

opportunity to submit additional supporting documentation. Applicant submitted seventeen Post-Hearing Exhibits, referred to as Applicant's Post-Hearing Exhibits A through Q., which were admitted without objection. DOHA received the transcript of the hearing (Tr.) on May 25, 2018.

Findings of Fact

Applicant is 39 years old and is divorced, but has recently rekindled his relationship with his ex-wife and they reside together. He has two children. He has a high school diploma, and almost a year of college. He holds the position of Assistant Air Missile Defense Syndicate for a defense contractor. 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 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 has thirteen delinquent debts totaling approximately \$34,000. In his Answer, Applicant admits all of the allegations, except 1.c., 1.g., 1.h., 1.j., and 1.k. Credit reports of the Applicant dated February 3, 2016; December 19, 2017; and May 4, 2018, reflect that each of these debts were owing at some point. (Government Exhibits 3, 4, and 5.) Applicant has held a security clearance since 1999 with no incidents.

Applicant served on active duty in the United States Navy from 1999 to 2015. In 2015, when he was honorably discharged, he held the rank of E-6. During his military career, Applicant was deployed on overseas assignment on ten separate occasions, including Afghanistan, Saudi Arabia and Kuwait. He was attached to Italy from 2005 to 2008 where he served as the primary lead for detaining Ops. He also did traveling Judge Protective detail. He has received a number of military awards and commendations, including four Navy Achievement Medals; two Meritorious Unit Commendations; and the National Defense Service Medal, among others for his outstanding service. He was recognized as a "Premier sailor" and described as being "highly talented." (Applicant's Post-Hearing Exhibit O.)

In 2009, Applicant broke his leg in three places while on duty. Applicant was bedridden for a period and then placed on light limited duty. In 2014, after having been seen several times in the emergency room for excessive pain in his legs and extremities, due to his limited movement which caused him to increase in weight and fall outside the military body standards, he was administratively separated from active duty service from the Navy, resulting in his discharge from the military service after 16 years of service. Applicant was given approximately 45 days notice before he was discharged from the military. Once he left the military, he immediately started looking for work. Applicant participated in a program for veterans called Reboot and was offered a job. His pay in the civilian sector of \$40,000 annually was half of what it was in the military

as an E-6 with entitlements of \$85,000. In December 2018, he accepted work with another defense contractor and received a pay raise.

The following debts listed in the SOR became delinquent:

1.a. A debt owed to a creditor for a vehicle was charged off in the amount of approximately \$17,258. Applicant could no longer make his car payments. He contacted the creditor and voluntarily allowed the vehicle to be repossessed and sold at auction. He has arrived at a settlement amount of \$9,000 with the creditor and has set up payment arrangements of \$100 monthly. He made his first payment of \$100 to the creditor on May 31, 2018. (Applicant's Post-Hearing Exhibit A.)

1.b. A debt owed to Navy Federal credit card in the amount of \$2,615 was charged off. Applicant has contacted the creditor and set up a payment plan that he is following. He is paying \$75 to each account weekly for a total of \$150 weekly. He has reduced the debt down to approximately \$1,042.29. (Applicant's Post-Hearing Exhibit B.)

1.c. A debt owed to a creditor in the amount of \$1,750 was placed for collection. Applicant does not understand why he would owe this debt. He tried to contact the original creditor who has since gone out of business. He was not able to contact anyone regarding the debt and he plans to contest the debt with the credit bureaus.

1.d. A debt owed to Navy Federal for a personal loan in the amount of \$970 was charged off. Applicant is paying the debt along with the debt set forth in allegation 1.b.

1.e. A debt owed to a University for an account that was charged off in the approximate amount of \$907. Applicant contacted the creditor and settled the debt in the amount of \$365 on April 27, 2018. (Applicant's Post-Hearing Exhibit E.)

1.f. A debt owed to a creditor for a delinquent credit card account that was charged off in the amount of \$424. Applicant satisfied the debt on February 16, 2018, and it is paid in full. (Applicant's Post-Hearing Exhibit F.)

1.g. A debt owed to a creditor for an account that was charged off in the approximate amount of \$430. Applicant has no knowledge of the debt and is contesting the debt with the credit agencies. (Tr. p. 38.) In the event that the debt is his, he will pay it.

1.h. A debt owed to the same creditor as listed in 1.g. for an account that was charged off in the approximate amount of \$691. Applicant has no knowledge of the debt and is contesting the debt with the credit agencies. (Tr. p. 38.) In the event that the debt is his, he will pay it.

1.i. A debt owed to a creditor for an account that was charged off in the approximate amount of \$8,255. Applicant purchased a vehicle that he could no longer afford to make the payments on. The vehicle was sold at auction. In December 2017, Applicant contacted the creditor and set up a payment plan. Applicant pays \$500 monthly to the creditor until the debt is paid in full. Applicant has already made six payments of \$500

and will continue to make these monthly payments until the debt is paid in full. (Applicant's Post-Hearing Exhibit I.)

