



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



In the matter of:)
)
) ISCR Case No. 15-01405
)
)
Applicant for Security Clearance)

Appearances

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

07/18/2016

Decision

CERVI, GREGG A., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On August 28, 2015, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD 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 responded to the SOR on September 16, 2015, and requested a hearing before an administrative judge. The case was assigned to me on April 7, 2016. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on April 25, 2016, scheduling the hearing for May 25, 2016. The hearing was convened as scheduled. Government Exhibits (GE) 1 through 5 were admitted in evidence without

objection. Applicant testified and submitted exhibits (AE) A and B, which were admitted without objection. DOHA received the hearing transcript (Tr.) on June 6, 2016. The record was held open for Applicant to submit additional information. He submitted AE C, which was admitted without objection.

Findings of Fact

Applicant is a 29-year-old employee of a defense contractor. He has worked for his current employer since 2012. He is applying for his first security clearance. He graduated from high school in 2006, and attended college from 2007 to 2008. He was married in 2011. Before obtaining a position with his current employer, Applicant suffered periods of unemployment and under-employment since graduating from high school. He was unemployed from 2006 to 2009, and employed in food service or other low paying positions until 2012. During this period, he accumulated debts that resulted in collection and charged-off accounts. He worked extended over-time¹ in his current job to accumulate sufficient assets to pay his delinquent debts. Additionally, his spouse is a full-time medical office worker and contributes to the household income.

The SOR alleges 12 delinquent debts. Applicant paid or resolved the SOR debts as noted below:

SOR DEBT	ACTION TAKEN	CURRENT STATUS
1.a Student loan charge-off for \$27,774	Settled and paid (AE A)	Paid
1.b Student loan charge-off for \$2,349	Settled and paid (AE A)	Paid
1.c Student loan – same as 1.b	Duplicate	Duplicate
1.d Phone service collection for \$505	Paid (CBR)	Paid
1.e Satellite TV service collection for \$463	Paid (CBR)	Paid
1.f Medical collection for \$548	Paid – no record with collection agent	Paid
1.g Student loan collection for \$8,918	Consolidated into current student loan agreement	Resolved - paying consolidated student loan

¹ Tr. 20. He worked over 400 overtime hours in 2015.

1.h Medical collection for \$98	Settled and paid – collection agent shows \$0 balance	Paid
1.i Medical collection for \$271	Paid (Answer)	Paid
1.j Student loan collection for \$22,945	Consolidated into current student loan agreement	Resolved – paying consolidated student loan
1.k Phone service collection for \$1,050	Settled and paid (CBR)	Paid
1.l Student loan collection for \$6,012	Settled and paid (AE B)	Paid

Applicant's budget shows a positive monthly net remainder. He resolved all of his delinquent debts and consolidated his remaining student loans. He is paying them on-time. He has a net remainder after paying monthly expenses of \$1,500. He has approximately \$5,000 in a checking account, \$14,000 in a savings account, and owns his own home. His most current credit report shows no new delinquencies. He received financial counseling and uses a budget to manage his household finances.

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.

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."

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 the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

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

Applicant had a history of delinquent debts and was mostly unable to pay. The evidence is sufficient to raise the above disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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;

(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 debts.

There is sufficient evidence to determine that Applicant's financial problems have been resolved. He suffered a financial impact from a period of unemployment and under-employment after completing high school and some college. Once Applicant found his current job, he volunteered to work overtime to accumulate funds to pay his debts. I find that he acted responsibly under the circumstances once he was able to address his debts. He dedicated his financial resources wisely to resolve his debts, obtained financial counseling, and budgets his resources to meet his financial needs. Since he paid-off his debts, he saved his money and purchased a home.

He has gained control of his financial situation, and his overall efforts show a clear intent to resolve his debts. He has a steady work history and his income is sufficient to meet his family's needs. His financial issues no longer cast doubt on his current reliability, trustworthiness, and good judgment. AG ¶¶ 20(a), (b), (c), and (d) apply.

Overall, Applicant's financial problems are resolved. I find that the financial considerations concerns have been sufficiently mitigated.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F in my whole-person analysis.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

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
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Subparagraphs 1.a-1.l:	For Applicant
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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.

GREGG A. CERVI
Administrative Judge