



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



In the matter of: )  
)  
) ISCR Case: 15-02241  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Jeff Nagel, Esquire, Department Counsel  
For Applicant: *Pro se*

April 14, 2016

**Decision**

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant was alleged to be delinquent on seven debts in the total amount of \$20,987. He has resolved two debts and is making payment on the remaining five accounts. Eligibility for access to classified information is granted.

**Statement of the Case**

On September 21, 2015, the Department of Defense 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; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective September 1, 2006.

Applicant answered the SOR on October 26, 2015 (Answer), and requested a hearing before an administrative judge. The case was assigned me on January 7, 2016. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on

January 20, 2016, scheduling the hearing for February 10, 2016. The hearing was convened as scheduled. The Government offered Hearing Exhibit (HE) I and Exhibits (GE) 1 through 7, which were admitted without objection. Applicant offered Exhibits (AE) A through F, which were admitted without objection. Applicant testified. DOHA received the transcript of the hearing (Tr.) on February 19, 2016. The record was left open for Applicant to submit additional exhibits. Applicant presented additional exhibits marked AE G through AE O. Department Counsel had no objections to AE G through AE O and they were admitted. The record then closed.

### **Findings of Fact**

Applicant is 52 years old. He has been employed with his current employer, a Government contractor, since 2014. He was unemployed from October 2013 to July 2014. He worked as a federal contractor from 1991 to 2013, prior to being laid off. He held a security clearance for over 25 years, without incident. He is divorced and has four daughters, ages 24, 22, 16, and 15. His minor daughters reside with him.

The SOR alleged Applicant owes approximately \$20,987 on seven delinquent financial obligations. In his Answer, Applicant admitted SOR allegations 1.a, 1.b, 1.c, 1.d, 1.f, and 1.g. He denied the SOR allegation in subparagraph 1.e. His debts are documented in the record credit reports dated September 5, 2014; February 23, 2015; August 26, 2015; December 8, 2015; and February 9, 2016. (GE 3; GE 4; GE 5; GE 6; GE 7.) After a thorough and careful review of the pleadings, testimony, and exhibits, I make the following findings of fact:

Applicant was alleged in SOR ¶ 1.a to be indebted on a vehicle loan in the amount of \$13,960. Applicant was alleged in SOR ¶ 1.b to be indebted to the same creditor on a second delinquent vehicle loan in the amount of \$955. Applicant reached a written agreement with this creditor to resolve these debts through monthly payments of \$200. Applicant documented he has made those monthly payments since October 2015. These debts are being resolved. (AE A; AE K; AE N; Tr. 22-25.)

Applicant was alleged in SOR ¶ 1.c to be indebted on a collection account in the amount of \$2,333. On October 17, 2015, made a \$101.27 payment to this creditor. On October 19, 2015, this creditor agreed to a monthly payment plan. Applicant has made five payments under this agreement. Applicant is resolving this debt. (AE B; AE L; Tr. 26-27, 40-43.)

Applicant was alleged in SOR ¶ 1.d to be indebted to a creditor on a delinquent account in the amount \$2,329. This creditor is the same as the creditor identified in SOR ¶ 1.c, but this was for a separate account. Applicant contacted this creditor on February 25, 2016, and arranged to resolve this debt for an initial payment of \$200 on March 4, 2016, and five subsequent payments of \$193.25. Applicant credibly avers he will make payments on this account until it is resolved. Applicant is resolving this debt. (AE O; Tr. 26-27, 40-43.)

Applicant was alleged in SOR ¶ 1.e to be indebted on a collection account in the amount of \$951. Applicant presented a letter from this creditor, dated October 14, 2015, that shows this debt was paid in full. This debt is resolved. (AE D; Tr. 43.)

Applicant was alleged in SOR ¶ 1.f to be indebted on a collection account in the amount of \$302. Applicant has made three payments on this debt between December 2015 and February 2016, totaling \$140.24. He intends to continue making payments on this debt until it is resolved. (AE M; AE N; Tr. 43.)

Applicant was alleged in SOR ¶ 1.g to be indebted on a collection account in the amount of \$157. Applicant testified that this debt was not incurred by him and was not in his name or social security number, but that he resolved it anyway to remove it from his credit report. He resolved it in full on December 17, 2015. (AE E; AE N; Tr. 43-44.)

Applicant attributes his delinquencies to his unemployment and divorce. His unemployment is outlined above. He separated from his wife in 2012 and the divorce was finalized in 2014. He testified that he has enough money left over at the end of the month to make small payments on these debts until they are fully resolved, without getting further into debt. He is committed to resolving his financial obligations. (Tr. 36-39.)

## **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 seven debts in the total amount of \$20,987. 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 has addressed all of his seven delinquent debts. Two are fully resolved and he is making payments on five others. As he resolved those two debts, he has shown a recent track record of making consistent payments. He can be trusted to continue to make his monthly payments on his remaining delinquencies. 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.

### **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 as a Government contractor for more than 25 years. He has held a security clearance, without violation, that entire time. He acted responsibly by resolving two debts and making payments under agreements he reached with the creditors on the others.

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.g: 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.  
(added space here)

Jennifer I. Goldstein  
Administrative Judge