



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



In the matter of:)	
)	
)	ISCR Case No. 15-00182
)	
Applicant for Security Clearance)	

Appearances

For Government: Rhett Petcher, Esq., Department Counsel
For Applicant: *Pro se*

05/31/2016

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. Applicant incurred delinquent debt after he retired in 2009. Since returning to full-time employment at the end of 2012, Applicant has made a good-faith effort to repay his delinquent accounts, including \$22,000 of debts not alleged in the Statement of Reasons (SOR). Clearance is granted.

Statement of the Case

On July 10, 2015, the DOD issued a SOR detailing security concerns under the financial considerations guideline.¹ DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance.

¹ This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply to this case. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replace the guidelines in Enclosure 2 to the Directive.

Applicant answered the SOR and requested a decision without a hearing.² The Government submitted its written case on September 23, 2015. A complete copy of the file of relevant material (FORM) and the Directive was provided to Applicant. He submitted a response on October 23, 2015. The case was assigned to me on November 10, 2015. The documents appended to the FORM are admitted as Government's Exhibits (GE) 1 through 7, without objection. The documents provided by the Applicant are admitted as Applicant's Exhibits (AE) A through H, without objection.

Findings of Fact

Applicant, 69, has worked as a shipfitter for his current employer since late 2012. He previously worked for this employer in the same position between 1977 and 1988. Applicant completed his most recent security clearance application in July 2012. He disclosed unpaid property taxes and a delinquent credit card. The ensuing investigation revealed that Applicant had more extensive financial problems than he previously disclosed. The SOR alleges that Applicant is indebted to three creditors for \$21,500, and that he owes \$13,300 for delinquent property taxes for 2012 and 2013.³

Between 2002 and 2009, Applicant was self-employed. He retired in 2009 at age 62, and his financial problems began shortly thereafter. Applicant did not provide information about his finances at the time he decided to retire. According to Applicant, the investments that were supposed to carry him and his wife through retirement lost value. After he exhausted his savings, Applicant struggled to pay his bills and began to increasingly rely on credit cards to make ends meet. When they became unable to maintain the minimum payments on their credit cards, Applicant and his wife made a decision to stop making payments on the accounts. However, Applicant wrote each of his creditors explaining his financial hardship. Applicant began looking for employment to help improve his financial position.⁴

After securing employment in 2012, Applicant and his wife began working on their delinquent accounts. They began by resolving the delinquent accounts in his wife's name. Between 2012 and 2013, Applicant and his wife resolved four of her delinquent accounts for \$14,600. In 2013, Applicant resolved a non-SOR debt for \$7,400. In January 2013, the creditor alleged in SOR ¶ 1.b secured a judgment against Applicant, totaling \$4,300. The court ordered Applicant to pay \$100 per month. The payments have been automatically withdrawn from Applicant's bank account since January 2015. In October 2015, Applicant resolved the 2012 local property taxes alleged in SOR ¶¶ 1.f and 1.h, totaling \$4,600. The debts to the creditor holding SOR ¶¶ 1.a and 1.c remain unresolved. It does not appear that Applicant has made contact with this creditor since 2012. Applicant has yet to pay the 2013 property taxes in SOR ¶¶ 1.e, 1.g, and 1.i, totaling \$8,600. However, he has been in contact with the local tax assessor since

² GE 3.

³ GE 2, 4-7.

⁴ GE 1-2.

2012. In October 2015, Applicant and the local tax assessor agreed to a \$400-per-month payment arrangement.⁵

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Section 7 of EO 10865 provides that adverse 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

Financial Considerations

Unresolved delinquent debt is a serious security concern because failure to "satisfy debts [or] 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."⁶

⁵ GE 2; AE A-H.

⁶ AG ¶ 18.

The SOR alleges that Applicant owes \$21,500 in delinquent debt and \$13,300 in unpaid property taxes from 2013. The record supports a finding that Applicant had a history of not paying his bills and that he had an inability to do so.⁷ Because the circumstances of his retirement in 2009 are unclear, the record does not support a finding that Applicant's financial problems were caused by events beyond his control. However, the record does support a finding that Applicant is making a good-faith effort to repay his delinquent debts.⁸

Applicant maintained contact with his creditors, informing them of his financial problems. He re-entered the workforce at age 65 to address his worsening financial situation. Applicant resolved approximately \$22,000 in non-SOR delinquent accounts before the SOR issued in 2015. He has been making his court-ordered payments toward the judgment in SOR ¶ 1.b since January 2015. Applicant has resolved his 2012 property taxes and has negotiated a payment plan with the local tax assessor to address his outstanding 2013 property tax debts.

After reviewing the record, I have no doubts about Applicant's suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(a). While several of the SOR debts remain unpaid, this is not the most important factor in assessing Applicant's security worthiness. A person is not required to establish resolution of every debt alleged in the SOR, to make payment on all delinquent debts simultaneously, or pay the debts alleged in the SOR first. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan.⁹ Applicant's actions show his commitment to resolving his delinquent accounts and I am confident he will continue to do so as he is able. Furthermore, Applicant has not exhibited behaviors that are indicative of an inability to properly handle or safeguard classified information.

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, Financial Considerations:	FOR APPLICANT
Subparagraphs 1.a – 1.i:	For Applicant

⁷ AG ¶¶ 19(a) and (c).

⁸ AG ¶ 20(d).

⁹ See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Conclusion

Based on the record, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Nichole L. Noel
Administrative Judge