



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



In the matter of:

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ISCR Case No. 14-03602

Applicant for Security Clearance

Appearances

For Government: Benjamin Dorsey, Esq., Department Counsel

For Applicant: *Pro se*

12/07/2016

Decision

RIVERA, Juan J., Administrative Judge:

Applicant submitted a security clearance application (SCA) on December 18, 2013. On August 11, 2014, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) alleging security concerns under Guideline F (financial considerations).¹ Applicant answered the SOR on September 9, 2014, and requested a hearing, which was held on May 20, 2016. Government exhibits (GE) 1 through 7, and Applicant's exhibits (AE) 1 through 8, were admitted into evidence. The transcript was received on June 1, 2016. On November 29, 2016, I informed Department Counsel of my intent to issue a summary disposition in Applicant's favor. He had no objections. (Hearing Exhibit 1 (email correspondence))

In 2007, Applicant and his wife started a business. They leased expensive equipment (SOR ¶ 1.a (\$92,991)), opened a small business administration loan (SOR ¶ 1.b (\$62,382)), and leased office space (SOR ¶ 1.d (\$55,509)). The business was initially successful, but the recession from 2008-2011 reduced their sales and they closed the business in 2011. When the business failed, Applicant used his credit card to pay for living and business expenses, and legal fees (SOR ¶ 1.c (\$25,777)). Applicant tried to

¹ The DOD acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), implemented by the DOD on September 1, 2006.

consolidate or sell his business; he sold two of his leases, but one remained; and tried to negotiate an equitable conclusion, but it all failed. The creditors file suit and obtained the three judgments against Applicant.

Applicant filed for Chapter 7 bankruptcy protection in February 2014, and the accounts alleged in SOR ¶¶ 1.a and 1.d were discharged in May 2014. The creditor of the account alleged in SOR ¶ 1.c wrote off the debt and issued Applicant an IRS Form 1099-C, which he filed with his income tax return. Concerning the account alleged in SOR ¶ 1.b, in 2013 Applicant made a partial payment on that judgment. The final payment (\$28,000) was made in 2015 after Applicant sold his home and paid the mortgage. This debt is paid in full.

Department Counsel presented sufficient evidence to establish the Guideline F security concerns. Based on the record evidence as a whole, I conclude Applicant demonstrated a good-faith effort to resolve his debts, sought financial counseling, and legally resolved his SOR debts. Applicant presented sufficient evidence to explain, extenuate, and mitigate the financial considerations concerns. Specifically, I find mitigating conditions AG ¶¶ 20(a) through 20(d) are applicable to this case. Applicant's past financial problems do not create doubt about his current reliability, trustworthiness, good judgment, and ability to protect classified information. I find that it is clearly consistent with the national interest to grant Applicant eligibility for access to classified information.

JUAN J. RIVERA
Administrative Judge