

December 7, 2017, for receipt of additional documentation, but Applicant offered nothing further for admission into evidence. DOHA received the transcript of the hearing (TR) on November 15, 2017.

Findings of Fact

Applicant admitted all the allegations in the SOR. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 54-year-old employee of a defense contractor. (GX 1 at pages 5 and 10.) He has been employed with the defense contractor since 2013. (GX 1 at page 10.) He has held a security clearance since 2003. (GX 1 at page 25, *See also* TR at page 46 line 8 to page 49 line 8.) He was never married, but does have two adult children. (GX 1 at pages 14~17.) Applicant attributes much of his past-due indebtedness to putting his sons through college. (TR at page 43 line 8 to page 46 line 2.)

Guideline F – Financial Considerations

1.a. Applicant admits that he was indebted to Creditor A, as the result of a voluntary car repossession, in the amount of about \$13,901. He purchased an automobile for his ex-girlfriend, a real-estate agent who fell on hard times in 2008 with the collapse of the housing market. (TR at page 49 line 11 to page 52 line 23.) He has settled this debt for \$7,000, as evidenced by a letter from the creditor (AppX D); and as such, it does not appear on Applicant's most recent October 2017 credit reports (CRs). (TR at 20 line 16 to page 23 line 14, and AppXs A~C.) This allegation is found for Applicant.

1.b. Applicant admits that he was indebted to Creditor B, as the result of credit card debt, in the amount of about \$9,497. Unbeknownst to Applicant, his sons' mother opened a credit card account in Applicant's name, which she defaulted on. (TR at page 23 line 20 to page 25 line 25.) As Creditor B charged-off this debt, said creditor would not accept any payments from Applicant. (*Id.*) Instead, Creditor B issued an Internal Revenue Service (IRS) Form 1099-C, writing off said debt as a business loss, and for Applicant to consider as income when he next files his Federal income taxes. (TR at page 52 line 24 to page 54 line 12, and AppX E.) I find that Applicant is addressing this admitted past-due debt.

1.c. Applicant admits that he was indebted to Creditor C, as the result of an apartment rental, in the amount of about \$5,825. Applicant's former girlfriend locked him out of their apartment, but left without paying the past-due rent. (TR at page 26 line 3 to page 28 line 5, and at page 54 line 13 to page 57 line 18.) This debt "has been settled in full," as evidenced by a letter from Creditor C's "Collection Representative." (AppX F.) This allegation is also found for Applicant.

1.d. Applicant admits that he was indebted to Creditor D, as the result of credit card debt, in the amount of about \$819. Applicant has "satisfied" this debt, as evidenced

by a letter from Creditor D. (TR at page 28 line 7 to page 30 line 4, and AppX G.) This allegation is found for Applicant.

1.e. and 1.j. Applicant admits that he was indebted to Creditor E, as the result of two internet provider debts, in an amount totaling about \$280. Applicant has “paid in full” these debts, as evidenced by a letter from Creditor D’s “Debt Collector.” (TR at page 30 line 6 to page 31 line 15, at page 34 line 4 to page 35 line 24, and AppXs H and K.) These allegations are found for Applicant.

1.f. Applicant admits that he was indebted to Creditor F, as the result of a TV provider debt, in the amount of about \$107. Applicant has “paid in full” this debt, as evidenced by a letter from Creditor F’s “Debt Collector.” (TR at page 40 line 20 to page 42 line 5, and AppX N.) This allegation is found for Applicant.

1.g. Applicant admits that he was indebted to Creditor G, as the result of a phone provider debt, in the amount of about \$70. Applicant has “paid in full” this debt, as evidenced by a letter from Creditor G’s “Debt Collector.” (TR at page 31 line 17 to page 32 line 18, and AppX I.) This allegation is found for Applicant.

1.h. Applicant admits that he was indebted to Creditor H, as the result of a medical bill debt, in the amount of about \$338. This debt has been “canceled”; as it was paid by Applicant’s medical insurance, as evidenced by a letter from Creditor H. (TR at page 36 line 11 to page 37 line 5, and AppX M.) This allegation is found for Applicant.

1.i. Applicant admits that he was indebted to Creditor I, as the result of another phone provider debt, in the amount of about \$142. Applicant has “paid in full” this debt, as evidenced by a letter from Creditor I’s “Debt Collector.” (TR at page 32 line 20 to page 34 line 2, and AppX J.) This allegation is found for Applicant.

Policies

When evaluating an applicant’s national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant’s national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny 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 national security eligibility will be resolved in favor of 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who applies 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.

Section 7 of Executive Order (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

Guideline F - Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Three are potentially applicable in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant admits to significant past-due indebtedness. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

- (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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant has addressed all of his admitted past-due debts. He also successfully disputed the \$338 medical bill as it was covered by his insurance. Applicant will no longer incur any education bills as his sons are both graduated adults. Furthermore, both the mother of his former children, and his former girlfriend, can no longer affect his credit. Applicant has thus demonstrated that future financial problems are unlikely. Mitigation under AG ¶ 20 has been established.

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(d):

(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.

Under 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. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the Financial Considerations security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraphs 1.a.-1.j.: For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant national security eligibility for a security clearance. Eligibility for access to classified information is granted.

Richard A. Cefola
Administrative Judge