



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



In the matter of:)
)
) ISCR Case No. 23-01983
)
Applicant for Security Clearance)

Appearances

For Government: Troy Nussbaum, Esq., Department Counsel
For Applicant: *Pro Se*

11/21/2024

Decision

GOLDSTEIN, Jennifer I., Administrative Judge

Applicant has many years of unresolved delinquent debt. He did not provide sufficient information, documented or otherwise, to mitigate resulting financial considerations security concerns. Applicant's eligibility for access to classified information is denied.

Statement of the Case

In connection with his employment with a defense contractor, Applicant submitted a security clearance application (SCA) on November 8, 2022. On September 20, 2023, the 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. The CAS issued the SOR under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on January 17, 2024, and requested a hearing before an administrative judge. (Answer.) The case was assigned to me on October 23, 2024. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on

October 31, 2024, after the parties agreed to scheduling the hearing on November 12, 2024. The hearing was convened as scheduled. The Government offered Exhibits (GE) 1 through 5, which were admitted without objection. Applicant testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on November 19, 2024.

Findings of Fact

In his SOR response, Applicant admitted all allegations, SOR ¶¶ 1.a through 1.f. He provided brief explanations as to each alleged debt. His admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 31 years old. He is unmarried and has one child. He has worked as a painter for a government contractor since September 2020. (GE 1; Tr. 17-21)

Applicant has six delinquent accounts alleged on the SOR, totaling approximately \$30,162. He attributes his delinquencies to a period of unemployment from May 2020 to September 2020 and to three car accidents. (GE 1; GE 4; Tr. 16).

In SOR ¶ 1.a, the Government alleges that Applicant is indebted on a personal loan placed for collections in the amount of \$3,005. Applicant used the funds from this loan to fix his vehicle. This unpaid balance was reported as a loss by the creditor in March 2023. Applicant has not resolved this debt. (GE 5; Tr. 22-23)

In SOR ¶ 1.b, the Government alleges that Applicant is indebted on an account placed for collections in the amount of \$1,322. He testified that this was the amount that was not covered by his vehicle insurance after a vehicle accident in 2018 or 2019. This debt has been charged off with the unpaid balance reported as a loss by the creditor. It remains unresolved. (GE 5; Tr. 28-29)

In SOR ¶ 1.c, the Government alleges that Applicant is indebted on an account placed for collections in the amount of \$773. This debt has been charged off with the unpaid balance reported as a loss by the creditor. It remains unresolved. (GE 5; Tr. 29-30)

In SOR ¶ 1.d, the Government alleges that Applicant is indebted on an account placed for collections in the amount of \$540. This debt has been charged off with the unpaid balance reported as a loss by the creditor. It remains unresolved. (GE 5; Tr. 30)

In SOR ¶ 1.e, the Government alleges that Applicant is indebted to a bank on a charged-off account in the amount of \$93. He testified that he tried to contact this creditor but did not find a phone number for it. It remains unresolved. (Tr. 30)

In SOR ¶ 1.f, the Government alleges that Applicant is indebted on an account placed for collections in the amount of \$24,429. This debt was for a vehicle loan. Applicant was in an accident in this vehicle in approximately 2016. It was impounded and retrieved by the creditor after the accident. Applicant still owes \$19,253 on this account. It was charged off by the creditor in November 2023. It remains unresolved. (GE 5; Tr. 31, 37-38)

Applicant incurred one additional debt of \$19,253, as documented on his November 5, 2024 credit report. (GE 5) This debt was the result of a third vehicle accident that occurred in August 2023. Applicant did not have insurance at the time of the accident. (Tr. 32-33) The debt remains unresolved.

Applicant hopes to receive a pay increase. He also trying to get overtime hours so that he will have more income he can use to address his debts. (Tr. 35-36.) He did not provide any evidence of credit counseling. He has no definitive debt repayment plan.

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's eligibility 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 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, these guidelines are applied 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)nny 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 not drawn 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, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and 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.

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. . . . 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 sets forth 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 long history of delinquent debts. The debts are established by credit reports in evidence and by Applicant's admissions. The evidence supports that he has six delinquent accounts, as alleged on the SOR, totaling approximately \$30,162. He is unable to resolve those debts with his current income. AG ¶¶ 19(a) and (c) are disqualifying.

Conditions that could mitigate 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.

None of the mitigating conditions apply. Applicant's debts are ongoing, and he failed to provide sufficient documentation showing he has taken responsible action toward those accounts. While his unemployment in 2020 was arguably a circumstance beyond his control, he has been fully employed for the past four years. Yet he failed to document any payments or satisfaction of his debts. Similarly, his choice to drive a vehicle without insurance contributed to at least one of his accident-related vehicle debts and does not establish he has acted responsibly under the circumstances. Further, given his new, unalleged debt on his November 2024 credit report, there is no evidence that future financial delinquencies are unlikely to recur. His failure to pay these debts is both long-term and recent, as well as ongoing and unresolved. His behavior continues to cast doubt on his current reliability, trustworthiness, and judgment.

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

Applicant needs to establish a documented track record of payments towards his debts to fully mitigate financial considerations security concerns, but he has not done so. This is not to say that Applicant cannot be a suitable candidate for classified access in the future. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility for access to classified information. Applicant did not mitigate financial 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:	AGAINST APPLICANT
Subparagraphs 1.a-1.f:	Against Applicant

Conclusion

Considering all the circumstances presented by the record, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Jennifer I. Goldstein
Administrative Judge