

KEYWORD: Financial

DIGEST: Between 1999 and 2005, Applicant accrued approximately \$22,000 of delinquent debt. All of this debt related to expenses he incurred while struggling to afford a prestigious, expensive private college without any financial help from his impoverished parents. Since graduating, he obtained a job, has received two raises, and has entered a payment plan to address the delinquencies. Clearance is granted.

CASENO: 07-07110.h1

DATE: 09/26/2007

DATE: September 26, 2007

In re:)	
)	
-----)	
SSN: -----)	ISCR Case No. 07-07110
)	
Applicant for Security Clearance)	

**DECISION OF ADMINISTRATIVE JUDGE
MARC E. CURRY**

APPEARANCES

FOR GOVERNMENT

Richard A. Stevens, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

_____ Between 1999 and 2005, Applicant accrued approximately \$22,000 of delinquent debt. All of this debt related to expenses he incurred while struggling to afford a prestigious, expensive private college without any financial help from his impoverished parents. Since graduating, he obtained a job, has received two raises, and has entered a payment plan to address the delinquencies. Clearance is granted.

STATEMENT OF THE CASE

On July 13, 2007, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) explaining why it was not clearly consistent with the national interest to grant or continue a security clearance. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended. He answered the SOR on August 9, 2007, and requested a hearing.

The case was assigned to me on August 22, 2007. On August 30, 2007, DOHA issued a notice of hearing scheduling it for September 11, 2007. Applicant waived his right to 15-days notice of hearing. During the hearing, I received two government exhibits, 11 Applicant exhibits, and the testimony of two Applicant witnesses. DOHA received the transcript on September 21, 2007.

FINDINGS OF FACT

_____ Applicant admitted all of the allegations in SOR , and they are incorporated into the findings of fact. In addition, I make the following findings of fact.

Applicant is a 26-year-old single man with a five-year-old daughter. He earned a bachelor's degree in business administration in January 2006.

Shortly after graduating, Applicant began working for a defense contractor as a technical communications coordinator (Exhibit 1). His responsibilities included writing requests for proposals. Later, he was promoted to the position of information technology manager, where he currently serves. His duties include installing networks, servicing computers, and training staff (Tr. 17).

Applicant is highly respected at work. According to his supervisor, he is an exceptionally ambitious young man with a high degree of maturity who has performed admirably (Exhibit E, Tr. 45-48). He has been rewarded for his outstanding performance with two raises (Exhibits E through G).

Applicant was the first person in his family ever to attend college (Tr. 36). Tuition was \$38,000 per year (Tr. 22). Because his family was poor, they were unable to help him financially (Tr. 35). Through a combination of grants, scholarships, and work-study programs, Applicant was able to pay the annual tuition (Tr. 22). He underestimated the additional costs, such as books, lodging, transportation, and food.

He began applying for credit cards to meet these expenses. As a young man who had just finished high school, he “did not fully understand” how quickly credit card debt could accrue (Tr. 21, 43). He attempted to stay current with his credit card bills, but as time passed, what he was earning part-time through his work-study scholarship was not enough to cover the living expenses he was charging on his credit cards (*Id.*).

Applicant’s finances were stretched further by the birth of his daughter while he was in college. He was unable to satisfy his child support obligation (Exhibit J).

By the time Applicant graduated, he had accrued 14 delinquent accounts in the approximate amount of \$22,000. Nine are owed to credit card companies (1.a, 1.c, 1.f through 1.j, 1.m and 1.n). The remainder includes a medical bill (1.b), a late car note payment (1.d), a delinquent phone bill (1.l), a child support delinquency (1.e), and a debt owed to a community college Applicant attended for a semester (1.k).

Applicant has been satisfying the delinquent child support obligation since April 2007 (Exhibit H). Currently, he pays \$135 per week, \$60 of which is applied toward the arrearage (*Id.* at 2).

The other delinquencies lingered for approximately 18 months after Applicant graduated. He lacked the extra income to make any payments (Tr. 20). When Applicant received his most recent raise in August 2007, he consulted a credit counselor (Exhibit A). With the help of the counselor, he consolidated all of his debts except the child support delinquency into a payment plan. Under the plan, he will pay \$800 each month for the next 30 months (Exhibit A, Tr. 19). He made his first payment on September 5, 2007 (Exhibit A).

POLICIES

The adjudicative guidelines, as revised December 29, 2005, and implemented September 1, 2006, apply to the analysis of this case. In addition to brief introductory explanations for each guideline, they are divided into those that may be considered in deciding whether to deny or revoke an individual’s eligibility for access to classified information (disqualifying conditions) and those that may be considered in deciding whether to grant an individual’s eligibility for access to classified information (mitigating conditions).

Because the entire process is a scrutiny of a number of variables known as the “whole person concept,” all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. Specifically these are: (1) the nature 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 age of the applicant; (5) the extent to which the 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.

The following adjudicative guideline is raised:

Guideline F - 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.

Conditions pertaining to this adjudicative guideline that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, are set forth and discussed in the conclusions below.

Since the protection of national security is the paramount consideration, the final decision in each case must be reached by applying the standard that the issuance of the clearance is "clearly consistent with the national interest."¹ In reaching this decision, I have drawn only those conclusions that are based on the evidence contained in the record.

The Government is responsible for presenting evidence to establish facts in the SOR that have been controverted. The applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by the Government, and has the ultimate burden of persuasion as to obtaining a favorable security decision.

CONCLUSIONS

Financial Considerations

Applicant's history of financial problems triggers the application of Financial Considerations Disqualifying Conditions (FC DC) 19(a): *inability or unwillingness to satisfy debts*, FC DC 19(c): *a history of not meeting financial obligations*, and FC DC 19(e): *consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant negative cash flow, high debt-to-income ratio, and/or other financial analysis*. Applicant did not accrue the delinquencies through frivolous spending. Instead, he accrued them while struggling to put himself through college. As his financial outlook gradually improved, he began satisfying his delinquencies, first organizing a child support payment plan, and later organizing a payment plan for the other delinquencies. Also, he is working with a credit counselor.

Upon evaluating the unique circumstances leading to the accrual of the delinquencies, the professional assistance Applicant has sought to satisfy them, and his current progress, I conclude that Financial Considerations Mitigating Condition (FC MC) 20(a): *the behavior occurred under such circumstances that it is unlikely to recur, and does not cast doubt on the individual's reliability, trustworthiness, or good judgment*, FC MC 20(c): *the person is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control*, and FC MC 20(d): *the individual initiated a good-faith effort to repay overdue creditors*, apply. Applicant has mitigated the financial considerations security concern.

Whole Person Concept

¹See generally, Directive, Sec. 2.3, Sec. 2.5.3, Sec. 3.2, and Sec. 4.2.

Although Applicant entered into a debt payment plan, and has been making payments toward the satisfaction of the child support delinquency since April 2007, his debt still exceed \$20,000. Any negative inference generated by this fact is greatly outweighed by the unique circumstances that led to his debts, the subsequent steps to resolve them, and his strong character. As a first-generation college student from a poor family, he could have easily foregone his college of choice given its high tuition. Instead, he successfully managed to procure enough scholarships and financial aid to enable him to pay his tuition. Although he was unable to afford the college's miscellaneous costs without accruing delinquent debt, he managed to earn his degree. Evaluating this case in the context of the whole person concept, I conclude Applicant has mitigated the security concern. Clearance is granted.

FORMAL FINDINGS

Paragraph 1 – Guideline F:	FOR APPLICANT
Subparagraphs 1.a -1.n:	For Applicant

DECISION

In light of all 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 is granted.

Marc E. Curry
Administrative Judge