



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



In the matter of:

Applicant for Security Clearance

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ISCR Case: 15-00268

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel

For Applicant: *Pro se*

01/24/2017

Decision

DAM, Shari, Administrative Judge:

Applicant failed to mitigate the security concerns raised under the financial considerations and alcohol consumption guidelines. Eligibility for access to classified information is denied.

Statement of Case

On April 30, 2014, Applicant submitted a security clearance application (SF-86). On December 11, 2015, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations, and Guideline G, Alcohol Consumption. The action was taken under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the DOD after September 1, 2006.

Applicant answered the SOR on January 21, 2016 (Answer), and requested that his case be decided by an administrative judge on the written record without a hearing.

(Item 1.) On February 23, 2016, Department Counsel submitted the Government's written case. A complete copy of the File of Relevant Material (FORM), containing five Items, was mailed to Applicant on said date, and received by him on March 6, 2016. The FORM notified Applicant that he had an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant did not submit any additional information or file objections to the Government's Items; hence, Items 1 through 5 are admitted into evidence. DOHA assigned the case to me on December 13, 2016.

Findings of Fact

Applicant admitted all allegations contained in Paragraphs 1 and 2 of the SOR, and included explanations to those alleged in ¶ 1.a and ¶ 1.b. (Item 1.) His admissions are incorporated into these findings of fact.

Applicant is 34 years old and unmarried. He earned a General Education Development certificate in 2006 and a technical certification in 2013. Since 2014 he has worked for a federal contractor. Prior to this position he was unemployed for six months. Between 2011 and 2013 he was unemployed for almost two years, and between 2007 and 2008 he was unemployed for about a year. (Item 2.)

Based on credit bureau reports (CBRs) from December 2014 and May 2014, the SOR alleged ten delinquent debts, which totaled \$7,900, and included a delinquent mortgage. The debts became delinquent between 2012 and 2014. (Items 4, 5.) He disclosed some of the debts in his SF-86. Applicant said that he co-signed a mortgage with his sister-in-law for her house, and that she did not pay it (¶ 1.a). (Items 1, 2.) Applicant did not provide evidence documenting the resolution of that debt or any other alleged debt.

Applicant has a history of alcohol problems beginning at the age of 16, when he began consuming alcohol to excess at times and continued for the next 16 years. He admitted that at times he consumed 24 beers a week. In February 2010, he voluntarily entered an alcohol treatment program. He remained in the program until April 2010. According to his SF-86, he disclosed his treatment, and he stated that he completed the program. However, during his personal interview, he stated that he believes he left without completing the program because he had to return to work. He admitted that he was diagnosed as alcohol dependent. He continued consuming alcohol to excess through June 2014. (Items 1, 2, 3.)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list

potentially disqualifying conditions and mitigating conditions, which are to be 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 AG ¶ 2 describing 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 applicable guidelines in the context 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 the 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.

According to 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 the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person applying for access to classified information seeks to enter 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.

Analysis

Guideline F, Financial Considerations

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.¹

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

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

Applicant has a history of delinquent debts. From 2012 to 2014, he accumulated 10 delinquent accounts totaling over \$7,900, which he has been unable or unwilling to pay or resolve. The evidence establishes the above disqualifying conditions, and shifts the burden to Applicant to rebut, extenuate, or mitigate those concerns.

The guideline includes four conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial problems:

- (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

¹ See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

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

Applicant failed to produce evidence that he addressed any of the ten delinquent accounts. He provided evidence that some delinquencies may have been caused by periods of unemployment prior to starting his current position in 2014, which may have been conditions beyond his control; but he failed to submit documentation indicating that he acted responsibly under those circumstances. He presented no evidence of financial counseling. He offered no evidence from which to establish a track record of debt resolution. There are no clear indications that his financial problems are under control or are being resolved in good faith. Accordingly, the record is insufficient to establish mitigation under any of the foregoing conditions.

Guideline G, Alcohol Consumption

AG ¶ 21 expresses the security concern pertaining to alcohol consumption:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

AG ¶ 22 describes conditions that could raise a security concern and may be disqualifying in this case:

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent; and

(f) relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program.

Applicant acknowledged that he consumed alcohol in excess and to the point of intoxication between the ages of 16 and 32. In 2010 he voluntarily entered an alcohol treatment program and was diagnosed as alcohol dependent. The evidence raises a security concern under AG ¶ 22(c). Applicant admitted that after leaving the treatment program he continued to consume alcohol, sometimes to excess. The facts are unclear as to whether he completed the treatment program; hence there is insufficient evidence to raise a security concern under AG ¶ 22 (f).

AG ¶ 23 provides four conditions that could mitigate security concerns raised under this guideline:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or

does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

(c) the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, and is making satisfactory progress; and,

(d) the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant's excessive consumption of alcohol was not infrequent and continued from at least 1998 to 2014, about 16 years. Applicant acknowledged his alcohol abuse, but did not provide evidence that he has established a pattern of abstinence or responsible use. He did not submit evidence that he is participating in any form of treatment, is making satisfactory progress in addressing his problem, or that he has not relapsed. There is no evidence that he has received a favorable prognosis by a duly qualified mental health provider. There is insufficient evidence to establish mitigation under any of the above conditions.

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 relevant 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.

According to 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 pertinent facts and circumstances surrounding this case. Applicant is a mature adult, who is responsible for his choices and conduct that underlie the security concerns set out in the SOR. He disclosed in his SF-86 some delinquent debts, and his history of alcohol abuse. His SOR-listed delinquent debts arose between 2012 and 2014, and remain unresolved despite employment with a Federal contractor since 2014. He has not established a track record of managing his debts. He provided no evidence of the status of his alcohol consumption. Overall, the record evidence leaves me with sufficient doubt as to Applicant's judgment, reliability, and present eligibility for a security clearance. He did not meet his burden to mitigate the security concerns arising under the guidelines for financial considerations and alcohol consumption.

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
Subparagraphs 1.a through 1.j:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a through 2.c:	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 eligibility for a security clearance. Eligibility for access to classified information is denied.

SHARI DAM
Administrative Judge