

KEYWORD: Financial

DIGEST: While Applicant's financial problems raised security concerns because of his long-standing debts to several creditors, in 2006 he began a good-faith effort to resolve debts with credit solutions. Since then, he has been consistently making payments on several large debts. He negotiated an agreement with another creditor in 2007 to pay an additional large debt. The only unresolved debts are small, dated medical debts as his payment checks were returned as the collection agency was no longer in business. Overall, he demonstrated a plan to systematically resolve his other debts; he has paid several of his debts and has a plan to resolve the remainder. He has stable employment and lives prudently. He is highly regarded as trustworthy and recommended for a security clearance by his employer. Consequently, concerns over financial issues can be mitigated. Clearance is granted.

CASENO: 05-14750.h1

DATE: 05/31/2007

DATE: May 31, 2007

In Re:)	
)	
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SSN: -----)	ISCR Case No. 05-14750
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
KATHRYN MOEN BRAEMAN**

APPEARANCES

FOR GOVERNMENT

John Bayard Glendon, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

While Applicant's financial problems raised security concerns because of his long-standing debts to several creditors, in 2006 he began a good-faith effort to resolve debts with credit solutions. Since then, he has been consistently make payments on several large debts. He negotiated an agreement with another creditor in 2007 to pay an additional large debt. The only unresolved debts are small, dated medical debts as his payment checks were returned as the collection agency was no longer in business. Overall, he demonstrated a plan to systematically resolve his other debts; he has paid several of his debts and has a plan to resolve the remainder. He has stable employment and lives prudently. He is highly regarded as trustworthy and recommended for a security clearance by his employer. Consequently, concerns over financial issues can be mitigated. Clearance is granted.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant on April 13, 2006. The SOR detailed reasons why the Government could not make the preliminary positive finding that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant.¹ The SOR alleges specific concerns over finances (Guideline F). Applicant responded to these SOR allegations in an Answer notarized on April 28, 2006, where he admitted in part and denied in part the allegations; he requested a decision without a hearing. A File of Relevant Material (FORM) was forwarded on June 19, 2006; in his response of August 26, 2006, Applicant submitted documentation on his efforts to resolve his debts, but at that point requested a hearing on his case. The Administrative Judge assigned to the FORM forwarded the file to the Chief Administrative Judge on October 10, 2006; the Memorandum noted Applicant's request for a hearing and that the Department Counsel had no objection.

Subsequently, the case was assigned to me for hearing on January 17, 2007. On January 17, 2007, DOHA issued a Notice of Hearing and set this case to be heard on February 7, 2007, in a city near where Applicant works. Department Counsel presented eight exhibits (Exhibits 1-8) which were admitted into evidence without objection. Applicant testified and offered eight exhibits (Exhibits A-H), which were admitted into evidence without objection. Applicant was given ten days to submit additional evidence before the close of business on February 17; the Government was given three days until February 20, 2007, to review the documents and submit a response. (TR 66-67) On February 15, 2007, Applicant submitted Exhibit I, a two page document; Department Counsel did not object to Exhibit I, but argued in a letter of February 26, 2007, that the Government did not have the responsibility to call an employer to seek a letter of reference as Applicant had requested. Subsequently, on February 23, 2007, Applicant submitted Exhibit J which detailed his payment arrangements with a major creditor. On March 13, 2007, Applicant submitted five letters of reference (Exhibit K); on March 16, 2007, Department Counsel indicated he had no objection to the admissibility of these exhibits. Consequently, the Applicant's post-hearing exhibits were admitted; and the record closed on March 16, 2007. The transcript (TR) was received on February 15, 2007.

¹ This procedure is required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated January 2, 1992 (Directive), as amended.

