



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



In the matter of: )  
 )  
 ) ISCR Case No. 15-00816  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Mary M. Foreman, Esq., Department Counsel  
For Applicant: *Pro se*

01/26/2017  
\_\_\_\_\_

**Decision**  
\_\_\_\_\_

CURRY, Marc E., Administrative Judge:

Applicant incurred approximately \$31,000 of delinquent debt. More than 80 percent of this debt is comprised of student loans that, through his efforts at rehabilitation, are no longer in delinquent status. He has made substantive progress in satisfying his other debts. Under these circumstances, I conclude Applicant has mitigated the financial considerations security concern. Clearance is granted.

**Statement of the Case**

On September 27, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 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) implemented by the DOD on September 1, 2006.

Applicant answered the SOR in an undated response, admitting all of the allegations and requesting a hearing. The hearing was held as scheduled. I received five government exhibits (GE 1 - 5), 11 Applicant exhibits (AE A - AE K), and I considered Applicant's testimony. At the close of the hearing, I left the record open, at Applicant's request, to allow him the opportunity to submit additional exhibits. Within the time allotted, he submitted two additional exhibits that I admitted and incorporated into the record as AE L and AE M. DOHA received the transcript (Tr.) on October 31, 2016.

### **Findings of Fact**

Applicant is a 27-year-old single man. He is a high school graduate and has earned three years of college credits. For the past two years, he has worked for a defense contractor as an administrative assistant. (Tr. 27) His principal duties include organizing meetings. Applicant is highly respected on the job. (AE E - AE J)

Applicant attended college every semester between 2007 and 2010. (Tr. 32) Unable to afford tuition, he dropped out at the end of his junior year with the intention of getting a job, saving money, then re-enrolling. (Tr. 33, 46) Over the next three years, Applicant worked at various restaurants, but was ultimately unable to make ends meet, as his work hours were erratic. (Tr. 36)

In 2013, Applicant left the area where he had been working, moved back in with his mother, and began working for the employer who his sponsoring his security clearance application. (Tr. 36) By then, he had incurred \$31,000 of delinquent debt, including a \$2,681 rent payment from his last residence where he lived before returning home (SOR subparagraph 1.a), \$25,000 of student loans (SOR subparagraphs 1.b - 1.g), and \$2,500 of miscellaneous debts (SOR subparagraphs 1.h - 1.j).

Applicant fell behind on his rent, as alleged in subparagraph 1.a, after business slowed down at the restaurant where he was working, leading to reduced hours and reduced pay. (Tr. 20) He contacted the landlord to negotiate a payment plan, but could not agree on a down payment. (Tr. 37) He is still attempting to negotiate a resolution of this debt. (Tr. 37)

In April 2015, Applicant contacted what he thought was a reputable student loan consolidation company to help him address his delinquent student loans. After making \$600 of payments over the next three months, but receiving no confirmation from the student loan creditors that they were receiving any of the money, Applicant researched the consolidation company and discovered that it was fraudulent. (AE D; Tr. 47) Since then, Applicant has contacted a reputable student loan company and entered into a payment plan. (AE K) Under the plan, he is to pay five dollars per month for nine months to rehabilitate the loan. (AE K at 9) Then, the debt will be assigned to another creditor. (AE K; Tr. 48) Applicant made the first payment in September 2016, as agreed.

SOR subparagraph 1.h is a credit card debt for \$1,542. Applicant fell behind on these credit card payments during the period when he was waiting tables and his work

hours were reduced. (Tr. 23) He began satisfying this debt in January 2015 through \$140 monthly payments. (AE B) By January 2016, he had satisfied it entirely. (AE M)

SOR subparagraph 1.i., totaling \$691, is a phone bill. This is Applicant's current phone service provider, and he claims his bill payments are current. (Tr. 23) He provided no evidence corroborating this contention.

Applicant was unable to identify the bill alleged in SOR subparagraph 1.j, totalling \$290. His efforts at contacting the creditor by phone, and later, online, were unsuccessful. (Tr. 24)

Currently, Applicant is not working for his employer, pending the outcome of his security clearance application. He is working for a car dealership earning approximately \$1,000 per month. He is living with his mother, and he pays her approximately \$500 each month. (Tr. 44) Applicant has minimal discretionary income. (Tr. 44)

## **Policies**

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by department counsel. . . ." The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

## **Analysis**

### **Guideline F, Financial Considerations**

Applicant's history of financial problems triggers the application of AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations." Applicant satisfied the debt alleged in SOR subparagraph 1.h in its entirety. I resolve it in his favor.

The following mitigating conditions under AG ¶ 20 are potentially applicable:

(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;

(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 debt.

Most of Applicant's debt is for money he borrowed to help him improve his employment prospects through a college education. He did not fall behind on them until 2010 when his work hours were cut, leading to a reduction in pay. He has negotiated a payment plan to rehabilitate his student loans, satisfied SOR subparagraph 1.h in its entirety, as referenced above, and is negotiating the resolution of the debt alleged in SOR subparagraph 1.a.

Applicant's contention that he satisfied the phone bill alleged in SOR subparagraph 1.i is unsupported by record evidence. Given the evidence he provided chronicling his efforts to resolve the student loan delinquencies, and the evidence supporting his satisfaction of the credit card, referenced in SOR subparagraph 1.h, I find that his testimony regarding the payment of the phone bill is credible. I resolve SOR subparagraph 1.i in his favor.

SOR subparagraph 1.j totals less than \$300. Under these circumstances, I conclude that the nominal negative security significance posed by the fact that it is unresolved is outweighed by Applicant's progress in resolving the other delinquent debts. In sum, I conclude that all of the aforementioned mitigating conditions apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

(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.

I considered Applicant's stellar job performance in the resolution of this case. In tandem with the circumstances surrounding the incurrence of the delinquencies, and the steps Applicant has taken to resolve them, I conclude that he has mitigated the security concern.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

PARAGRAPH 1, Guideline F:

FOR APPLICANT

Subparagraphs 1.a-1.j:

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.

MARC E. CURRY  
Administrative Judge