

second response to the FORM. DOHA assigned the case to me 14 January 2014. By letter dated 17 January 2014, the Government requested I delay my decision until Applicant had adequate time to respond to the Government's grant of 30 additional days to respond to the FORM.

Findings of Fact

Applicant admitted SOR financial allegations 1.g-h, 1.j, 1.l, and 1.r-s. He denied the remaining allegations. He is a 41-year-old customer systems engineer employed by a U.S. defense contractor since August 2003. He seeks to retain the clearance he appears to have held since August 1996.

The SOR alleges, and Government exhibits (Items 7-9) substantiate, 19 delinquent debts totaling over \$34,000. The debts consist of 17 collection accounts—11 of which are medical accounts—one charged-off debt, and one tax debt to the Internal Revenue Service (IRS) for tax year 2012. Applicant admits six delinquent accounts totaling over \$30,000. Record evidence shows that SOR debt 1.p was paid in September 2007,³ that SOR debt 1.h was a duplicate of debt 1.l, and SOR debt 1.m is a duplicate of debt 1.j.⁴ Accordingly, I find for Applicant on SOR debts 1.h, 1.m, and 1.p. Consequently, 16 debts totaling over \$30,000 are at issue.

Applicant's July 2011 clearance application (Item 4) lists 10 delinquent debts, eight of which—totaling over \$24,000—appear in the SOR. Of course, the IRS debt for 2012 did not exist at the time. In his clearance application, Applicant stated his intent to pay three small medical bills totaling \$46 (SOR 1.c-e) by his next payday, and acknowledged his intent to pay the five larger debts (SOR 1.g-h, 1.l-m, and 1.r). Applicant acknowledged that he had been working to clean up his debts for the last five years. Applicant acknowledged the SOR debts, among others, during subject interviews in August and October 2011, reiterating his intent to satisfy his debts. However, in fact, the medical bills were not paid until June 2013, when they were paid along with three other small medical bills (SOR 1.a, 1.b, and 1.d), all of which totaled under \$200. Applicant first paid minimal amounts on the five larger bills in October 2013.

Applicant attributes his indebtedness to: 1) moving to a rental home from his privately-owned home in 2008 (which required payment of both mortgage and rent);⁵ 2) his wife starting her own company in 2008, which precipitated the move to be closer to

³However, this debt itself was a medical debt that had been referred to collection in May 2005.

⁴Applicant also claimed that SOR debt 1.f (which was alleged as a medical bill) was the same debt as SOR 1.j and 1.m (which were alleged as cell phone bills). However, Applicant acknowledged in his 2011 subject interviews that debt 1.f was a medical bill for which he was responsible (Item 5).

⁵It took Applicant more than a year to sell his home. However, nowhere does he explain why he did not rent his home during the period he was unable to sell it or take other steps to mitigate the financial impact on his family.

her business; 3) ongoing medical expenses related to his wife's chronic illness;⁶ and 4) changes to company policies regarding stipends for maintaining a security clearance and reimbursements for company travel. Tax issues have arisen because his wife is now taking a salary from her company, without making quarterly income tax withholding payments as required. This resulted in significant tax liabilities for 2010, 2011, and 2012—the latter of which Applicant has entered a repayment plan for.

With the increasing pressures on his family's disposable income, Applicant resorted to using credit cards to cover household expenses as well as some of his wife's company expenses. When Applicant finally realized he was losing control of his finances, he stopped paying on many of the debts alleged in the SOR to focus on several larger debts which did not appear in the SOR. Unfortunately, Applicant provided no details about those accounts and how they affected his ability to pay on the SOR debts.

In addition to the five medical debts (SOR 1.a-e) that Applicant paid in June 2013, Applicant was able to settle SOR debt 1.l (which had grown to over \$11,000) for a lump-sum payment of \$2,160 in February 2014 (Response B). Applicant also paid off the balance of his IRS debt (SOR 1.s) in February 2014. Applicant obtained the funds for these two large payments by liquidating company stock from his stock plan. Finally, he paid the remaining balance on his cell phone debt (SOR1.j) in February 2014.