FINDINGS OF FACT

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following findings of fact:

Applicant, 47 years old, has been employed by successor defense contractors in State #1 as a locksmith since July 2006 on a military base; he worked for another contractor from October 2000 to July 2006. The contract is rebid every five years. He completed a Security Clearance Application (SF 86) on February 2001. Previously, he worked as a locksmith for other companies from 1994 to 2000 and from 1984 to 1994. (Exhibit 1; TR 26; 27-34)

Applicant has not served in the military. Applicant has one child from an earlier relationship who is 30. He married in June 1984 and also has three stepchildren, ages 25-28, who live independently. (Exhibit 1; TR 26; 27-31; 34-35)

Finances

Investigation disclosed several adverse credit issues in credit reports. (Exhibits 2, 3, 4, 5, 6) In May 2002 he was interviewed by a Defense Security Service Special Agent about his financial difficulties. He explained that the majority of debts were due to medical expenses that were not covered by insurance. He stated he would make arrangements to pay these debts, but he was also paying other debts. (Exhibit 7) Until he was shown his credit report in that interview he was unaware of the extent of his delinquencies. (TR 30-34) At one point Applicant's son lived with them and used his father's information to take out some loans in the 1999 to 2001 period which Applicant took responsibility for paying. This son is now incarcerated. (TR 29) At the hearing Applicant provided documentation of other bills he has paid. (Exhibits F, G, H)

- SOR 1.a., 1.c. Applicant admitted a debt to Creditor #1, for a credit card for \$412 which was opened in 1998 and was charged off in May 1999. The card was referred to Creditor #3, a collection agency, with a current debt of \$839. To address his credit issues he made arrangements with Credit Solutions to consolidate his debts; he is paying them a monthly payment of \$115 to resolve this debt and other debts over a five or six year period. He began making payments in June 2006. (Answer; Exhibit D; TR 35-38) [The Government conceded that SOR 1.a. and 1.c. are the same debt. (TR 63)]
- SOR 1.b. Applicant denied a debt to Creditor #2, for \$195 for a delinquent debt which was charged off in August 1999. (Answer; Exhibits 5, 6; Exhibit A; TR 38-39)
- SOR 1.d. Applicant denied a debt to Creditor #4, for a credit card for \$184; he has no record of this debt. (Answer; Exhibits 5, 6; Exhibit A; TR 39-40)
- SOR 1.e. Applicant admitted a debt to Creditor #5, for \$175 for a medical debt to a hospital. He mailed them a check and the check got "kicked back." and not

delivered to the collection agency; he called the number to get a better address but there was no answer. The hospital had no record as it had been sent to collection. (Answer; Exhibit H; TR 40-45)

- SOR 1.f. Applicant admitted a debt to Creditor #6, a collection agency for a credit card for \$2,832 from 2001. He made arrangements with Credit Solutions to consolidate his debts: he is paying them a monthly payment of \$115 to resolve this debt and other debts over a five or six year period. He began making payments in June 2006. (Answer; Exhibits 2, 3, 4, 5; Exhibit D; TR 45)
- SOR 1.g. Applicant admitted his debt to a department store, Creditor #7, for \$2,296, charged off as a bad debt in 2001. He made arrangements with Credit Solutions to consolidate his debts; he is paying them a monthly payment of \$115 to resolve this debt and other debts over a five or six year period. He began making payments in June 2006. (Answer; Exhibits 2, 3, 4, 5; Exhibit D; TR 45-46)
- SOR 1.h. Applicant admitted a debt to Creditor #8, for \$168 for a medical debt to a doctor. He mailed them a check and the check got “kicked back.” and not delivered to the collection agency; he called the number to get a better address but there was no answer. The doctor had no record as it had been sent to collection. (Answer; Exhibit H; TR 40-45)
- SOR 1.i., 1.j. Applicant admitted a debt to Creditor #9, for \$195 and Creditor #9 for \$108, for medical debts to a hospital. He mailed them a check and the check got “kicked back.” and not delivered to the collection agency; he called the number to get a better address but there was no answer. The hospital had no record of the debt as it had been sent to collection. (Answer; Exhibit H; TR 47-48)
- SOR 1.k. Applicant admitted a debt to Creditor #10, for \$25 for a medical debt placed for collection in 2002, but later stated he could not identify this creditor. (Answer; TR 48-49)
- SOR 1.l. Applicant denied a debt to Creditor #11 as he has paid his debt to that creditor for \$3,055 for a loan which was confirmed by his credit report. However, the government asserted the debt was still reflected as owing on a November 2005 credit bureau report. (Answer; Exhibit 6; Exhibits A, B; TR 49, 65)
- SOR 1.m. Applicant admitted a debt to Creditor #11 for a debt of \$2,735, but believed he had paid that debt. (Answer; Exhibit 6; Exhibits A, B; TR 49, 65) After the hearing he completed payment arrangements with Creditor #11 to make a \$200 payment ever month beginning on February 28, 2007, to resolve this debt. (Exhibit J)

