



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



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| In the matter of: |) | |
| |) | |
| XXXXXX, Xxxxxx Xxxxxxx |) | ISCR Case No. 14-06364 |
| |) | |
| Applicant for Security Clearance |) | |

Appearances

For Government: Adrienne M. Strzelczk, Esquire, Department Counsel
 Richard Stevens, Esquire, Department Counsel
 For Applicant: *Pro Se*

07/31/2015

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ Applicant’s clearance is granted.

On 23 January 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 11 May 2015 and I convened a hearing 10 June 2015. DOHA received the transcript 18 June 2015.

¹Consisting of the transcript (Tr.), Government exhibits (GE) 1-3, and Applicant exhibits (AE) A-O. AE O was timely received post-hearing. The record closed 2 July 2015, when Department Counsel indicated no objection to AE O.

²DoD acted 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 (AG) effective within the DoD on 1 September 2006.

Findings of Fact

Applicant admitted the SOR financial allegations. He is a 53-year-old engineering technician employed by a defense contractor since February 2014. He has not previously held a clearance. His clearance requirement is mostly for building access. Applicant was unemployed from February 2013 to February 2014. Before that, he was continuously employed from October 2004 to February 2013. He lost his job in February 2013 when the company that he worked for lost the contract that employed him. He has never married, and has no children. He is a recovering alcoholic who will have 16 years of sobriety in July 2015 (Tr. 27).

The SOR alleges, Government exhibits (GE 1-3) substantiate, and Applicant admits 10 debts totaling \$25,000. The debts consist of three delinquent credit cards (SOR 1.a-1c),³ six medical collection accounts (SOR 1.d-1.i),⁴ and a delinquent telephone account (SOR 1.j).⁵ Applicant settled the credit card debts, at a 63% discount, in May 2015 (AE A-C, N-O; Tr. 62-63). He paid the medical collection accounts at SOR 1f-1.i and the delinquent telephone account at SOR 1.j in full, in May 2015 (AE D-H). He made these payments through a consolidation loan he obtained from his credit union. He and the credit union seem to have overlooked the medical collection accounts at SOR 1.d and 1.e. However, Applicant was able to settle SOR debt 1.e (\$404) in June 2015 at a 70% discount, with three monthly payments of \$94. He documented the first \$94 payment (AE O). According to Applicant, the credit bureaus believe that SOR debt 1.d was put on his account by mistake.

Before he lost his job in February 2013, his finances were in pretty good order. His October 2012 credit report (AE I) lists the medical collection debts at SOR 1.f and 1.g, but his credit accounts were all in good standing, all but a handful of them with zero balances. Applicant listed the delinquent credits on his February 2014 clearance application (GE 1). He discussed these debts, as well as the remaining SOR debts, during a subject interview in May 2014 (GE 2). He acknowledged all of the debts as his.

In March 2013, Applicant's father had two major strokes and his step-mother was diagnosed with cancer. Applicant began visiting them every weekend. This extra travel cost him about \$250 monthly. His step-mother died in January 2015, but Applicant continued to visit his father. Applicant's step-mother had insurance, so he did not have any expenses related to her funeral. At the time of the hearing, Applicant's father had gone into hospice (Tr. 29). However, Applicant's post-hearing submission (AE O) stated that his father had died and was being buried in early July 2015.

³One of the credit cards was a business card. In his previous employment, he was essentially a subcontractor to a prime contractor. He used the card to purchase the materials he needed to perform his work. The card was in his name and he was expected to pay it out of his earnings (Tr.33-34).

⁴For which Applicant did not have medical insurance (Tr. 31-32).

⁵When Applicant lost his job, he discontinued a land line that he had in his home. The delinquent amount was the final bill that he was unable to pay because he was unemployed (Tr. 35).

When Applicant lost his job, he went on unemployment, with a severe decrease in income. He did not receive unemployment the whole time he was unemployed. He estimates that he received unemployment for about nine months (Tr. 40). He decided to focus on his basic living expenses, so he fell behind on his credit card accounts. However, he contacted the lender on his credit cards, but they were unwilling to work with him while he was unemployed. Nevertheless, when he regained employment, he worked out a payment arrangement on two of the credit cards in February 2014. He began paying the lender \$200 monthly. In March 2014, he reached a similar arrangement on the third credit card, and began paying \$100 monthly. Applicant's credit reports and letters from the lender broadly confirm these claims.⁶

Applicant also went to his credit union to obtain a consolidation loan to address all the SOR debts at once. However, the credit union would not give him a loan, as he was just recently re-employed (Tr. 30). Nevertheless, after Applicant received the SOR, he tried again. This time he was successful. His credit union representative pulled his credit report, got all the creditors to send her the bills, and cut the checks to the creditors listed in AE A-G (Tr. 36-37). This was a \$10,000 consolidation loan at 9% for 48 months—a \$256 monthly payment (Tr. 37, 50). His first payment is due in July.

