



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



In the matter of:)	
)	
)	ISCR Case No. 14-06702
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Daniel F. Crowley, Esq., Department Counsel
For Applicant: *Pro se*

12/31/2015

Decision

COACHER, Robert E., Administrative Judge:

Applicant mitigated the financial considerations security concern. Eligibility for access to classified information is granted.

Statement of the Case

On February 9, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DOD CAF acted under Executive Order (EO) 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 September 1, 2006.

Applicant answered the SOR on April 1, 2015. He elected to have his case decided on the written record. Department Counsel submitted the Government's File of Relevant Material (FORM) on August 31, 2015. The FORM was mailed to Applicant

who received it on September 23, 2015. As evidence, the Government offered Items 2 through 5, which were admitted without objection (Item 1 was the SOR and Applicant's answer). Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. He submitted Applicant's Exhibits (AE) A through C, which were admitted into the record without objection. The case was assigned to me on November 10, 2015.

Findings of Fact

In Applicant's answer to the SOR, he admitted all the allegations. His admissions are adopted as findings of fact. After a thorough and careful review of the pleadings and evidence submitted, I make the following additional findings of fact.

Applicant is 36 years old. He is single, never married and he has no children. He has worked for his current employer, a defense contractor, since May 2013. He received a bachelor's degree in 2006.¹

The SOR lists six collection debts. They include four student loan debts in the amounts of \$7,887; \$4,028; \$3,943; and \$3,857 (SOR ¶¶ 1.a through 1.d). The remaining two collection debts are in the amounts of \$36 and \$567 (SOR ¶¶ 1.e and 1.f). These debts are supported by credit reports from July 2013 and October 2014.²

Applicant experienced periods of unemployment from February 2009 to July 2011 and April 2012 to November 2012. During these times, he was unable to make his student loan payments. He resumed making payments at some point, however, the loan-servicing agency changed unbeknownst to him. In July 2013 he became aware the loans were in a delinquent status. He provided documentation showing that he paid all of his delinquent student loans in March 2015. These debts are resolved.³

Applicant stated he paid the debts listed at SOR ¶¶ 1.e and 1.f and further stated that the creditors failed to provide receipts documenting the payments. Two credit reports support his claim because neither shows these debts as delinquent. These debts are resolved. Currently, there is no evidence of other delinquent debts.⁴

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially

¹ Item 2.

² Items 3, 5.

³ Items 1, 4; AE A, B.

⁴ Item 5; AE A, C.

disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied 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 access to classified information 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, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that 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

AG ¶ 18 expresses the security concern for financial considerations:

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶ 19 and the following potentially apply:

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

Applicant accumulated delinquent debts over an extended period of time. I find both disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem and/or 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 has resolved all his delinquent debts. His efforts to repair his financial position make it reasonable to conclude that these types of debts will not recur, nor do they cast doubt on his reliability, trustworthiness, and good judgment. AG ¶ 20(a) applies.

Applicant accumulated delinquent debt when he experienced two periods of unemployment. These were conditions beyond his control. He eventually paid these debts. His actions, although delayed, were responsible. AG ¶ 20(b) applies.

There are clear indications that Applicant's debts are resolved or under control. Applicant made good-faith efforts to resolve the debts listed on the SOR. He supplied documentary evidence showing the payments were made and the debts were paid. AG ¶ 20(c) and ¶ 20(d) apply.

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 the 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 guideline 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 considered Applicant's personal circumstances. The evidence supports that he is again financially stable and that he resolved the debts. The record contains sufficient evidence to mitigate the security concerns.

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 security concerns arising under Guideline F, financial considerations.

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

Subparagraphs 1.a – 1.f: 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.

Robert E. Coacher
Administrative Judge