SOR 1.n. While Applicant admitted a medical debt to Creditor #12 for \$163 placed for collection in 2003, he later claimed he had never used this doctor. Applicant stated he sent a check to a collection agency that was returned ; he could not find the correct address for the collection agency. (Answer; Exhibit H; TR 52-53)

SOR 1.o., 1.p. Applicant has paid a \$70 debt and a \$139 debt to a medical facility in August 2006. (Answer, Exhibit H; TR 53)

In 2007 Applicant reported he was making \$19.60 per hour and works a 40-hour week. (TR 26-27) Applicant reported he earns approximately \$2,000 net per month and his wife's net is \$900 per month working for a school district . (TR 34, 54-55; Exhibits 7, 8) His monthly expenses include rent \$250, groceries \$300, utilities \$400, and car expenses \$336; his medical expenses are about \$175, and miscellaneous \$100. He has paid off all his car loans and has the debt payment plan of \$115. He has a 1994 and 1998 auto and a 1980 truck. He also has a retirement savings plan. He has no personal credit cards. Beyond his arrangements with Credit Solutions, he has had no additional credit counseling. He has approximately \$1,000 remainder every month, so he is living prudently and within his means, so he is able to resolve his debts. (Exhibits A, D, E; TR 58-61)

References

Applicant's program manger verified that he had worked for the company since July 2006 as a locksmith. The union representative reviewed Applicant's file and stated that he has never had any disciplinary action at the base. He has been a member of the union since July 2004 and is in good standing. The director of human resources reported to the union that Applicant has been "an exemplary employee" during his tenure; she considers him "an important member of the team." The human resources administrator in a June 2006 letter stated that he has been "a valued asset" and that his "integrity and work ethics are exceptional." She recommended him for a security clearance. Another employee stated that during the seven years he had know Applicant, he has proven a reliable and dedicated employee with a skill level that is admirable. Applicant is viewed as dependable and trustworthy. (Exhibit K)

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility. The mere presence or absence of any given adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I weighed relevant Adjudication Guidelines as set forth below:

Guideline F - Financial Considerations

The Concern: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

The responsibility for producing evidence initially falls on the Government to demonstrate

that it is not clearly consistent with the national interest to grant or continue Applicant's access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance. Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

CONCLUSIONS

Financial Considerations

The Government established disqualifying conditions² that could raise a security concern and may be disqualifying including Applicant's (1) history of financial problems and his (3) inability or unwillingness to satisfy all of his debts. At the time of the investigation he had several unresolved debts that stemmed from medical bills when he was not insured and other consumer debts as well as debts created by his son for which he took responsibility.

Although the dated delinquent debts have persisted, I conclude that under MC1, the behavior that led to his debts was not recent as he developed no new delinquent debts. Under MC 2, the debts are not isolated as in the past he developed multiple delinquent debts. To his credit, Applicant has been making a systematic effort to resolve these debts where he has been able to reach the creditor or identify the debt collector. Thus, Applicant falls within several mitigating³ conditions. First, he has developed a plan: he provided evidence he has addressed a majority of the debts by either paying them in full or setting up a credit plan except for several smaller, dated debts where he sent a payment; but the collection agency was no longer in business and the checks were returned.

His take home pay is approximately \$2,000 per month and his wife's take home pay is \$900 per month, so they have disposable income of approximately \$1,000 to resolve these debts as he lives prudently and has no car payments. While under MC. 4., Applicant has not sought formal financial counseling for the problem, he did see assistance and advice from Credit Solutions and is resolving several debts with them. Now there are clear indications that the problem is being resolved or is

² **Conditions that could raise a security concern and may be disqualifying include:** E2.A6.1.2.1. A history of not meeting financial obligations; E2.A6.1.2.2. Deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, income tax evasion, expense account fraud, filing deceptive loan statements, and other intentional financial breaches of trust; E2.A6.1.2.3. Inability or unwillingness to satisfy debts; E2.A6.1.2.4. Unexplained affluence; E2.A6.1.2.5. Financial problems that are linked to gambling, drug abuse, alcoholism, or other issues of security concern.