Applicant nets about \$1,178 bi-weekly, or about \$2,356 most months. His monthly expenses run slightly higher than that, and Applicant acknowledges that his finances are mostly day-to-day or week-to-week (Tr. 47). However, those monthly expenses include \$250 monthly travel expenses to visit his father, expenses that will certainly decrease now that his father has died. Moreover, he stated his intent to get a second job when his father died (Tr. 49) and reiterated that intent now that his father has died (AE O).

Applicant's financial problems were largely related to his year's unemployment from February 2013 to February 2014. However, he began addressing his debts as soon as he was re-employed. While he was unemployed, he took steps to cut his household expenses. The record is clear that he does not live an extravagant lifestyle. Applicant's friends of long-standing (AE M) consider him honest and trustworthy. They extol his work ethic but also note his willingness to help others in need. Applicant has not documented any formal credit or financial counseling, but the record is clear that he knows how to get financial help from his credit union when he needs it.

⁶ The SOR allegations are based on Applicant's April 2014 credit report (GE 3). Applicant's March 2014 credit report (AE K) shows the same numbers alleged in the SOR, except the reported balance for SOR 1.a is \$100 more than reported on the April 2014 credit report. While Applicant's July 2014 (AE J) and April 2015 (AE L) credit reports contain no entry for the account at SOR 1.b, the reported balances for SOR debts 1.a and 1.c show appropriate declines in each account's balance. Finally, the June 2015 letters from the lender on SOR 1.a. and 1.c report the lender's receipt of the final payment on each account as documented in AE A and C, respectively. However, if you deduct the amount of the May 2015 payments from the reported balances in AE L, the remaining balance reported by the lender—and noted as being potentially credited to Applicant as income based on loan forgiveness—is the amount you would expect after doing the calculation.

Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).⁷

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.⁷

Analysis

The Government established a case for disqualification under Guideline F, but Applicant mitigated the security concerns. When Applicant lost his job in February 2013, and remained unemployed for a year, he acquired significant debt.⁸ However, that debt was limited to three credit cards, several medical bills he acquired because he had no medical insurance, and the remaining balance on a telephone account he closed when he lost his job. Moreover, he began to address his debts once he regained employment in February 2014. He established a repayment plan on the credit cards as soon as it was practicable, and attempted to secure a consolidation loan to address all his debts. He made his agreed payments on his credit cards, and obtained a consolidation loan from his credit union as soon as it would extend him credit.

Under his current plan, Applicant has settled SOR debts 1.a-1.c and paid SOR debts 1.f-1.j in full. The only debts not fully resolved are SOR 1.d, which the credit

⁷ See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁸ ¶ 19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

bureaus are not able to confirm and SOR 1.e, for which Applicant has reached a settlement figure and made the first monthly payment. In doing so, he converted the \$300 monthly payment he was making to his credit cards—even while having significant additional travel expenses because of his aging and ailing parents—into a \$256 monthly payment which will become much easier to make now that he will not have the travel expenses to contend with. Moreover, he reduced over \$25,000 in delinquent debt to a \$10,000 installment loan payable over 48 months.

The mitigating factors for financial considerations give Applicant substantial aid. While his financial difficulties are both recent and multiple, Applicant’s employment is now stable; so the circumstances that caused them are less likely to recur.⁹ Further, his financial problems were due to circumstances beyond his control, and he began addressing his delinquent debts once he obtained stable employment in February 2014. He has continued to address his other delinquent debts since then.¹⁰ While there is no evidence that Applicant has had any formal financial counseling, he obtained guidance on how to address his debts and has clearly acted to get his finances under control.¹¹ The remaining debt is insignificant, even if the creditor for SOR debt 1.d can be located. He has demonstrated the willingness and ability to address his delinquent debts. Having addressed his other financial obligations, I am confident these remaining obligations will also be addressed if necessary. Overall, essentially complete progress has been made addressing his delinquent debt.¹²

The Appeal Board has stated that an Applicant need not have paid every debt alleged in the SOR, need not pay the SOR debts first, and need not be paying on all debts simultaneously. Applicant need only establish that there is a credible and realistic plan to resolve the financial problems, accompanied by significant actions to implement the plan.¹³ Applicant’s efforts to date constitute such a plan, and his consistent payments reflect significant actions. I conclude Guideline F for Applicant.

Formal Findings

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| Paragraph 1. Guideline F: | FOR APPLICANT |
| Subparagraphs a-j: | For Applicant |

⁹¶ 20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

¹⁰¶ 20 (b) the conditions that resulted in the financial problem were largely beyond the person’s control . . . and the individual acted responsibly under the circumstances;

¹¹¶ 20 (c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

¹²¶ 20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

¹³ISCR Case No. 07-06482 (App. Bd. 21 May 2008).

Conclusion

Under the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

JOHN GRATTAN METZ, JR.
Administrative Judge