



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



In the matter of:)
)
) ISCR Case No. 12-12212
)
Applicant for Security Clearance)

Appearances

For Government: Tara Karoian, Esq., Department Counsel
For Applicant: *Pro se*

12/31/2015

Decision

CURRY, Marc E., Administrative Judge:

Applicant has satisfied all of the delinquent debts alleged in the Statement of Reasons (SOR) except three. Of these remaining debts, two accounts have been closed, and Applicant is negotiating a payment plan in good faith with the creditor of the third debt. Applicant mitigated the security concern. Clearance is granted.

Statement of the Case

On May 16, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued an SOR to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 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) implemented by the DOD on September 1, 2006.

On June 10, 2015, Applicant answered the SOR, admitting subparagraphs 1.a, 1.c, 1.k, and 1.l, and denying the remainder. He requested a hearing and the case was

assigned to me on September 17, 2015. DOHA issued a notice of hearing on September 23, 2015, scheduling the hearing for October 14, 2015. The hearing was held as scheduled. At the hearing, I received four Government exhibits (GE 1 - 4) and admitted ten exhibits that Applicant submitted (AE A - J). DOHA received the transcript (Tr.) on October 22, 2015.

Findings of Fact

Applicant is a 30-year-old married man with two children, ages seven and three. Applicant graduated from high school in 2003. In 2008, he enrolled in a vocational school to pursue an associate’s degree in aeronautical engineering. (GE 1 at 13) He graduated in 2010. Shortly after graduating, Applicant obtained a job with his current employer, a defense contractor. (Tr. 13) He is an aeronautics technician whose duties include repairing and overhauling aircraft. According to a coworker, he is a man of “reliable and unquestioned character.” (AE A) Applicant has been married since 2011. (GE 1 at 23)

Between 2002 and 2010, Applicant incurred approximately \$15,000 of delinquent debt, as listed in the SOR. He incurred the majority of this debt between the period after finishing high school and before beginning vocational school, when he was “young [and] naive.” (Tr. 14)

In 2012, Applicant began satisfying his delinquent debts. Currently, he has satisfied all of the debts listed in subparagraphs 1.a, 1.c through 1.i, 1.l, and 1.m, as follows:

Debt	Amount	Description	Evidence
1.a	\$515	medical bill	AE C
1.c-1.i	\$803 (total)	parking tickets	Answer at 4-5
1.l	\$396	medical bill	AE B
1.m	\$406	phone bill	Answer at 6

The debts listed in subparagraphs 1.b, 1.j, and 1.k remain outstanding. The debt listed in subparagraph 1.b, totalling \$994, is a medical bill Applicant incurred after he broke his leg while skateboarding in 2005, when he was 20 years old and had no health insurance. (GE 4 at 7) Recently, Applicant contacted the creditor to make payment arrangements, and was informed that they had written the account off, and it had been deleted from his credit report. (Tr. 20) Similarly, when Applicant contacted the creditor of the \$666 debt listed in subparagraph 1.j,¹ and when he was informed that his account

¹The debt listed in subparagraph 1.j stems from an overdraft of a checking account Applicant had in 2006.

had been deleted. (Tr. 21) Applicant requested a confirmation letter, but has yet to receive it. (Tr. 21)

The debt listed in subparagraph 1.k, totalling \$11,878, stems from a car that Applicant, then a teenager, purchased in 2002 from his brother. (Tr. 22) When he purchased the car (by assuming his brother's loan), he had a stable job. (Tr. 22) Shortly after purchasing it, he quit the job and relocated to another area to work with a relative who had started a construction business. Applicant's pay became less reliable. (Tr. 22) At or about this time, the car began breaking down, requiring major repairs that Applicant could not afford. Unable to either drive it or fix it, the car remain parked in the relative's yard for an extended period of time.² (Tr. 27) It is unclear from the record whether the creditor ever repossessed the car.

In October 2015, Applicant contacted the creditor of the automobile (SOR subparagraph 1.k). He paid \$200 towards the balance, and is in the process of negotiating a repayment plan. (AE E; Tr. 24) Applicant anticipates that monthly payments will range between \$200 and \$250. (Tr. 24-25)

Since Applicant began working with his current employer in 2010, he has accrued \$12,000 in a 401(k) account. Each year, he deposits his income tax refunds into a savings account. Currently, his savings account has a \$4,000 balance. (Tr. 34) He does not have significant monthly after-expense income, but uses his savings account to help him "out of tight spots." (Tr. 34)

Policies

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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 access to classified information will be resolved in favor of 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 applicant or proven by department counsel. . . ." The

²The parking tickets listed in subparagraphs 1.c to 1.l relate to this vehicle.

applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

Analysis

Guideline F, Financial Considerations

Under this guideline, “failure or inability 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 information.” (AG ¶ 18) Between 2002 and 2010, Applicant incurred approximately \$15,000 of delinquent debt. AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply.

The following mitigating conditions under AG ¶ 20 are potentially applicable:

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control; and

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

Applicant has satisfied ten of the SOR debts in their entirety. As for the most significant outstanding debt, the delinquent car loan, he has been making good-faith efforts to resolve it, having made a \$200 payment to the creditor and initiated negotiations to repay the remainder. Any negative inference from the two debts that were written off is outweighed by the positive security inferences generated by Applicant’s efforts to resolve the other debts, and his accrual of approximately \$16,000 of savings and retirement investments over the past five years. Under these circumstances, I conclude that both of the above-referenced mitigating conditions apply, and that Applicant has mitigated the security concern.

Whole-Person Concept

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). 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.

Applicant was a teenager when he incurred the car note delinquency, his most significant unresolved debt. He incurred another unresolved debt when he was 20 years old. Since then, he has returned to school, gotten married, and has been steadily employed for five years. In that time, he has begun resolving his past debts and saving money. Considering this case in the context of the whole-person concept, I conclude that Applicant has mitigated the 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.m: For Applicant

Conclusion

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

MARC E. CURRY
Administrative Judge