



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



In the matter of:)	
)	
)	ISCR Case No. 14-01889
)	
Applicant for Security Clearance)	

Appearances

For Government: John Bayard Glendon, Esq., Department Counsel
For Applicant: *Pro se*

08/12/2015

Decision

CURRY, Marc E., Administrative Judge:

Since 2008, Applicant has incurred approximately \$32,000 of delinquent debt. He failed to disclose information about his delinquencies and a prior felony on his security clearance appellation, as required. He has provided neither documented evidence that he is satisfying the delinquencies, nor any explanation for the security clearance application omissions. Applicant has failed to mitigate the security concerns. Clearance is denied.

Statement of the Case

On July 8, 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, and Guideline E, personal conduct. 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 August 20, 2014, Applicant answered the SOR, admitting all of the allegations and requesting a decision on the record rather than a hearing. On February 25, 2015, Department Counsel prepared a File of Relevant Material (FORM) consisting of documents supporting the Government's allegations. Applicant received the file on March 10, 2015, and was informed that he had until April 9, 2015 to submit a response. Applicant submit a response, consisting of a one-page letter, within the time allotted, and the case was subsequently assigned to me on April 27, 2015.

Findings of Fact

Applicant is a 40-year-old married man with two children, ages 15 and 20. He has been married for 20 years. Shortly after finishing high school in 1992, he joined the U.S. Army, serving for six years until his honorable discharge in 1998. (Item 2 at 17)

Applicant enrolled in college in 2003, earning an associate's degree, two years later, in 2005. (Item 2 at 9) He has been attending apprentice school since 2012. (Item at 9) For the past two and a half years, he has worked for a shipbuilding company. (Item 2 at 2)

Since 2008, Appellant has incurred multiple delinquent accounts, totalling approximately \$32,000. Approximately \$29,000 of these accounts consist of student loan debt. (Item 1) In his response to the FORM, Appellant contends that he entered a student loan rehabilitation program in October 2014, and has been making monthly payments since then. He provided no documentation indicating that he had either paid, or was making payments toward the satisfaction of the other SOR debts.

Applicant admits falsifying his security clearance application by failing to provide information about his delinquent finances and his prior arrests, as required. He provided no explanation for these falsifications.

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.

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 2008, Applicant has incurred approximately \$32,000 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 contention that he has been making payments on his student loans through a payment plan developed in October 2014 was unsupported by any documentary evidence. Similarly, he provided no insight into the circumstances surrounding how he incurred the debts. Under these circumstances, none of the mitigating conditions apply, and Applicant has failed to mitigate the financial considerations security concern.

Guideline E, Personal Conduct

Under this guideline, “conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified information (AG ¶ 15) Applicant falsified his security clearance application. AG ¶ 16(a), “deliberate omission concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct

investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities, “ applies.

Applicant provided no explanation for his responses, therefore, no mitigating conditions are applicable. I conclude that he has failed to mitigate the personal conduct security concerns.

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.

In requesting an administrative determination, Applicant chose to rely on the written record. In doing so, however, he failed to submit sufficient information or evidence to supplement the record with relevant and material facts articulating his position regarding the circumstances surrounding the accrual of delinquent debt and the circumstances surrounding his completion of the security clearance application. In addition, he failed to offer evidence of financial counseling or provide documentation regarding past efforts to address delinquent debt. By failing to provide such information, security concerns remain.

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.n:	Against Applicant
Paragraph 2, Guideline E:	Against Applicant
Subparagraphs 2.a-2.c:	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