



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXX) ISCR Case No. 15-01381
)
Applicant for Security Clearance)

Appearances

For Government: David F. Hayes, Esquire, Department Counsel
For Applicant: *Pro se*

07/31/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 25 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 11 July 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, except for SOR 1.a-1.b. He is a 49-year-old electrician sponsored for a clearance by a U.S. defense contractor since November 2011.³ He has not previously held a clearance.

The SOR alleges, and Government exhibits (Items 3-6) establish, seven delinquent debts totaling over \$26,000. Applicant admits five debts totaling about \$22,000, but claims, without corroboration, that he paid two debts totaling \$21,500 (SOR 1f-1.g) in 2010. He denies two debts totaling \$4,700, but states a willingness to pay the debts if they can be shown to be his. Applicant disclosed no delinquent accounts on his July 2015 clearance application (Item 2), and was confronted with all the SOR debts during an August 2015 interview with a Government investigator (Item 3), based on his July 2012 credit report (Item 4). He told the investigator that he would research the delinquent debts and resolve them. The accounts have begun to disappear from his January and September 2015 credit reports (Items 5, 6), which may be due to the fact that those credit reports are single-bureau reports, or the accounts may be aging off the reports.

Applicant attributes his financial problems to his alternating periods of unemployment. However, he has documented no contacts with his creditors since his August 2012 interview, his March 2016 Answer, or his May 2016 FORM.

Applicant provided no confirmation of his claimed payments, or of any contacts with his creditors to either dispute or arrange payment on the accounts. 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 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

³According to Applicant's July 2012 clearance application (Item 2), the last time Applicant worked more than a year for the same employer was September 2001 to October 2005, when he was also employed as an electrician. Since October 2005, his work pattern has been periods of unemployment ranging from weeks to months, followed by jobs lasting from weeks to months. Sometimes, he has strung two or three jobs together consecutively. The job that required this clearance ended in May 2012, but the company continues to sponsor Applicant. After this job ended in May 2012, Applicant had several more alternating periods of unemployment/employment, up to his August 2012 interview with a Government investigator (Item 3).

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.⁴

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 July 2012.⁵

Applicant meets none of the mitigating conditions for financial considerations, given that he has not acted to address them. Moreover, his alternating unemployment continues, and he has provided no evidence that his employment will be steadier if he obtains his clearance.⁶ Certainly, alternating unemployment can be circumstances beyond his control, but in this case, part of the vicissitudes of his work, and his inaction since at least July 2012 has been irresponsible.⁷ Applicant has had no credit or financial counseling, and there is no evidence any of the debts are being resolved.⁸ Further, his

⁴See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁵19(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;

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

⁷¶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;

⁸¶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;

lack of effort does not constitute a good-faith effort to address his debts.⁹ Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-g: 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

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