



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



In the matter of:)
)
) ISCR Case No. 14-01032
)
Applicant for Security Clearance)

Appearances

For Government: Ray T. Blank, Jr., Esq., Department Counsel
For Applicant: *Pro se*

03/31/2015

Decision

CURRY, Marc E., Administrative Judge:

Since 2007, Applicant has incurred approximately \$33,000 of delinquent debt. He has made no documented plans to satisfy it, and it remains outstanding. Clearance is denied.

Statement of the Case

On May 2, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (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; Department of Defense 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 May 19, 2014, Applicant answered the SOR, admitting all of the allegations, and requested a decision on the record rather than a hearing. On November 21, 2014,

Department Counsel prepared a File of Relevant Material (FORM) consisting of documents supporting the government's allegations. Applicant received the file on November 26, 2014, and was informed that he had until January 7, 2015 to submit a response. Applicant did not submit a response, and the case was subsequently assigned to me on January 29, 2015.

Findings of Fact

Applicant is a 43-year-old married man with four children. Two of the children are adults and two are teenagers. Applicant has been married to his current wife since 2001. Two previous marriages ended in divorce. (Item 4 at 22-25) Applicant is a high school graduate and a veteran of the U.S. Army where he served honorably for a year before receiving a hardship discharge. (Item 4 at 20)(Item 4 at 19-20) Since February 2013, he has worked for a federal government contractor in the field of construction support.

In 2007, Applicant quit his job and took a job with a lower salary than what he had been making. He did so because the new job was closer to home and would enable him to spend more time with his family. (Item 4 at 16) Subsequently, Applicant was unable to make ends meet. By the end of the year, he had defaulted on three car loans, two of which are listed in the SOR. (Subparagraphs 1.a and 1.k)

It is unknown from the record if Applicant ever satisfied the unlisted car loan delinquency. The car loan delinquencies in subparagraphs 1.a and 1.k remain outstanding.

Applicant has incurred multiple other debts, as listed in the SOR. Seven of the debts are less than \$300 (SOR subparagraphs 1.c-1.h; subparagraph 1.l) In sum, his delinquencies total approximately \$33,000. (Item 2) Applicant has neither satisfied these delinquencies nor arranged any payment plans.

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

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.

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) Since 2007, Applicant has incurred approximately \$33,000 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 are potentially applicable.

(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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(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's dedication to his family, demonstrated by quitting his job in 2007 to take another job with a lower-paying salary to be closer to them, is commendable. However, he still has a responsibility to responsibly manage his finances. He failed to do so, and has yet to take any concrete steps to get his finances under control. None of the mitigating conditions apply. Upon considering the disqualifying conditions, the inapplicability of any of the mitigating conditions, and the whole-person factors, as set forth in AG ¶ 2(a), I conclude Applicant has failed to mitigate the security concern.

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.m: Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

MARC E. CURRY
Administrative Judge