Applicant has made regular monthly payments on SOR debts 1.g, 1.l, and 1.r since October 2013. However, Applicant has not resolved the medical debts at 1.f, 1.k, 1.n, 1.o and 1.q. He claimed that he might have paid debts 1.n, 1.o, and 1.q in 2006, but he has not provided any proof of payment. Nor has he documented any efforts to dispute these five medical debts.

Applicant has not received any financial or credit counseling. He provided no work or character references.

Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

⁶However, Applicant appears to have medical insurance and in many instances the outstanding medical bills appear to be consistent with remaining out-of-pocket expenses like deductibles and co-pays.

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 substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to 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.⁷

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.⁸ Applicant's financial problems date to at least 2006. Beginning in 2008, they were exacerbated by circumstances both within and without his control. Although he was certainly aware of the Government's concerns by the time of his subject interviews in August and October 2011, it does not appear—despite his claims to the contrary—that he began to take meaningful action on his debts until after he received the Government's interrogatories in May 2013. Since that time, he has been a whirlwind of activity, satisfying a number of his outstanding debts. Not, however, until his answer to the SOR and his responses to the FORM.

The mitigating factors for financial considerations provide mixed relief for Applicant. His financial difficulties are both recent and multiple, although the immediate causes of his problems are possibly unlikely to recur.⁹ Significant factors contributing to his financial problems were within his control: Applicant was already experiencing financial problems when he took on a rental payment in addition to his mortgage in 2008. His tax problems seem clearly related to his wife's taking salary from her business without properly addressing her tax liability for the income. Medical expenses can certainly be beyond Applicant's control, but beyond the evidence that his wife's condition is chronic, Applicant has not demonstrated how her condition—apparently covered by health insurance—contributes significantly to his financial problems. Finally, changes in company policy that reduced Applicant's income were certainly beyond his

⁷See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

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

control, but those changes occurred in 2009 and 2010, more than enough time to begin changes to the family budget.

However, even if I concluded that the original debt was due to circumstances beyond Applicant's control, I cannot conclude that Applicant has been responsible in addressing his debt.¹⁰ Stopping payments on multiple accounts while addressing others (that apparently did not appear in the SOR) might be a reasonable approach, but only with specifics about which accounts were being paid in lieu of the SOR debts, how ignoring some accounts increased his resolution of those accounts, and when those accounts were actually paid, thereby freeing up funds for the SOR debts. Further, this approach still does not really explain his inability over at least two years to address the ten SOR debts that were under \$400 each. Five of those were under \$100; another two were under \$200; only three were between \$300-400. Moreover, satisfaction of two large debts has only been possible because Applicant cashed out stocks from his employee plan—not a sensible option to repeat. Applicant has received no financial or credit counseling, and while his budget plan for satisfying his remaining debt addresses his largest debts in a reasonable amount of time, he still has five medical debts that are unresolved.¹¹

Applicant's efforts have taken place under the impetus of this clearance proceeding. The Government is not the collection agent of last resort. Applicants are expected to address their finances because of their moral and legal obligation to pay their bills, not under threat of losing their clearances. Under the circumstances, Applicant's efforts cannot be considered a good-faith effort to address his debts.¹² Moreover, Applicant has apparently disregarded his financial obligations for many years. Applicant has stopped digging a financial hole and has begun to crawl away from the hole, yet he is not so far from the hole that it is safe to say he will not fall back into the hole. Further progress on his current debt is required before I can confidently conclude that he has demonstrated that his finances no longer pose a security concern. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

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| Paragraph 1. Guideline F: | AGAINST APPLICANT |
| Subparagraphs a-g: | Against Applicant |
| Subparagraph h: | For Applicant (duplicate of 1.i) |
| Subparagraphs j-l: | Against Applicant |
| Subparagraph m: | For Applicant (duplicate of 1.j) |

¹⁰¶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;

¹¹¶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;

¹²¶20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

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| Subparagraphs n-o: | Against Applicant |
| Subparagraph p: | For Applicant |
| Subparagraphs q-s: | Against Applicant |

Conclusion

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge