



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



In the matter of:)	
)	
XXXXXXXXXXXXXXXXXXXXX)	ISCR Case No. 15-05248
)	
Applicant for Security Clearance)	

Appearances

For Government: Candace L. Garcia Esquire, Department Counsel
For Applicant: *Pro se*

08/14/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 19 May 2016, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.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

¹Consisting of the File of Relevant Material (FORM), Items 1-6 .

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. On 10 December 2016, the Director of National Intelligence (DNI) signed Security Executive Agent Directive 4, implementing new AG, effective with any decision issued on or after 8 June 2017. This decision is issued under the original AG, but I have examined the new AG to ensure that I would not reach a different result if I issued this decision under the new AG. I would not rule differently under either set of AG.

closed 28 October 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 8 August 2017.

Findings of Fact

Applicant admitted the SOR financial allegations. He is a 56-year-old electrician sponsored for a clearance by a U.S. defense contractor since June 2011. He was unemployed from May 2010 to June 2011. From May 2006 to May 2010, he was employed by another Government contractor. He served honorably in the United States military from March 1981 until November 2001, when he retired. Applicant has been married since June 1986, and has no children. He has not previously held a clearance (Item 3).³

The SOR alleges, Government exhibits (Items 4-6) establish, and Applicant admits three delinquent debts totaling nearly \$13,000. He also admits that his house was foreclosed upon in September 2010.

During Applicant's March 2015 interview (Item 4), he told the investigator that he received unemployment compensation when he was out of work, and between that, his military retired pay, and his wife's salary, he had no financial difficulties during his unemployment. Nevertheless, he could give the investigator no explanation for his delinquencies.⁴ He claimed that he was getting help drafting creditor letters to resolve his delinquent accounts from a friend who was a paralegal, and that he would get his friend's help exploring the SOR debts.

Applicant has documented no contacts with his creditors since his March 2015 interview, his June 2016 Answer, or his August 2016 FORM. He provided no budget or financial statement. He has not documented any financial or credit counseling. He provided no work or character references, or any evidence of community involvement.

Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and

³Applicant almost certainly held a clearance while in the military, but did not disclose any on his October 2014 clearance application (Item 3). Nor did he discuss holding a clearance during his March 2015 interview with a Government investigator (Item 4).

⁴He acknowledged the foreclosure, but claimed that the lender acted illegally. He apparently was not asked about SOR debt 1.a, but now attributes it to his unemployment. He claimed not to know about SOR debts 1.b and 1.c, but now claims that SOR debt 1.b is the same as SOR debt 1.c and that he settled SOR debt 1.c in May 2016, before he received the SOR. However, he provided no corroboration for this claim, and the creditor and collection agent for SOR debt 1.c are different than the creditor for SOR 1.b, and the accounts have different account numbers (Item 5). Only the fact that the two debts are for nearly identical amounts tends to corroborate Applicant's claim.

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(d). 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.⁵

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties for which he has documented no resolution since at least October 2014.⁶

Applicant meets none of the mitigating conditions for financial considerations, given that he has documented no actions to address his debts. Moreover, his financial problems are recent, frequent, and incapable of assessment since he has provided no explanation about why he was unable to keep up with his bills during his unemployment despite receiving unemployment compensation, his military retired pay, and his wife's salary.⁷ Certainly, a year's unemployment was a circumstance beyond his control, but in this case, he has been re-employed since June 2011 without documenting any

⁵See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁶¶19(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so; (c) a history of not meeting financial obligations;

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

responsible action to address his debts.⁸ Applicant has had no credit or financial counseling, and there is no evidence any of the debts have been, or are being, resolved.⁹ Further, his lack of effort does not constitute a good-faith effort to address his debts.¹⁰ Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-d:	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

⁸¶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;

⁹¶20(c) the individual has received or is receiving counseling for the problem . . . and there are clear indications that the problem is being resolved or is under control;

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