



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



In the matter of:)
)
) ISCR Case No. 14-02630
)
Applicant for Security Clearance)

Appearances

For Government: Robert J. Kilmartin, Esq., Department Counsel
For Applicant: *Pro se*

03/10/2015

Decision

LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On July 23, 2014, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order (EO) 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.

Applicant responded to the SOR on September 9, 2014, and requested a hearing before an administrative judge. The case was assigned to me on January 8, 2015. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on January 8, 2015, scheduling the hearing for February 10, 2015. The hearing was convened as scheduled. Government Exhibits (GE) 1 through 4 were admitted in evidence without

objection. Applicant testified and submitted Applicant's Exhibits (AE) A through Y, which were admitted without objection. DOHA received the hearing transcript (Tr.) on February 19, 2015.

Findings of Fact

Applicant is a 44-year-old employee of a defense contractor. He has worked for his current employer since 2001. He seeks to retain his security clearance, which he has held since 2003. He has a bachelor's degree. He is married with two adult stepchildren.¹

Applicant's wife had two teenage children when they married in 2007. One of her children became a parent while in high school. Applicant and his wife supported the child while the child's parents completed high school. Applicant's wife then had a series of medical problems and surgeries. They were unable to pay all their debts, and a number of accounts became delinquent.²

The SOR alleges 12 delinquent debts with balances totaling about \$18,567. Applicant established that all the debts were paid, in payment plans, or otherwise resolved. The debts are addressed in the table below.

SOR	AMOUNT	STATUS	EVIDENCE
1.a Telecommuni- cations company	\$305	Paid August 2014.	Response to SOR; AE A, K.
1.b Telecommuni- cations company	\$51	Paid August 2014.	Response to SOR; AE A, L.
1.c Telecommuni- cations company	\$526	Paid August 2014.	Response to SOR; AE A, M.
1.d Telecommuni- cations company	\$117	Paid August 2014.	Response to SOR; AE A, N.
1.e Medical debt	\$52	Paid August 2014.	Tr. at 33; Response to SOR; AE D, O.
1.f Telecommuni- cations company	\$140	Paid August 2014.	Tr. at 33; Response to SOR; AE A, B, P.
1.g Bank credit card	\$12,191	\$200 per month payment plan since September 2014. All payments made.	Tr. at 26-27; Response to SOR; AE Q.
1.h Bank credit card	\$1,986	Paid through six monthly payments of \$282. Last payment in January 2015.	Tr. at 26; Response to SOR; AE C, R.

¹ Tr. at 23-25, 28; GE 1.

² Tr. at 23-26, 35-36; GE 1-4.

1.i Utility company	\$743	Paid through \$200 payment in August 2014, \$100 payment in September 2014, and \$443 payment in December 2014.	Response to SOR; AE A, E, S.
1.j Collection company for bank	\$1,672	Paid through monthly payments from September 2014 to January 2015.	Tr. at 27-28; Response to SOR; AE T.
1.k Medical debt	\$693	Paid August 2014	Response to SOR; AE A, U.
1.i Satellite television	\$91	Contacted creditor to pay. Creditor reported no balance due.	Tr. at 30-31; Response to SOR; AE F, V.

In summary, Applicant paid ten debts; the creditor agreed that there was no balance due on a debt; and he has been making monthly payments since September 2014 on the last debt.

Applicant credibly testified that his finances have greatly improved, and that he will continue to pay the remaining debt. He has not received formal financial counseling, but he has enrolled in a service that will assist him in increasing his credit score.³

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."

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,

³ Tr. at 25-31, 36, 38; AE W, X.

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 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

The security concern for financial considerations is set out in AG ¶ 18:

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. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant was unable to pay his financial obligations. The above disqualifying conditions are applicable.

Conditions that could mitigate financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast

doubt on the individual's current reliability, trustworthiness, or good judgment;

(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 finances suffered when his teenage stepchild became a parent and his wife developed significant medical problems. Since then, he paid ten debts, successfully resolved a debt, and established a payment plan for the last debt. He credibly testified that he will continue with the payment plan until completion.

A security clearance adjudication is not a debt collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

I find that Applicant has established a plan to resolve his financial problems, and he has taken significant action to implement that plan. He acted responsibly and made a good-faith effort to pay his debts. There are clear indications that his financial problems are being resolved and are under control. They occurred under circumstances that are unlikely to recur and do not cast doubt on his current reliability, trustworthiness, and good judgment. AG ¶¶ 20(b), 20(c), and 20(d) are applicable. AG ¶ 20(a) is not yet completely applicable because Applicant is still in the process of paying his last debt.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

I considered the events that contributed to Applicant's financial problems, and the steps he has taken to resolve those problems. I am convinced his finances are sufficiently stable to warrant a security clearance.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations 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.i:	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 continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Edward W. Loughran
Administrative Judge