



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



In the matter of:)	
)	
)	ISCR Case No. 14-01880
)	
Applicant for Security Clearance)	

Appearances

For Government: Alison O’Connell, Esq., Department Counsel
For Applicant: *Pro se*

03/02/2015

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance to work in the defense industry. Applicant has made a good-faith effort to resolve the \$29,000 in delinquent debts alleged in the SOR. To date, he has paid \$11,000 toward the resolution of his delinquent debt. Clearance is granted.

Statement of the Case

On June 17, 2014, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.¹ DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue Applicant’s security clearance and recommended that the case be submitted to an

¹ This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

administrative judge for a determination whether to revoke or deny Applicant's security clearance.

Applicant timely answered the SOR and requested a hearing.² At the hearing, convened on December 17, 2014, I admitted Government's Exhibits (GE) 1 through 3 and Applicant's Exhibits (AE) A through D, without objection. After the hearing, Applicant submitted AE E through H, which I admitted without objection.³ I received the transcript (Tr.) on December 4, 2014.

Findings of Fact

Applicant, 61, has worked as a technician in a research laboratory since 1971. He previously held a clearance in the early 1980s. He currently earns \$85,000 annually. On his January 2014 security clearance application, Applicant disclosed one delinquent account. The ensuing investigation revealed that Applicant was indebted to six creditors for approximately \$29,000 in delinquent accounts.⁴

Applicant is the older of two children. In 2005, Applicant began providing financial support to his parents. At first, Applicant provided \$4,000 to \$5,000 in financial support annually. In 2007, when his younger brother died, Applicant became the only source of financial help for his parents, now 83 and 84 years old. The cost of their medications exceeds their income, so Applicant covers their expenses. For the past four years, Applicant has provided between \$10,000 and \$12,000 annually in financial assistance to his parents. When his brother died, he left behind a wife and five children. Applicant paid his brother's funeral expenses. Around the same time, his oldest daughter divorced her husband. She began to suffer from severe depression, which required hospitalization. For the next eight years, Applicant and his wife became the *de facto* guardians of their seven-year-old granddaughter. All the while, Applicant and his wife were also paying the college tuition for their youngest daughter, which was \$50,000 per year. The increased responsibilities caused a strain on Applicant's finances. As a result, Applicant and his wife began relying on credit cards and loans to pay all of their expenses.⁵

Although Applicant still provides significant financial support to his parents, his expenses have stabilized. Applicant's older daughter has returned to work and resumed her role as primary care giver for her now 16-year-old daughter. Although they remain part of Applicant's household, he does not provide any other financial support. Applicant's youngest daughter graduated from college in 2008. She is working and has recently married. She no longer relies on Applicant for financial support.⁶

² The Government's discovery letter is appended to the record as Hearing Exhibit (HE) I.

³ Department Counsel's e-mail regarding the admissibility of the AE E-H is included in the record as HE II.

⁴ Tr. 20-23; GE 1-3.

⁵ Tr. 18-20, 23-28, 41-43; Answer.

⁶ Tr. 43-44; Answer.

In 2013, Applicant began to resolve his delinquent debt. Between December 2013 and November 2014, Applicant paid \$4,100 toward the resolution of the debts alleged in SOR ¶¶ 1.a (\$4,700) and 1.b (\$4,900), which are held by the same creditor. As of December 2014, both accounts are reported as being current on his most recent credit report. During the same period, he also paid \$4,800 toward the resolution of SOR ¶ 1.d (\$17,300). Applicant has paid in full the medical debts alleged in SOR ¶¶ 1.e (\$1,000) and 1.g (\$170). He also claims to have paid the debts alleged in SOR ¶¶ 1.c (\$260) and 1.f (\$720), but has been unable to obtain receipts from the creditors. Applicant lives within his means and is able to maintain the payment plans he has arranged with the creditors in SOR ¶¶ 1.a – 1.b, and 1.d.⁷

Policies

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 to be 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, administrative judges apply the guidelines 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(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." 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 the applicant or proven by Department Counsel." The applicant 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

⁷ Tr. 28-40. 44-46; AE A-E.

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.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

Unresolved delinquent debt is a serious security concern because failure to “satisfy debts [or] 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.”⁸ Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.

The SOR alleges that Applicant owes approximately \$29,000 in delinquent debt. The debts are also substantiated by the record.⁹ Between 2008 and 2013, Applicant demonstrated a history of not paying his bills as well as an inability to do so.¹⁰ However, Applicant has submitted sufficient information to mitigate the security concerns raised by his finances. Applicant’s financial problems do not cast doubt on his current security worthiness. His financial problems were not caused by irresponsible or reckless behavior, but by the unexpected and overwhelming demands of having to provide financial support to three generations of family members simultaneously: his parents, his two daughters, and his granddaughter. Over the past year, Applicant has made a good-faith effort to rehabilitate and resolve his delinquent accounts, efforts that began well in advance of the issuance of the SOR. To date, he has paid over \$11,000 toward the resolution of his delinquent accounts (SOR ¶¶ 1.a-1.b, 1.d-1.e, and 1.e). Given Applicant’s track record of debt repayment, I find his testimony that he has paid the debts alleged in SOR ¶¶ 1.c and 1.f credible. Applicant’s finances are now stable and under control and he is able to maintain his current payment plans.¹¹

I have no doubts about Applicant’s suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶

⁸ AG ¶ 18.

⁹ GE 2-3.

¹⁰ AG ¶ 19(c).

¹¹ See AG ¶¶ 20 (a), (c)-(d).

2(a). Applicant's brief period of financial problems is not indicative of financial irresponsibility, poor self-control, lack of judgment, or an unwillingness to follow rules and regulations. He has also established a positive track record of debt repayment, as well as financial rehabilitation. Clearance is granted.

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.g: For Applicant

Conclusion

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

Nichole L. Noel
Administrative Judge