³ **Conditions that could mitigate security concerns include:** E2.A6.1.3.1. The behavior was not recent; E2.A6.1.3.2. It was an isolated incident; E2.A6.1.3.3. The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation); E2.A6.1.3.4. The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control; E2.A6.1.3.5. The affluence resulted from a legal source; and E2.A6.1.3.6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

under control as he took responsibility for resolving several debts through Credit Solutions and negotiated directly with another creditor for payments to resolve that debt. Under MC 6., an individual is expected to have initiated a good-faith effort to repay overdue creditors or otherwise resolve debts. To mitigate Applicant does not have to have erased every debt. Here Applicant has demonstrated overall he is now financially responsible as he is consistently following through on his plan to resolve these debts. Thus, Applicant has mitigated these financial concerns as he has provided evidence that he has a systematic plan to resolve the identifiable debts.

“Whole Person” Analysis

In addition to the enumerated disqualifying and mitigating conditions, I have considered the general adjudicative guidelines related to the whole person concept under the Regulation, Appendix 8. While Applicant’s debt problems resulted in part from voluntary decisions to purchase items and from health care debts when he was not covered by insurance, Applicant provided evidence of rehabilitation, positive behavior changes, and improved circumstances as indicated by self-discipline and the complete absence of new delinquent, unpaid debt. The potential for pressure, coercion, exploitation, or duress is low. Applicant has no mortgage payments as he rents, and has refrained from using any personal credit cards. Greater awareness of financial responsibilities will result in a continuously improving trend of financial circumstances. Moreover, he has stability in his employment which should increase his net worth and establish a financial foundation for his future. In sum, the likelihood of recurrent debt problems is low. He has had a clearance for a number of years in his work for defense contractors. At his place of employment, he is viewed as a responsible person overall who is recommended for a security clearance by the director of human resources. She stated that Applicant has been “an exemplary employee” during his tenure; she considers him “an important member of the team.” He now has sufficient resources to resolve these delinquent debts and has been following a plan to do so since 2006.

In ISCR Case No. 04-07360 (App. Bd. Sep. 26, 2006), the Board noted that two SOR debts were paid through judgment and garnishment, one SOR debt was paid through settlement, and one SOR debt was never paid. Indeed, for one SOR debt the applicant did not even contact the creditor about payment. Nevertheless, the applicant showed that he reduced his overall debt by 95% and the Board affirmed the decision to grant that applicant a clearance. Applicant’s financial case is similar to ISCR Case No. 04-07360. After weighing the disqualifying and mitigating conditions, and all the facts and circumstances, in the context of the whole person, I conclude he has mitigated the concerns pertaining to financial considerations. Substantial evidence supports Applicant’s eligibility and suitability. I take this position based on the law, my “careful consideration of the whole person factors”⁴ and supporting evidence, as well as my application of the pertinent factors under the Adjudicative Process.

Thus, after looking at the whole person, including his long history of responsible conduct, and also considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant under SOR Paragraph 1 as he mitigated the allegations in SOR subparagraphs 1.a. through 1.q.

⁴ See ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).

FORMAL FINDINGS

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

Paragraph 1. Guideline F:	FOR APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraph 1.b.:	For Applicant
Subparagraph 1.c.:	For Applicant
Subparagraph 1.d.:	For Applicant
Subparagraph 1.e.:	For Applicant
Subparagraph 1.f.:	For Applicant
Subparagraph 1.g.:	For Applicant
Subparagraph 1.h.:	For Applicant
Subparagraph 1.i.:	For Applicant
Subparagraph 1.j.:	For Applicant
Subparagraph 1.k.:	For Applicant
Subparagraph 1.l.:	For Applicant
Subparagraph 1.m.:	For Applicant
Subparagraph 1.n.:	For Applicant
Subparagraph 1.o.:	For Applicant
Subparagraph 1.p.:	For Applicant
Subparagraph 1.q.:	For Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. Clearance is granted.

Kathryn Moen Braeman
Administrative Judge