



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



In the matter of:

ISCR Case No. 17-04382

Applicant for Security Clearance

Appearances

For Government: Adrienne Driskill, Department Counsel

For Applicant: *Pro se*

July 10, 2018

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of the Case

On January 12, 2018, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective for cases after June 8, 2017.

Applicant answered the SOR on February 16, 2018, and requested a hearing before an administrative judge. The case was assigned to me on May 1, 2018. The Defense Office of Hearings and Appeals issued a notice of hearing on May 1, 2018, and the hearing was convened as scheduled on May 16, 2018. The Government offered five exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. The Applicant offered no exhibits at the hearing. Applicant testified on his own behalf. The record remained open until close of business on June 5, 2018, to allow

the Applicant the opportunity to submit additional supporting documentation. Applicant submitted five Post-Hearing Exhibits, referred to as Applicant's Post-Hearing Exhibits 1.a., through 1.e., which were admitted without objection. DOHA received the transcript of the hearing (Tr.) on June 11, 2018.

Findings of Fact

Applicant is 24 years old. He is engaged to be married, and has two young boys. He has a high school diploma. He holds the position of Logistician with a defense contractor on a Navy base. He seeks to obtain a security clearance in connection with his employment in the defense industry.

Paragraph 1 Guideline F – Financial Considerations The Government alleges that the Applicant is ineligible for clearance because he is financially overextended and at risk of having to engage in illegal acts to generate funds.

The SOR alleges that Applicant is indebted to four separate creditors totaling approximately \$28,159. In his Answer, Applicant admits each of the allegations. Credit reports of the Applicant dated March 9, 2016; November 27, 2017; and April 26, 2018 reflect that each of these debts were owing at one point. (Government Exhibits 3, 4, and 5.) Applicant has been working for his current employer since January 2016.

Applicant explained that in 2012, at the young age of 18, he was in a serious car accident, and was injured, and lost his job. He spent about three months recuperating, and was supported only by welfare during this period. During this period, he incurred debt that he was unable to pay. In 2013, he started working again, but did not realize the extent of his indebtedness. It was only in February 2016, when he began working for a defense contractor, and needed a security clearance, that he became aware of the delinquent debt listed on his credit report. Since then, he has been working diligently to pay off his delinquent debt and clean up his credit report.

1.a. Applicant was indebted to a creditor for an auto loan that was charged off in the approximate amount of \$14,156. Applicant testified that at the age of 18, he co-signed for a vehicle for his girlfriend, who is now his fiancé. The vehicle later broke down, and she did not have the money to repair it so she returned the car. When she returned the car, she owed about \$7,000 on the loan. Interest continued to accumulate, and at one point, Applicant owed as much as \$14,000 on the loan. Applicant never made any payments on the debt; but in February 2018, he contacted the lien holder and they agreed to lower the debt to \$6,800 from \$14,000. Applicant is currently paying \$100 monthly toward the debt to resolve it. (Tr. pp. 19-20.) Applicant's Post-Hearing Exhibit 1.a., indicates that Applicant has completely resolved the debt.

1.b. Applicant was indebted to a creditor for an auto loan placed for collection in the approximate amount of \$12,237. Applicant was in a car accident in 2012. He has full coverage insurance on his car; but because he never contacted the insurance company, they never issued the check to pay off the lienholder. Applicant recently

contacted the lienholder who settled the matter for \$7,700. Applicant paid the claim by borrowing money from a friend, and then reimbursed his friend when he received the payment check from the insurance company. The matter has been completely resolved. (Tr. p. 22.) Applicant's Post-Hearing Exhibit 1.b., indicates that Applicant has completely resolved the debt.

1.c. Applicant is indebted to a creditor for a delinquent medical bill in the amount of \$1,451. This medical bill was from the car accident in 2012. Applicant testified that he thought the insurance company had paid the debt. He contacted the creditor, and settled the debt for \$435. He borrowed the money to pay the debt from a friend. Applicant's Post-Hearing Exhibit 1.c., indicates that Applicant has completely resolved the debt.

1.d. Applicant was indebted to a creditor for an account placed for collection in the amount of \$315. Applicant explained that he took out a small loan in 2012 to move out of the state. He paid the debt off in full in the amount of \$315. Applicant's Post-Hearing Exhibit 1.d., indicates that Applicant has completely resolved the debt.

Applicant testified credibly that he has learned a serious lesson from this experience. He is now more mature and is very careful about how he spends his money. He does not spend money that he has set aside to pay bills with. He no longer has any delinquent debt or past-due accounts. He now follows the advice of his friend and financial counselor, who has helped him in getting his financial affairs stable and in order. After taxes, Applicant brings home about \$2,400 a month, and his fiancé brings home about \$1,200. They each pay their own bills. Applicant's expenses are reasonable, as his car payment is \$178 monthly, he and his fiancé split the rent of \$1,300 monthly, and he is making his regular \$100 monthly payment to the creditor set forth in allegation 1.a. The only other payments he has on a monthly basis is for his cable and insurance bill, both of which are current. He also owes his friend \$435 that he plans to pay off soon. Applicant states that once he pays her off, he plans to start a savings account. He also plans to continue to live within his means, by following a budget, to avoid any financial problems in the future.

A friend of the Applicant, who serves as a mother figure to him, and who considers him like a son to her, testified that she has been counseling him in financial management and helping him to resolve his debt. She has known the Applicant for many years, and can attest to the fact that he is responsible, trustworthy and reliable. Any money she has loaned him in the past, he has always paid back to her in a timely fashion. She has been teaching him the importance of having good credit, and that he must continue to be responsible in paying his bills to be successful. She stated that Applicant has shown great financial growth and maturity in all areas of his life. She highly recommends him for a security clearance.

Two letters of recommendation from professional associates and friends of the Applicant attest to his trustworthiness and honesty. They also discuss his dedication, loyalty, and hardworking nature. One of them states that because of his youth, and inexperience, Applicant did not understand the severity of not paying his bills and was

not aware that he had the accident-related bills until the background investigation concerning his application for security clearance. He now understands the significance, and the consequences of not being responsible and has resolved his delinquent debts. In their opinion, Applicant is considered to be a worthy candidate for a security clearance. (Applicant's Post-Hearing Exhibit 1.e.)

Policies

When evaluating an applicant's suitability for a security clearance, 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 eligibility for access to classified information.

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. According to AG ¶ 2(c), 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. 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.

A person who seeks access to classified information enters 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 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 for Financial Considerations is set out in AG ¶ 18, as follows:

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 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. Four are potentially applicable in this case:

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

Applicant was injured in a car accident in 2012, and was unable to pay his debts. He incurred a number of delinquent debts, several of which he was not aware of until the security clearance application process. The evidence is sufficient to raise the above disqualifying conditions.

Four Financial Considerations Mitigating Conditions under AG ¶ 20 are potentially applicable:

- (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, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

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

In 2012, at the young age of 18, Applicant was injured in a car accident and lost his job. While he recovered, he was supported by welfare. He incurred debt that he could not afford to pay. He also did not know about the extent of his indebtedness until his security clearance investigation. Since learning of his debt, he has worked diligently to resolve it. At this point, he has completely resolved the debts listed in the SOR, and he has no other delinquent debt. Since he started working for a defense contractor in 2016, and understanding how important it is to live within his means and pay his bills on time, Applicant has demonstrated financial responsibility. He is now on the correct financial path and is learning more each day on how to improve his financial standing. He has acted reasonably and responsibly under the circumstances. He has demonstrated good judgment, reliability, and trustworthiness. The Financial Considerations concern has been mitigated.

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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. 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 has 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 section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a.:	For Applicant
Subparagraph 1.b.:	For Applicant
Subparagraph 1.c.:	For Applicant
Subparagraph 1.d.:	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.

Darlene Lokey Anderson
Administrative Judge