

Findings of Fact

After a complete and thorough review of the evidence in the record, including Applicant's RSOR, the admitted documents, and the testimony of Applicant, and upon due consideration of that evidence, I make the following findings of fact:

Applicant is 44 years old. He is married, and he has two sons. Applicant is a high school graduate. He is employed by a defense contractor, for whom he has worked since 2013, and he is seeking a DoD security clearance in connection with his employment in the defense sector.

Guideline F, Financial Considerations

The SOR lists 23 allegations (1.a. through 1.w.) regarding financial difficulties, specifically delinquent debts totaling \$31,394, under Adjudicative Guideline F. Applicant admitted each of the SOR allegations in his RSOR. He wrote that several of these debts had been charged off and were in collections for many years before his current employment. He also wrote that he has been speaking to a debt consolidation company to try to resolve his remaining open debts. Applicant cited the debts listed on the SOR as 1.b., 1.h., 1.i., 1.j., and 1.k. as debts that have been charged off.

At the hearing, Applicant testified that he disputed the debt listed as 1.h. in the amount of \$143, and he believed that he should not have been charged for that debt. Applicant also testified that he believed he had paid off the debt, listed as 1.k., in the amount of \$900, in approximately 2006 or 2007. Applicant testified that these two debts are the only debts listed on the SOR that he has resolved. (Tr at 25-28.) While Applicant testified that he had resolved these two debts, no independent evidence was offered to establish that they had been resolved.

Applicant testified that his financial problems began in 2000 or 2001 when his older son was in a private school, and his fiancée left him and his son. He contended that he had been under the misapprehension that his fiancée, with whom he had been living from 1997 to 2002, had been paying their bills. He ultimately was granted full custody of his son, but he never received any child support from his ex-fiancée, who was the mother of his son. His income to pay the bills was not greatly diminished when she left, since she only worked a limited time when they were together. However, he became aware shortly before she left in approximately 2002 that he had accumulated all of these delinquent debts. Applicant testified that when he became aware of the overdue debts, he contacted some of the creditors and attempted to make some small payments, but he became overwhelmed and just stopped making any payments. (Tr at 29-35.)

Applicant testified that he also had a relationship with another woman for seven years, and she also took advantage of him by using his credit cards and buying others items that he had not authorized and of which he was not aware. He indicated that the debts she incurred are not the ones listed on the SOR. (Tr at 36-38.) Applicant has not had any period of time where he was unemployed for the last 18 years, as he worked as

a maintenance worker for a public school for 15 years and then he transitioned into his present employment for the last 3 years. (Tr at 46-47.)

Finally, Applicant averred that he and his wife are trying to make sure they better manage their finances in the future. He did concede that neither he nor his wife has taken any class or received any counseling to better help them manage their finances, although they have occasionally listened to a financial expert on television. (Tr at 51-54.)

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 useful 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 AG ¶ 2(a), describing the adjudicative process. The administrative judge's over-arching 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." 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, 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 as to obtaining a favorable clearance 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 protect or 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 Executive Order 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 *a/so* 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 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 and could potentially apply in this case. Under AG ¶ 19(a), “an inability or unwillingness to satisfy debts,” is potentially disqualifying. Similarly under AG ¶ 19(c), “a history of not meeting financial obligations,” may raise security concerns. I find that both of these disqualifying conditions apply to Applicant in this case. The evidence has established that Applicant accumulated significant delinquent debt many years ago.

AG ¶ 20 provides conditions that could mitigate security concerns from financial difficulties. Under AG ¶ 20(b), it may be mitigating where, “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.” As Applicant’s delinquent debts were incurred as a result of the failure of his fiancée to pay their debts, unbeknownst to Applicant, I find this mitigating condition is potentially applicable in this case. However, since most of these debts were incurred in approximately 2002, and Applicant has been fully employed since then, and no independent evidence was introduced to establish that he has taken steps to resolve any of the 23 debts, I do not find that Applicant has acted responsibly. Therefore, I find this mitigating condition is not applicable in this case.

AG ¶ 20(c) and (d) are also not applicable as Applicant has received no counseling for the problem, and none of Applicant’s delinquent debts have not been resolved. Therefore, I find Guideline F against Applicant.

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(a):

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for access to classified information must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

Formal Findings

Paragraph 1, Guideline F: **AGAINST APPLICANT**

Subparagraphs 1.a.-1.w.: Against Applicant

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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