



Applicant answered the SOR on March 3, 2016, and elected to have his case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's file of relevant material (FORM). Applicant received it on June 7, 2016. Applicant was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 1 through 4. Applicant responded to the FORM and provided a document that is marked as Applicant Exhibits (AE) A. There were no objections by either side and all evidence was admitted. The case was assigned to me on May 3, 2017.

### **Findings of Fact**

Applicant admitted SOR ¶ 1.a and denied ¶¶ 1.b, 1.c, and 1.d. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 47 years old. He served in the military from 1994 to 2014 and retired. He earned some college credits, but did not complete a degree. He married in 2007 and separated from his wife in 2009. He has two children ages 25 and 7. He has worked for his present employer, a federal contractor, since August 2014.<sup>3</sup>

Applicant disclosed on his October 2014 security clearance application (SCA) the debts alleged in the SOR. These debts are supported by credit reports from March 2015 and October 2014.<sup>4</sup>

Applicant attributed his financial problems to a reduction in income in February 2008. He was in the military at the time and went to a Uniform Code of Military Justice Article 15 nonjudicial punishment hearing. He was reduced in rank and he forfeited pay that negatively affected his income and ability to meet his financial obligations at the time. He disclosed this information on his SCA and stated he was saving his money to pay bills that had become delinquent. In Applicant's answer, he provided a document to show the debt alleged in SOR ¶ 1.a. (\$15,789) was settled and paid in January 2016.<sup>5</sup>

The debts in SOR ¶¶ 1.b (\$370), 1.c (\$1,904), and 1.d (\$881) became delinquent in February 2008. Applicant provided a copy of his June 2016 credit bureau report. None of these debts appears on it. There were no unpaid or past-due accounts on this credit report.<sup>6</sup> Applicant did not provide any other information.

---

<sup>3</sup> Item 1.

<sup>4</sup> Items 1, 2, 3.

<sup>5</sup> Answer to SOR; Item 4.

<sup>6</sup> AE A. There was a charged-off collection account that was reported as paid.

## Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied 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(a), 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that 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 relating to the guideline for financial considerations is set out in AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has unresolved delinquent debts from 2008. There is sufficient evidence to support the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 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, a death, divorce or separation,

clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving counseling for the problem from a legitimate and credible source, such as a non-profit credit counselling service, and there are clear indications that the problem is being resolved or is under control; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant provided proof that his largest delinquent debt was settled and paid. Applicant did not provide any information about his current finances, obligations, or the status of the remaining alleged delinquent debts, but they are no longer reflected on his most current credit report. The reduction in Applicant's pay while on active duty negatively affected his ability to pay debts. He is retired and has a civilian job. His current credit report does not reflect past-due or delinquent debts. It has been nine years since he experienced financial difficulties. It is unlikely similar circumstances will recur and those previous problems do not cast doubt on Applicant's current reliability, trustworthiness, and good judgment. AG ¶ 20(a) applies.

Applicant attributed his financial problems to a reduction in income in 2008. Because the reduction was the result of nonjudicial punishment, I cannot find this circumstance was beyond his control. I find AG ¶ 20(b) does not apply.

There is no evidence Applicant received financial counseling. There is evidence he paid the largest debt alleged. He did not provide evidence that he paid the three smaller debts, but they are no longer reflected on his credit report. His current credit report does not reflect past-due or currently delinquent accounts. I find his finances are under control. AG ¶ 20(c) partially applies. Applicant resolved the debt in SOR ¶ 1.a. AG ¶ 20(d) applies to this debt.

### **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 the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(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 Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

Applicant is 47 years old. He retired from the military after twenty years of service. Applicant experienced financial difficulties after his income was reduced while in the military. Applicant provided proof that he settled the largest debt (\$15,789) alleged. He did not provide evidence to show three other smaller debts, totaling \$3,155, were paid, but did provide a recent credit report that reflects his bills are current and none are past due.

A security clearance adjudication is not a debt collection procedure. It is a procedure designed to evaluate an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve the financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). There is also no requirement that an applicant pay every debt listed in the SOR, only that he remove concerns about his reliability and trustworthiness raised by those debts. See ISCR Case No. 14-00504 at 3 (App. Bd. August 4, 2014). Based on the record, I find that there are no longer financial considerations security concerns.

I considered Applicant's personal circumstances. The record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under Guideline F, financial considerations.

### **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.d: 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's eligibility for a security clearance. Eligibility for access to classified information is granted.

---

Carol G. Ricciardello  
Administrative Judge