



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 15-01961
)
Applicant for Security Clearance)

Appearances

For Government: Rhett E. Petcher, Esquire, Department Counsel
For Applicant: *Pro se*

02/03/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I deny Applicant's clearance.

On 19 September 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct.² Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 7 April 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 9 January 2017.

¹Consisting of the File of Relevant Material (FORM), Items 1-5, prepared by Department Counsel on 26 October 2015 and mailed to Applicant.

²DoD 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* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

Findings of Fact

Applicant admitted the SOR financial allegations, except for SOR 1.a. He also admitted paragraph 2. He is a 42-year-old electronic technician employed by a U.S. defense contractor since September 2012. He served on active duty in the U.S. military from December 1997 to September 2012, and received an honorable discharge. He received a clearance in July 2004, while serving in the military. He has not previously held an industrial clearance. He has been married since May 1994 and has three children.

The SOR alleges, and Government exhibits (Items 2-5) substantiate, eight delinquent debts totaling nearly \$74,000. Over \$70,000 of the debt is the 120-day past-due amount on a \$263,790 first mortgage that Applicant claimed, without corroboration, to have resolved when the house was foreclosed upon (Item 1). Applicant admitted seven consumer debts totaling over \$3,600, none of which have been addressed.

Applicant's July 2014 clearance application (Item 2) reported no financial problems. There is no evidence Applicant was ever questioned about his clearance application. In his January 2016 Answer, he offered no explanation for his debts or omissions except to say that he did not regularly check his credit reports and would be addressing the listed debts. However, Applicant has provided no evidence of any contacts with his creditors. Nor did he provide any documentation for his claim that his delinquent mortgage had been foreclosed upon, and he was not responsible for any deficiency balance. The fact that the debt does not appear on Applicant's February 2015 (Item 4) or September 2015 (Item 5) credit reports does not establish that he has no remaining liability for the debt.

Applicant did not provide a current financial statement or budget. He has not documented any financial or credit counseling. He provided no work or character references, or any evidence of community involvement. He documented no contacts with his creditors.

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).

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.³

Analysis

The Government established a case for disqualification under Guideline F, and Applicant failed to submit any evidence to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.⁴

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; and the immediate causes of his problems may be likely to recur, as he identified no particular cause for his inability to keep up payments on his debts.⁵ Applicant identified no circumstances beyond his control, and he has not demonstrated that he has been responsible in addressing his debt.⁶

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.⁷ There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, and thus he cannot establish that he has made a good-faith effort to address his debts.⁸ Moreover, Applicant failed to provide any documentation of his past military service, current employment performance, or work or character references upon which I might base a

³See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

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

⁶¶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;

⁷¶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;

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

favorable “whole-person” analysis. Accordingly, I conclude Guideline F against Applicant.

The Government established a case for disqualification under Guideline E. Applicant failed to disclose any of his delinquent debts on his July 2014 clearance application. He suggests that the omissions were because he was not in the habit of regularly viewing his credit reports. However, that would not explain his failure to disclose his delinquent mortgage, which was 120-days past-due in December 2013, as reflected in his August 2014 credit report (Item 3). He had to know whether he was paying his mortgage or not. Consequently, he committed a deliberate omission or evasiveness inconsistent with the candor required of applicants.⁹ Accordingly, I resolve Guideline E against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-h:	Against Applicant
Paragraph 2. Guideline E:	AGAINST APPLICANT
Subparagraph a:	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

⁹¶ 6 (a) deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, . . . [or] determine security clearance eligibility or trustworthiness. . . ;