



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



In the matter of:)	
)	
XXXXXXXXXXXXXXXXXXXXX)	ISCR Case No. 15-06494
)	
Applicant for Security Clearance)	

Appearances

For Government: Ross Hyams, Esquire, Department Counsel
For Applicant: *Pro se*

07/25/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 21 February 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 closed 5 August 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 22 May 2017.

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.

Findings of Fact

Applicant admitted the SOR financial allegations. He is a 48-year-old aerospace ground equipment mechanic employed by a U.S. defense contractor since April 2013. He served in the U.S. military from September 1986 to October 2012, when he was honorably retired in paygrade E-8. He seeks to continue the clearance he held during his military career.

The SOR alleges, Government exhibits (Items 3-6) establish, and Applicant admits 13 delinquent debts totaling nearly \$129,000. Over \$100,000 of the debt consists of a past-due first mortgage, a charged-off line of credit, and a repossessed vehicle. He reported these three debts, and three others, on his February 2015 clearance application (Item 4). He discussed these debts, as well as the remaining SOR debts, during an April 2015 interview with a Government investigator (Item 5), based on his March 2015 credit report (Item 6). He told the investigator that he would research the delinquent debts and take steps to resolve them.

Applicant claimed, without corroboration, that the Federal debt at SOR 1.g had been paid when the Internal Revenue Service (IRS) seized a portion of his 2015 income tax return. He also claimed, without corroboration, to have paid SOR debts 1.i-1.m. Applicant reported, without documentation, that SOR debts 1.d and 1.h-1.l, and SOR debts 1.j-1.k were in repayment plans with two collection agents. He stated that he was expecting to receive a Form 1099 for SOR debt 1.f, but did not, and is now planning to pay the debt. He claimed to be making payments on SOR debt 1.e to a third collection agent. He claimed to have received a mortgage modification on SOR debt 1.a, and to be awaiting payment arrangement on SOR debts 1.b-1.c.

Applicant attributes his financial problems to his 2010 separation from his wife, and their subsequent divorce in May 2014, in which she received over 40 percent of his military retired pay. However, he also acknowledges his gross negligence and irresponsibility in letting his finances get out of control. Further, he has documented no contacts with his creditors since his February 2015 clearance application, his April 2015 interview, his March 2016 Answer, or his June 2016 FORM. Moreover, he provided insufficient information on the circumstances of his separation and divorce, and their effect on his finances, as well as any explanation why the nearly \$49,000 in joint debt was not split with his ex-wife.

Applicant 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 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.³

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 extending at least as far back as August 2012.⁴

Applicant's case is a failure of proof. His failure to document any of his claimed payments, payment plans, or adjustments to his debts, or the particulars of his divorce and its impact on his finances, precludes favorable consideration of his clearance application, notwithstanding his lengthy military career.

Applicant meets none of the mitigating conditions for financial considerations, given that he has not documented his claimed actions to address them. His financial problems are recent, frequent, and certainly occurred under circumstances capable of recurring.⁵ His May 2014 divorce was clearly a circumstance beyond his control, but he has not provided sufficient details about these circumstances to draw mitigating conclusions. Without clear evidence about when he began to address his financial problems and the progress he has made, he cannot demonstrate that he has taken

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

⁴¶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;

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

responsible action under the circumstances.⁶ Applicant has had no credit or financial counseling, and he has not documented that the debts are being resolved.⁷ Consequently, I cannot conclude that he has made a good-faith effort to address his debts.⁸ Accordingly, I conclude Guideline F against Applicant.

Formal Findings

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

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.