



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



In the matter of:

Applicant for Security Clearance

)
)
)
)
)

ISCR Case No. 17-00383

Appearances

For Government: Carroll Connelley, Esq., Department Counsel

For Applicant: *Pro se*

05/31/2018

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense's (DOD) intent to deny his continued eligibility for a security clearance. Although Applicant has made some payments toward the alleged delinquent accounts, he failed to establish a consistent history of debt repayment and financial rehabilitation. Applicant's continued access to classified information is denied.

Statement of the Case

On March 9, 2017, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.¹ DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant's security clearance and recommended his case be submitted to an administrative judge for consideration.

¹ The DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive), and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, implemented on September 1, 2006.

Applicant answered the SOR and requested a decision without a hearing.² The Government submitted its written case on April 28, 2017. A complete copy of the file of relevant material (FORM) and the Directive were provided to Applicant. He received the FORM on May 9, 2017, and provided a response. Given the age of this case, I reopened it to allow the parties to submit updated information. Applicant timely submitted several documents. The documents appended to the FORM are admitted as Government's Exhibits (GE) 1 through 4, and those offered by Applicant are admitted as Applicant's Exhibit (AE) A through I. All documents are admitted without objection.

Procedural Matters

While the case was pending decision, the Director of National Intelligence (DNI) issued Security Executive Agent Directive 4, establishing the National Security Adjudicative Guidelines (AG) applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The 2017 AG superseded the AG implemented in September 2006, and they are effective for any adjudication made on or after June 8, 2017. Accordingly, I have applied them in this case.

Findings of Fact

Applicant, 57, has worked for his employer, a federal contractor, since January 2006. He was granted access to classified information shortly thereafter. He completed his most recent security clearance application in December 2015, disclosing four delinquent accounts, totaling \$18,000. Applicant's background investigation confirmed the delinquent accounts. The SOR alleges that Applicant owes \$24,418 on four delinquent credit card accounts, which he admits.

Applicant's financial problems became acute when two of his four children were in college at the same time. Applicant could not afford to pay tuition expenses in addition to his other financial obligations. He relied on credit cards to help ends meet. Between 2013 and 2014, the credit card accounts alleged in the SOR became delinquent. Applicant consulted a debt consolidation specialist who advised him to strategically default on the credit cards in order to prompt the creditors to settle the debts for less than the amount owed. Although it is unclear if he followed this advice, Applicant indicated in his answer to the SOR that he has arranged payment plans with each creditor.

Through a number of sporadic payments between June 2016 and May 2018, Applicant reduced the accounts alleged in SOR ¶¶ 1.a and 1.c by \$900, and \$375, respectively. He does not explain his inconsistent payment history. When Applicant answered the SOR, the debts alleged in SOR ¶¶ 1.b and 1.d were being collected by the same law firm. Between August 2016 and December 2016, Applicant paid \$300 toward these accounts. In January 2017, the law firm informed Applicant that the accounts was recalled by the original creditor and that future payments and inquiries

² GE 1.

about the accounts should be directed to the original creditor. Applicant acknowledges that he was aware that the collection of the two accounts was transferred to another firm, but no one has contacted him about payments. He has not made any payments on the accounts since December 2016.

Applicant describes his current financial situation as good. He is current on his mortgage, car loan, and other consumer credit obligations.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 national security eligibility 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the 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." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Section 7 of EO 10865 provides that adverse 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

Financial Considerations

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgement, or willingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . . An

individual who is financially overextended is at a greater risk of having to engage in illegal or otherwise questionable acts to generate funds.³

The record establishes the Government's *prima facie* case that Applicant has demonstrated a history of not meeting financial obligations and an inability to pay his creditors.⁴ Applicant receives partial mitigation for the payments he made to his creditors between August 2016 and May 2018. However, his sporadic payment history does not establish a good-faith effort to adhere to a payment plan to repay his creditors or otherwise resolve his delinquent debts. The inconsistent payments also suggests that Applicant's finances are not under control.

After reviewing the record, doubts remain about Applicant's suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). The purpose of the security clearance adjudication is to make "an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk."⁵ Although Applicant has held a security clearance for more than 10 years, his current financial situation warrants a reevaluation of his ongoing security worthiness. Applicant has incurred significant delinquent debt and has not submitted enough information to mitigate the related security concerns. Given his financial situation, continued access to classified information is not appropriate at this time. However, this decision should not be construed as a determination that Applicant cannot or will not rehabilitate his finances and demonstrate persuasive evidence of his security worthiness in the future.

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, Financial Considerations:	AGAINST APPLICANT
Subparagraphs 1.a – 1.d:	Against Applicant

³ AG ¶ 18.

⁴ Applicable financial considerations disqualifying conditions: AG ¶¶ 19 (a) inability to satisfy debts; and, (c) a history of not meeting financial obligations.

⁵ AG ¶ 2(d).

Conclusion

Based on the record, 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.

Nichole L. Noel
Administrative Judge