18) Applicant’s history of financial problems triggers the application of AG ¶ 19(a), “inability to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.”

Applicant is still in the process of resolving his delinquent debts, and the majority remains outstanding. AG ¶ 20(a), “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,” does not apply.

Applicant readily admits that his financial problems were caused by irresponsible money management. Therefore, 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,” does not apply.

Applicant has not retained a financial counselor. Nevertheless, he has satisfied the debt alleged in subparagraphs 1.e, 1.f and 1.h, entirely, and arranged payment plans to satisfy the debts alleged in subparagraphs 1.a and 1.b. Given his efforts to resolve or arrange for the resolution of these debts, I am confident that he will resolve the remaining unpaid SOR debts, as promised, once he finishes satisfying the ones that he currently has arranged to pay. Under these circumstances, both the second prong of AG ¶ 20(c), “. . . 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,” apply. In sum, I conclude that Applicant has mitigated the financial considerations security concerns.

Whole-Person Concept

Applicant’s financial problems were the result of reckless overspending. As such, the nature and seriousness of the problem was significant. Conversely, Applicant was admittedly young and immature when he made these bad spending decisions. His recognition of his financial problem, the steps taken to address the problem, and the progress he has made thus far, lead me to conclude that he has 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.h:	For Applicant

Conclusion

Considering the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Marc E. Curry
Administrative Judge