



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



In the matter of:)	
)	
SSN:)	ISCR Case No. 09-00403
)	
Applicant for Security Clearance)	

Appearances

For Government: John B. Glendon, Esquire, Department Counsel
For Applicant: *Pro se*

December 29, 2009

Decision

METZ, John Grattan, Jr., Administrative Judge:

On 4 August 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F.¹ Applicant answered the SOR 1 September 2009, requesting a hearing. DOHA assigned the case to me 28 August 2009, and I convened a hearing 28 October 2009. DOHA received the transcript (Tr.) 3 November 2009.

Findings of Fact

Applicant admitted the SOR allegations. He is a 28-year-old processing engineer employed by a defense contractor since September 2008. He has not previously held a clearance.

¹DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (RAG) effective within DoD on September 1, 2006.

The SOR alleges, government exhibits confirm, and Applicant admits, a single delinquent collection account of about \$16,000. The debt originated as education loans Applicant took out while he was in college.

Applicant received his undergraduate degree in June 2005. After a six-month grace period, he should have begun repayment on the loan, but did not. Three factors contributed to his failure to begin repayment. First, he graduated from college without a job and was underemployed once he obtained employment. Second, he was unaware of the provisions of his loan that might have provided deferment or forbearance of repayment because of his financial situation. Finally—and most important—he was financially immature and simply did not comprehend the ramifications of his financial irresponsibility. Consequently, he let his education loan go into default.

Applicant's financial naivete extended to other areas of his life. He opened credit card accounts without considering his ability to repay the accounts. Facing layoff from his employment, he stopped paying on the cards, which also fell delinquent. He was unemployed from February to September 2008, which exacerbated his financial problems.

After he obtained full-time employment in September 2008, Applicant began to realize he would have to deal with his financial problems. However, he waited until he had saved some money before approaching his creditors. He eventually settled some outstanding accounts and brought other accounts current. His credit reports reflect numerous accounts that were delinquent, but are now current.

Applicant entered into a rehabilitation agreement with the creditor holding his education loan. His initial loan balance was about \$25,000, but capitalized interest increased the balance to just over \$28,000. However, in a year's time, Applicant reduced the balance to just over \$17,000 (AE C). At the time of the hearing, Applicant had rehabilitated the loan, which was then transferred to a different lender to resume normal payments. Nevertheless, as of the date of the hearing, Applicant had missed the payment date for the new lender by two weeks.

Applicant began his loan rehabilitation in December 2008 with a lump-sum payment of \$3,000-4,000, followed by monthly payments of \$500. His new monthly payment amount was \$160, but Applicant intended to continue the \$500 monthly payment. His post-hearing submission (AE D) reflects that he made the first payment electronically at the end of October 2009, and had submitted the necessary paperwork to start automatic monthly deductions from his checking account. Meanwhile, he intended to continue to make monthly electronic payments until the automatic payments began.

Applicant's finances have improved to the point that he and his brother were able to jointly buy a house in 2009. His character references (AE A) consider him honest and trustworthy.

Policies

The Revised Adjudicative Guidelines (RAG) list factors to be considered in evaluating an Applicant's suitability for access to classified information. Administrative judges must assess both disqualifying and mitigating conditions under each issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial commonsense consideration of the whole-person factors listed in RAG ¶ 2(a). The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.

Analysis

The government established a case for disqualification under Guideline F. Applicant candidly acknowledged that he was financially naive and irresponsible coming out of college and let his education loan become delinquent. His financial situation was further eroded by a brief, but significant, period of unemployment.² However, when he obtained full-time employment in his career field and realized the importance of straightening out his finances, he embarked on a sensible plan to repair his credit, and has largely executed that plan—to the point where the only SOR allegation was his delinquent education loan which had been referred for collection

Applicant satisfies important aspects of the mitigating factors for financial concerns. While his financial difficulties were both recent and multiple, they were

²¶ 19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations.

confined to a relatively short period.³ The debts were largely not due to circumstances beyond his control, but he acted responsibly in addressing his debts once he obtained permanent employment in his career field.⁴ Similarly, while he did not seek credit counseling, he pursued a responsible repayment program and has brought the problem under control.⁵ He also has a plan that addresses the remaining debt faster than the creditor requires. Further, the record reflects a good-faith effort to satisfy debts that were not alleged in the SOR, as well as the single debt that was alleged.⁶ I conclude Guideline F for Applicant.

Formal Findings

Paragraph 1. Guideline F: FOR APPLICANT

Subparagraph a: For Applicant

Conclusion

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

JOHN GRATTAN METZ, JR
Administrative Judge

³¶ 20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur .

⁴¶ 20 (b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances.

⁵¶ 20 (c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control.

⁶¶ 20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts. For this factor to apply, there must be an "ability" to repay the debts, the "desire" to repay, and evidence of a good-faith effort to repay. A systematic, concrete method of handling his debt, which is present here as to his student loan.