



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



In the matter of: )  
)  
) ISCR Case: 14-06428  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Gina Marine, Esquire, Department Counsel  
For Applicant: *Pro se*

October 29, 2015

**Decision**

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant accumulated two delinquent debts totaling \$13,525.05. Applicant resolved one debt and is making consistent monthly payments on the other debt. Resulting security concerns were mitigated. Based upon a review of the pleadings and exhibits, eligibility for access to classified information is granted.

**Statement of Case**

On June 2, 2014, Applicant submitted a security clearance application (e-QIP). On January 24, 2015, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR), 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 for Determining Eligibility for Access to Classified Information* (AG), effective within the DOD after September 1, 2006.

Applicant responded to the SOR (Answer) on March 4, 2015. (Item 2.) He requested that his case be decided by an administrative judge on the written record without a hearing. Department Counsel submitted the Government's written case on July 8, 2015. A complete copy of the File of Relevant Material (FORM), containing five Items, was received by Applicant on July 15, 2015. He was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of his receipt of the FORM. He provided additional information in response to the FORM within the 30-day period, marked as Applicant's Exhibit (AE) A. Department Counsel had no objections to AE A, and it was admitted into the record. DOHA assigned the case to me on September 1, 2015.

### **Findings of Fact**

Applicant is 55 years old. He has been employed with his current employer, a Government contractor, since 2003. He served on active duty in the Navy from 1981 to 2002. In 2002, he retired from the Navy with an honorable discharge. He is married to his second wife, and has three adult children and three adult step-children. (Item 3.)

The SOR alleged Applicant owes approximately \$13,525 in delinquent debt on two financial obligations. In his Answer, Applicant admitted both of the allegations. His debts are documented in the record credit report dated June 13, 2014. (Item 5.) After a thorough and careful review of the pleadings and exhibits, I make the following findings of fact:

Applicant was alleged in SOR ¶ 1.a to be indebted to a collection agency in the amount of \$1,139.05. Applicant contested this debt because he did not recognize the name of the creditor. When he learned it was a legitimate debt, he contacted the creditor to arrange payments. This debt has been delinquent since at least 2012. In his Answer, Applicant asserted that he had a payment agreement with the creditor to make monthly payments of \$198.84 until it was resolved. Applicant produced a letter from this creditor dated August 10, 2015, which showed Applicant successfully made payments from March 2015 through August 2015, and the account balance on this debt was now \$0. This debt is resolved. (Item 2; AE A.)

Applicant was alleged in SOR ¶ 1.b to be indebted to a collection agency in the amount of \$12,386. Applicant had contested this debt because he did not recognize the name of the creditor. When he learned it was a legitimate debt, he contacted the creditor to arrange payments. In his Answer, Applicant indicated that he was paying a collection agent \$300 per month toward the resolution of this debt. In his Response to the FORM, he produced copies of cancelled checks showing that he consistently made payments from April 2015 through August 2015. This debt is being resolved. (Item 2; AE A.)

Applicant's most recent credit report reflects no new delinquencies. (Item 5.) He indicated that he will be "vigilant in [his] affairs concerning [his] financial health and maintain [his] reliability as a security clearance holder." (AE A.)

### **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, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶¶ 2(a) and 2(c), the entire process is a conscientious scrutiny of applicable guidelines in the context 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 the 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, "[t]he 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision." Section 7 of Executive Order 10865 provides: "[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."

A person applying for access to classified information seeks to enter 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 protect or safeguard classified information. Such decisions entail a certain degree of legally

permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

## **Analysis**

### **Guideline F, Financial Considerations**

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

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

Applicant accumulated two delinquent debts totaling \$13,525.05. These debts establish both a history of delinquencies and an inability or unwillingness to satisfy his obligations. The evidence raises security concerns under the above conditions, thereby shifting the burden to Applicant to rebut, extenuate, or mitigate those concerns.

The guideline includes conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial difficulties. I find the following two provide mitigation:

- (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 addressed the two delinquent debts. One is fully resolved and he is making payments on the other. As he resolved his first debt through payments, he has shown a track record of making consistent payments. His financial delinquencies are under control and he is making a good-faith effort to repay his creditors. Applicant's

indebtedness does not cast doubt on his current reliability, trustworthiness, or good judgment. The security concerns with respect to his financial delinquencies are mitigated. The above conditions apply.

### **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.

According to 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 pertinent facts and circumstances surrounding this case. Applicant served in the Navy for 20 years and retired honorably. He acted responsibly by resolving one debt and making payments on the other. The most recent credit report in evidence reflects no new debts or delinquencies. Overall, the record evidence leaves me without doubt as to Applicant's present eligibility and suitability for a security clearance. He met his burden to mitigate the security concerns arising under the guideline for financial considerations.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:

FOR APPLICANT

Subparagraphs 1.a through 1.b:

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.

Jennifer I. Goldstein  
Administrative Judge