1.j. A debt owed to a creditor in the amount of \$292 was charged off. Applicant states that he has never had cellular service from this creditor and is not aware of the debt. (Tr. p. 40.) He plans to contact the creditor soon to find out if the debt is actually his. If it is, he will pay it.

1.k. A debt owed to a city for an account has been charged off in the approximate amount of \$129. Applicant contacted the city and learned that this charge was for past-due registration tags for a vehicle he no longer owns. He has contested the debt with the city and they have removed it from his account. (See, Applicant's Post-Hearing Exhibit K.)

1.l. A debt owed for government overpayments was placed for collection in the approximate amount of \$122. Applicant explained that this was a stipend for school supplies from the GI Bill. He stated that he dropped the class and so he had to pay the debt back. Applicant states that he has paid the debt.

1.m. A debt owed to a water company for an account that was placed for collection in the amount of approximately \$307. Applicant states that he made two bi-weekly payments of \$153 and resolved the debt on June 1, 2018. (Applicant's Post-Hearing Exhibit M.)

Applicant testified that he was recently notified by the Internal Revenue Service that he owes Federal back taxes for tax year 2016 in the amount of \$1,515. He has already set up a payment plan of \$150 each month, starting in June 2018, to continue on a monthly basis until the debt is paid in full.

From 2015 through summer of 2017 Applicant has received financial counseling from Fleet and Family Services, and from the Red Cross on financial planning. As a result, he has made adjustments to the way he spends money and the way he budgets his lifestyle. He now puts money aside to use for emergencies. He now purchases what is needed and not what is wanted. (Tr. p. 50.)

Letters of recommendation from the Applicant's past and current professional associates, both military and civilian, including coworkers, friends and his commanding officer, attest to his dedication to hard work, dependability, honesty and strong moral foundation. They continue to be impressed with his exceptional character that has earned the trust and confidence of all who know him. He is respected up and down the chain of command for his profession demeanor, trustworthiness and level of maturity. They find him extremely worthy of a security clearance. (Applicant's Post Hearing Exhibit N.)

Evaluation Reports and Counseling Records from Applicant's Naval service show that Applicant's performance was of the highest caliber, described as a "superstar."

Over his sixteen years of active duty service he was consistently highly recommended for advancement and retention. (Applicant's Post-Hearing Exhibit Q.)

A copy of a news article about the Applicant, who was described as a "hero" by his shipmates after assisting in the rescue of four Saipan divers whose boat capsized in the Northern Marianas islands in 2002, was also placed into evidence. Applicant was on routine patrol when he responded to the distress call. Applicant and another officer pulled all four divers to safety; and retrieved all of their gear despite the six to eight foot swells, and the inability to see ten feet in front. At the time of the incident, Applicant was the surface watch supervisor in the ship's combat information center. (Applicant's Post-Hearing Exhibit P.)

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 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. Two are potentially applicable in this case:

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

Applicant found it difficult adjusting to the unexpected transition from his military career to civilian life where he earned substantially less pay. As a result, he could no longer afford the lifestyle he once had and was unable to pay his debts. The evidence is sufficient to raise the above disqualifying conditions.

Five 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;

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

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant honorably served our country on active duty Naval military service for sixteen years, and is now serving in good standing as a civilian employee in the defense industry. When he was forced to make the unexpected transition from military service to a civilian, due to no fault of his own but because he was injured while on duty, his income was drastically reduced, and he could no longer afford the military lifestyle he was used to. As a civilian, his pay was half of what it had been in the military, and he adjusted his lifestyle accordingly. He voluntarily returned the vehicles he could no longer pay for, and sought employment in the civilian sector as quickly as possible.

Since gaining employment as a civilian for the defense industry, Applicant has contacted each of the creditors listed on the SOR and has either set up a payment plan to resolve the debt, and is doing so, has already resolved the debt in full, or is contesting the debt with the credit agencies. He has also set up payment arrangements to resolve his back taxes. He has received financial counseling that he has found useful and is on the correct financial path. He has acted reasonably and responsibly under the circumstances. There are clear indications that the problem in the past is resolved and under control, and there has been a good faith effort to resolve his debts. 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(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.

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
Subparagraph 1.e.:	For Applicant
Subparagraph 1.f.:	For Applicant
Subparagraph 1.g.:	For Applicant
Subparagraph 1.h.:	For Applicant
Subparagraph 1.i.:	For Applicant
Subparagraph 1.j.:	For Applicant
Subparagraph 1.k.:	For Applicant
Subparagraph 1.l.:	For Applicant

Subparagraph 1.m.:

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