



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



In the matter of:)	
)	
XXXXXX, Xxxxx Xxxxx, Xxx)	ISCR Case No. 14-05250
)	
Applicant for Security Clearance)	

Appearances

For Government: Gregg A Cervi, Esquire, Department Counsel
For Applicant: *Pro se*

01/12/2016

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 3 January 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 25 June 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 23 December 2015.

¹Consisting of the File of Relevant Material (FORM), Items 1-7.

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, except for SOR 1.a, which he denied because he did not recognize the debt. He is a 63-year-old mail clerk employed by a U.S. defense contractor since October 2013. He was previously employed in a similar position at a different company from October 2003 to September 2013. He served on active duty in the U.S. military from February 1971 to August 1991. The record contains no evidence of his military retired status. He seeks to retain the clearance that was most recently renewed in March 2004 (Item 3). He has held a contractor clearance since March 1992 (Item 4). There is no record of any clearances during his military service.

The SOR alleges, and Government exhibits (Items 5-6) substantiate, four delinquent debts totaling over \$161,000. Applicant admits three delinquent debts totaling nearly \$78,000. Record evidence shows that SOR debt 1.c was paid in April 2014 (Answer) and SOR debt 1.d is a duplicate of SOR debt 1.a. Consequently, there are two delinquent debts totaling about \$84,000 at issue. Applicant claimed to be making payments on SOR debt 1.b, but provided no proof of any payments. He did not claim any resolution of SOR debt 1.a/d (Answer).

Applicant's March 2014 clearance application (Item 3) reported three delinquent debts. Applicant reported two delinquent mortgages, not alleged in the SOR (resolved by sale/foreclosure). The remaining debt corresponded to SOR debt 1.a/d, albeit with a different listed creditor than alleged in the SOR.³

Applicant attributed his current financial problems to the fact that his part-time employment hours were cut back in 2006, at the same time his wife's employment ended with the expiration of the contract she was working on. She remained unemployed until 2012. However, Applicant was interviewed about financial problems dating back to 1995-1999 during his periodic reinvestigation in March 2004 (Item 7).

Applicant provided a personal financial statement (PFS) during his subject interview in March 2004 (Item 7). However, he did not provide a current financial statement or budget. He has not documented any financial or credit counseling. He provided no work or character references, or any evidence of community involvement. He documented no contacts with his creditors.

³The loan was an equity loan that originated in June 2006 (Item 5). The loan had an original high credit of \$99,344, but was later sold to another lender—the lender alleged at SOR 1.d. Applicant's March 2014 credit report (Item 5) reflects this account as having an original high credit of \$99,344 and being 120 days past due in the amount of \$77,171, on a balance of \$98,859. Applicant's September 2014 credit report (Item 6) shows a past-due account with a new lender, with the same high credit and balance figures, but a past-due balance that had risen to \$83,602. None of the entries bear account numbers that correspond to each other, but it is clear that the accounts are the same.

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).

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.⁴

Analysis

The Government established a case for disqualification under Guideline F, and Applicant failed to submit sufficient evidence to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.⁵ Applicant's financial problems appear to date from at least 1995-1999, during his last periodic reinvestigation. Those financial problems were apparently resolved in Applicant's favor at the time. However, Applicant's financial problems returned in 2006, when his wife's job ended and Applicant had his part-time employment hours cut. Nevertheless, Applicant's wife has been re-employed since 2012. There is no evidence of any efforts by Applicant to resolve the debts alleged in the SOR.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the immediate causes of

⁴See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

his problems may be unlikely to recur if he and his wife remain employed.⁶ Applicant's loss of hours and his wife's unemployment were certainly beyond his control, but he has not demonstrated that he has been responsible in addressing his debt since his wife returned to full-time work.⁷

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.⁸ There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, and thus he cannot establish that he has made a good-faith effort to address his debts.⁹ Moreover, Applicant has mostly disregarded these financial obligations since the beginning of his current periodic reinvestigation in March 2014. His documented inaction for over 18 months raises significant security concerns that Applicant has not begun to address. Moreover, Applicant failed to provide any documentation of his past military service, current employment performance, or work or character references upon which I might base a favorable "whole-person" analysis. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-b:	Against Applicant
Subparagraphs c:	For Applicant (paid)
Subparagraphs d:	For Applicant (duplicate)

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

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

⁷¶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;

⁸¶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;

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