



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



In the matter of: )  
 )  
 ) ISCR Case No. 15-03594  
 )  
Applicant for Security Clearance )

**Appearances**

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

10/13/2016  
\_\_\_\_\_

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

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F, financial considerations. Applicant's eligibility for a security clearance is denied.

**Statement of the Case**

On November 25, 2015, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) 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; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective within the DOD for SORs issued after September 1, 2006.

Applicant answered the SOR on December 15, 2015, and elected to have his case decided on the written record. Department Counsel submitted the Government's file of relevant material (FORM). The FORM was mailed to Applicant, and it was received on March 7, 2016. Applicant was afforded an opportunity to file objections and

submit material in refutation, extenuation, or mitigation within 30 days from receipt of the FORM. Applicant did not object to the Government evidence and provided a response to the FORM that is marked as Applicant Exhibit A. He indicated his intent to provide additional documents, but did not. The Government's documents identified as Items 1 through 6 are admitted into evidence without objection. The case was assigned to me on September 27, 2016.

### **Findings of Fact**

Applicant admitted all the allegations in the SOR. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 34 years old. He graduated from college in 2005 earning a bachelor's degree. He married in 2009 and has two children, ages, six and four. He has worked for his present employer, a federal contractor, since 2012. He has been steadily employed since November 2005, except for three months prior to starting his current job.<sup>1</sup>

Applicant stated in his answer to the SOR that when he was younger he was not taught how to manage his personal finances. He acquired debts that he was unable to pay. He has now learned how to properly manage his personal finances and pay his debts timely. He explained he purchased a car in 2014 and made a down payment of 50% and has made his scheduled payments. He does not have any credit cards and has a "healthy positive cash balance in his checking account to pay his monthly bills and plan for unexpected expenses."<sup>2</sup> He also stated that he started his own side-business in May 2014. The year-to-date revenue is over \$470,000 and the profit is in excess of \$132,000. He is saving money to put a down payment on a house.

Applicant further stated that he is currently paying off his bad debts and has no plans to take on additional debts, other than a home. He said: "I am making a significant salary now, in addition to the profit of my business, which also has zero debt."<sup>3</sup> He believes he is not a risk to national security due to his finances.

In September 2014, Applicant completed a security clearance application (SCA). In November 2014, Applicant was interviewed by a government investigator and was confronted with the debts alleged in the SOR. At the time, he did not indicate his intentions regarding resolving the delinquent accounts. These debts are supported by credit reports from October 2014 and October 2015.<sup>4</sup>

---

<sup>1</sup> Item 3.

<sup>2</sup> Answer to SOR.

<sup>3</sup> Answer to SOR.

<sup>4</sup> Items 3, 4, 5, 6.

In Applicant's response to the FORM, he stated that the medical debt from 2011 in SOR ¶ 1.a (\$185) was paid, and he would provide a receipt.<sup>5</sup> He did not.

Applicant stated the debt in SOR ¶ 1.b (\$6,295) was a credit card debt from 2006. He stated he contacted the creditor to arrange a payment plan. He did not provide proof that he has a plan or made any payments.<sup>6</sup>

Applicant stated the debt in SOR ¶ 1.c (\$493) is a credit card debt from 2011. He stated he paid this debt in full, but did not provide supporting evidence.<sup>7</sup>

In Applicant's response to the FORM, he stated the debt in SOR ¶ 1.d (\$12,481) was for the purchase of a vehicle in 2007. The car was repossessed. Applicant stated he arranged a 72-month-payment plan to satisfy the debt. He indicated he has been making payments, but he did not provide evidence to document the plan or any payments made.<sup>8</sup>

Applicant stated in his response to the FORM that he now earns considerably more money, lowered his lifestyle, and lives within his means. He completed a financial counseling course, has a budget, and his savings account is growing.<sup>9</sup>

### **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(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,

---

<sup>5</sup> AE A.

<sup>6</sup> Item 4; AE A.

<sup>7</sup> Item 4; AE A.

<sup>8</sup> Item 4; AE A.

<sup>9</sup> AE A. Applicant indicated in his response to the FORM that he would provide proof that he was resolving debts within 15 days from when he submitted his response to the SOR. I contacted Department Counsel to determine if any additional evidence was provided and was told none was received.

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 Executive Order 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 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.<sup>10</sup>

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

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

Applicant has four delinquent debts totaling more than \$19,400 that remain unpaid and unresolved. 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, 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.

Applicant admitted the delinquent debts alleged in the SOR. He attributed his early financial problems to being young and not being taught how to manage his personal finances. Applicant has been steadily employed since 2006. He provided information that he is now making considerable more money, his savings account is growing, and his part-time business has a profit of \$132,000. Applicant has not provided

---

<sup>10</sup> See ISCR Case No. 11-05365 at 3 (App.Bd. May 1, 2012).

proof that he has paid his delinquent debts. No evidence was provided to indicate his delinquent debts were beyond his control. AG ¶¶ 20(a) and 20(b) do not apply.

Applicant indicated he has a budget, but did not provide it or disclose if repayment of his delinquent debts was included in it. He stated he has taken a financial counseling course. He did not provide evidence that there are clear indications that his financial problems and delinquent debts are being resolved or are under control. Only the first part of AG ¶ 20(c) applies. Applicant did not provide evidence of a good-faith effort to repay overdue creditors or resolve his debts. AG ¶ 20(d) does not apply.

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

Applicant is 34 years old. He indicated in both his answer to the SOR and his response to the FORM that his financial situation has improved. His earnings have increased and he has a successful part-time business with a substantial profit. Applicant has been aware since at least 2014, when he completed his SCA and was interviewed by a government investigator, that his finances are a security concern. He has not provided evidence that he was actively addressing his delinquent debt after his finances improved. He did not provide any documentary evidence to show what action he has taken to resolve his delinquent debts. He has failed to meet his burden of persuasion. The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate 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:                      AGAINST APPLICANT

Subparagraph 1.a-1.d:                      Against Applicant

### **Conclusion**

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's eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Carol G. Ricciardello  
Administrative Judge