



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



In the matter of:)
)
) ISCR Case No. 11-04492
)
Applicant for Security Clearance)

Appearances

For Government: Julie R. Mendez, Esq., Department Counsel
For Applicant: *Pro se*

09/28/2012

Decision

NOEL, Nichole L., Administrative Judge:

Applicant is indebted to eight creditors for approximately \$37,500 in unresolved delinquent debt. Clearance is denied.

Statement of the Case

Acting under the relevant Executive Order and DoD Directive,¹ on March 16, 2012, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the security concern under the financial considerations

¹ This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended, as well as DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

guideline. DOHA recommended the case be submitted to an administrative judge for a determination to revoke or deny Applicant's access to classified information.

Applicant answered the SOR and requested a decision without a hearing. Department Counsel submitted the Government's written case on May 31, 2012. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on June 19, 2012, and chose not to submit a response. Accordingly, the documents appended to the FORM are admitted as Government's Exhibits (GE) 1 through 9. The case was assigned to me on August 9, 2012.

Findings of Fact

Applicant, 41, has worked for a federal contractor since 1995.²

The SOR alleges that he owes eight delinquent accounts, totaling approximately \$37,500. Applicant admits the debts, with qualifications, blaming the debts on the illegal and unfair practices of his creditors. He also faults his creditors for failing to accept payment plans or settlements that are to his liking. Applicant asserts that his problems began in June 2009 when he lost his car to satisfy a mechanics lien. No longer in possession of the car, he decided to stop paying the car loan and insurance. He did not explain how this event caused him to accumulate over \$37,000 in delinquent debt. Contrary to Applicant's claims, his December 2010 and January 2012 credit reports show that the accounts in the SOR started to enter delinquent status as early as April 2006. He claims to have received financial counseling from a debt consolidation company, a credit counseling service, and the financial ministry of a church, but none was able to guide him toward resolution of his debts. All of the debts alleged in the SOR remain unresolved.³

Applicant intends to pay his debts, but needs to earn more money to do so. He believes obtaining a higher level security clearance will give him access to jobs that will increase his income.⁴

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.

² Items 3-4.

³ Item 3, 5-8.

⁴ Item 3.

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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence.

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.

Two of the disqualifying conditions under ¶ AG 19 apply:

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

Applicant has a long and ongoing history of not paying his debts. As a result, he has accumulated over \$37,000 in delinquent debt, which remains unresolved. None of the mitigating conditions available under AG ¶ 20⁵ apply. Applicant has been gainfully

⁵ 20(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;

20(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;

20(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;

