

DATE: December 6, 2006

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-09036

## **APPEAL BOARD DECISION**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Peregrine D. Russell-Hunter, Esq, Department Counsel

#### **FOR APPLICANT**

George E. Day, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On June 13, 2005, DOHA issued a statement of reasons advising Applicant of the basis for that decision--security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct), of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended (Directive)). Applicant requested a hearing. On April 13, 2006, after the hearing, Administrative Judge Henry Lazzaro denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

In his brief, Applicant argues that DOHA has no jurisdiction over him because he has no access to classified information, and, therefore, his financial situation raises no security concerns. He also seeks to minimize his financial situation. We interpret Applicant's brief as contending that the Administrative Judge's decision is arbitrary, capricious, and contrary to law. The Department Counsel elected not to file a reply brief.

In this case, the Administrative Judge made the following sustainable findings of fact. Applicant is a jet engine mechanic employed by a defense contractor. He has retired from his position as a civil service jet engine mechanic and has held a security clearance for nearly 30 years. Applicant has accumulated a relatively large amount of debt compared to his income. For example, he has three accounts that have been placed in collection, totaling \$9,348.00, and four accounts which the creditors charged off as bad debts, totaling \$11,167.00. Applicant claimed to have made payments on at least some of these accounts, although most remain delinquent. Applicant entered into a repayment plan in December 1999 but dropped out because he could not afford to keep up with the payments.

Additionally, when completing his SF 86, Applicant answered "no" to questions asking if he were more than 90 days delinquent on any debt or if, during the preceding seven years, he had ever been more than 180 days delinquent on any debt. These answers of "no" were untrue. Applicant's explanation was that he assumed that charged off debts were no longer owed. The Judge found Applicant's explanations not credible and concluded that the answers were deliberate falsifications.

Since Applicant's job requires a security clearance, the fact that he himself has no access to classified information is irrelevant. Applicant's job involves the security interests of the United States and requires a finding that it is clearly consistent with the national interest to grant or continue a security clearance for him. *See, e.g.*, ISCR Case No. 98-0055

at 4 (App. Bd. Dec. 31, 1998).

The Directive presumes there is a nexus or rational connection between conduct or circumstances under any of the Guidelines listed therein and an applicant's security eligibility. *See, e.g.*, ISCR Case No. 02-07218 at 5 (App. Bd. Mar. 15, 2004). The federal government must be able to repose a high degree of trust and confidence in persons holding security clearances. *Snepp v. United States*, 444 U.S. 507, 511 n. 6 (1980). Proof of facts and circumstances that indicate an applicant does not possess the high degree of judgment, reliability, or trustworthiness required of such persons is a sufficient basis for denial.

A review of the record in this case demonstrates that Applicant was provided with the procedural rights set forth in Executive Order 10865 and the Directive. Furthermore, we have examined the Administrative Judge's application of law to the facts of the case and conclude that his decision is neither arbitrary, capricious, nor contrary to law. Applicant's financial history raises unresolved questions about his reliability, and his explanation as to the false answers is not persuasive. Thus, the Administrative Judge did not err in denying Applicant a clearance.

### **Order**

The decision of the Administrative Judge denying Applicant a clearance is AFFIRMED.

Signed: Michael Y Ra'anan

Michael Y. Ra'anan

Administrative Judge

Chairman, Appeal Board

Signed Jean E. Smallin

Jean E. Smallin

Administrative Judge

Member, Appeal Board

Signed: James E. Moody

James E. Moody

Administrative Judge

Member, Appeal Board