



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



In the matter of:)
)
) ISCR Case No. 18-00159
)
)
Applicant for Security Clearance)

Appearances

For Government: Adrienne Driskill, Esq., Department Counsel
For Applicant: *Pro se*

July 25, 2018

Decision

Lokey Anderson, Darlene D., Administrative Judge:

On December 13, 2015, Applicant submitted a security clearance application (e-QIP). On January 25, 2018, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security 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*, effective within the DoD after June 8, 2017.

Applicant answered the SOR on February 10, 2018, and requested a hearing before an administrative judge. The case was assigned to me on April 5, 2018. The Defense Office of Hearings and Appeals issued a notice of hearing on April 25, 2018, and the hearing was convened as scheduled on May 15, 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 one Post-Hearing Exhibit, referred to as Applicant's Post-Hearing

Exhibit A, which was admitted without objection. DOHA received the transcript of the hearing (Tr.) on May 23, 2018.

Findings of Fact

Applicant is 35 years old. He is separated from his marriage. He has a Master's degree in Cybersecurity and Information Insurance. He is employed with a defense contractor as a Production Systems Administrator. He is applying for a security clearance in connection with his employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness, and ability to protect classified information. The SOR identified five delinquent debts totaling approximately \$20,000 that include delinquent credit card debt. Applicant admits allegation 1.a., and denies the others under this guideline. Applicant has been working for his current employer since 2015. Applicant has never held a security clearance before. He was unemployed August to December 2007; and from July to December 2008.

Credit Reports of Applicant dated January 20, 2016; December 14, 2017; and March 29, 2018, confirm the indebtedness listed in the SOR. (Government Exhibits 3, 4 and 5.)

Applicant testified that his indebtedness listed in the SOR was caused by being young and not knowing how to live within a budget. To afford college, he applied for and lived on credit cards that he could not afford to pay. He incurred debt for an apartment and took out student loans to finance his education. He testified that all of the debts listed in the SOR are old and he does not remember whether he paid them or not. When he received the SOR, he admitted the indebtedness, but did not fully understand that he should contact each creditor to find out where he stands on the account and either pay the account off or set up payment arrangement to resolve it.

The following debts were alleged on the SOR:

1(a) A delinquent debt card account was charged off in the approximate amount of \$4,592. Applicant testified in 2015 his wages were garnished for about four or five months and the debt was completely resolved by 2016. (Tr. pp. 27 and 38)

1(b) A delinquent debt owed to a bank was placed for collection in the approximate amount of \$3,716. Applicant settled the debt for \$1,672.31 on May 17, 2018. (Applicant's Post-Hearing Exhibit A.)

1(c) A delinquent credit card debt was placed for collection in the approximate amount of \$268. Applicant settled the debt for \$120.49 on May 17, 2018. (Applicant's Post-Hearing Exhibit A.)

1(d) A delinquent credit card account was placed for collection in the approximate amount of \$3,115. Applicant settled the debt for \$1557.40 on May 17, 2018. (Applicant's Post-Hearing Exhibit A.)

1(e) A delinquent credit card account was placed for collection in the approximate amount of \$8,377. Applicant settled the debt for \$1557.40 on May 17, 2018. (Applicant's Post-Hearing Exhibit A.)

Applicant testified that he now follows a strict financial budget which allows him to pay his bills on time and helps him to avoid future financial problems.

Performance appraisals of the Applicant show favorable ratings. (Applicant's Post-Hearing Exhibit A.)

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 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. 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, 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 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 incurred his credit card debt when he was young, immature, and irresponsible, and he could not afford to make the payments. The evidence is sufficient to raise the above 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;

(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 a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant testified that he now has a financial budget that he strictly follows to ensure that he is able to pay his bills on time and live within his means. This conduct shows that growth and maturity toward handling his financial affairs. He has contacted each creditor and settled each of his delinquent accounts. He no longer has any other delinquent accounts and now understands the importance of maintaining financial responsibility. Going forward, Applicant must continue to resolve his debts in compliance with his creditors. He must live within his means at all times. So far, he has acted reasonably and responsibly with respect to his debts. Accordingly, it is found that his debts are now under control, and he is no longer spending beyond his means. Furthermore, Applicant has demonstrated that future financial problems are unlikely. There are clear indications that his financial problems are being resolved.

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 facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Applicant has settled and paid off all of his delinquent debts. He has also provided documentation from each of the creditors that confirm these pay-offs. Applicant has demonstrated that he is financially responsible.

Overall, the record evidence leaves me without questions and 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 ¶ E3.1.25 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

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 eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson
Administrative Judge