



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



In the matter of:)
)
) ISCR Case No. 14-03475
)
Applicant for Security Clearance)

Appearances

For Government: Bryan J. Olmos, Esquire, Department Counsel
Christopher Morin, Esquire, Department Counsel
For Applicant: Pro Se

03/23/2016

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I deny Applicant's clearance.

On 4 February 2015, the Department of Defense (DoD) issued an SOR to Applicant 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 1 July 2015, and I convened a hearing 18 August 2015. DOHA received the transcript (Tr.) 26 August 2015.

¹The record consists of the transcript (Tr.), Government exhibits (GE) 1-3, and Applicant exhibits (AE) A-B. AE B was timely received post hearing. The record in this case closed 1 September 2015, the day Department Counsel stated no objection to AE B.

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 denied the SOR allegations. He is a 33-year-old security officer employed by a defense contractor since May 2007. He seeks to retain the security clearance he renewed most recently in August 2007. Applicant served on active duty with the U.S. military from August 1999 to December 2006, achieving paygrade E-4 before his honorable discharge. He served two tours as a medic in hostile-fire zones, going into the field with the troops. When Applicant left the military in December 2006, he remained unemployed until he obtained his current job in May 2007. He is currently working two full-time jobs, earning \$65,000 annually in one and \$77,000 annually in the other.

Applicant married his first wife in September 2002, and they divorced in April 2006. They had a child together. He married his second wife in September 2006, and they separated in August 2013. They also had a child together. Their divorce is pending.

The SOR alleges, and Government exhibits (GE 2-3), establish 10 delinquent debts totaling nearly \$35,000. Applicant reported SOR debts 1.b and 1.c on his September 2012 clearance application. Applicant's Answer to the SOR asserted that all the alleged debts were either paid or removed from his credit reports. However, he documented no resolution of any specific debt, except for SOR 1.b and 1.d. A 27 August 2015 sworn statement from his ex-wife stated that she and Applicant resolved the child-support issues at SOR 1.b in the summer of 2014 (AE B). A 21 August 2015 bill from the creditor at SOR 1.d shows that Applicant is a current customer with no past-due balance (AE B). Accordingly, I find SOR 1.b and 1.d for Applicant.

Between January 2014 and February 2015, Applicant succeeded in having 24 accounts removed from his three credit bureaus credit reports (AE A). He accomplished this feat through the services of a law firm that specializes in contesting entries on individuals' credit reports. The 24 accounts removed roughly correspond to the names of the creditors alleged in the SOR,³ but contain overlapping entries.⁴ Applicant's August 2015 credit report (AE B) shows many of the accounts closed, but also shows new accounts in collection.⁵

³The law firm's report does not contain any account numbers or other identifying data that might permit a more precise correlation of accounts.

⁴ Because each of the SOR accounts may have been reported by more than one of the three main credit bureaus, a single credit report may have multiple entries for any one account. Particularly where the credit report is a tri-bureau report, such as Applicant's September 2012 (GE 2) and August 2015 (AE B) credit reports. Applicant's May 2014 credit report (GE 3) is a single-bureau report, and contains only SOR debts 1.b, 1.g, and 1.h. However, the report also notes Applicant's dispute of SOR debts 1.b and 1.g.

⁵The August 2015 credit report does not offer much clarity on Applicant's current financial status because he did not print the account details that were available with each account. Consequently, I cannot tell if the accounts were closed because they were paid or otherwise resolved, then aged off, or simply aged off.

Applicant attributed these delinquent debts to his unemployment after leaving active duty in December 2006, and child-support issues with his ex-wife and his estranged wife. However, while he has documented the 24 accounts that have been removed from his credit reports, he has not documented any of his claimed payments, or direct contacts with his creditors that could show the precise status of his delinquent accounts.

Applicant has not received any financial or credit counseling. He provided no budget or financial statement to show his current financial status. Applicant did not provide any work or character references, or evidence of community involvement.

Policies

The adjudicative guidelines (AG) list factors to evaluate 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 show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

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, disputed 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 required judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels deciding any reasonable doubt about an Applicant's suitability for access in favor of the Government.⁶

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has delinquent debt dating back to at least October 2006 that he has not documented any action on, except perhaps to have had them removed from his credit report for reasons that could range

⁶See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

from satisfaction of the debt to the simple expiration of the seven-year reporting period for most debts.⁷

The mitigating factors for financial considerations provide little help to Applicant. His financial difficulties are recent and not infrequent, although the stated causes may be unlikely to recur given his current state annual income of \$142,000.⁸ The circumstances that caused his financial problems may be considered beyond his control, but he has not documented that he was responsible dealing with his debts.⁹ Successful challenge of the contents of his credit reports does not establish that he dealt responsibly with his creditors. He documented no contact with any of his creditors for several years. Nor did he document that his successful efforts to challenge many of his debts constitutes a good-faith effort to resolve his debts.¹⁰

In addition, Applicant has received no credit or financial counseling. Further, Applicant provided no character or employment evidence to reasonably support a “whole person” analysis in favor of granting his clearance. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a, c, e-j:	Against Applicant
Subparagraphs b, d:	For Applicant

Conclusion

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge

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

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

⁹¶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;

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