

DATE: February 7, 1997

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 96-0454

APPEAL BOARD DECISION

Appearances

FOR GOVERNMENT

Peregrine D. Russell-Hunter, Esq.

Chief Department Counsel

FOR APPLICANT

Pro se

Administrative Judge Michael Kirkpatrick issued a decision, dated November 19, 1996, in which he concluded it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Applicant appealed. For the reasons set forth below, the Board affirms the Administrative Judge's decision.

This Board has jurisdiction on appeal under Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, as amended.

Applicant's appeal presents the issue of whether the Administrative Judge's adverse security clearance decision is arbitrary, capricious, or contrary to law.

Procedural History

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR) dated June 19, 1996 to Applicant. The SOR was based on Criterion F (Financial considerations).

Applicant submitted an answer to the SOR, in which she indicated she did not want to have a hearing in her case. Department Counsel prepared a File of Relevant Material (FORM), a copy of which was sent to Applicant. Applicant did not submit a response to the FORM.

The case was then assigned to an Administrative Judge for consideration. The Judge issued a written decision in which he concluded it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. The case is now before the Board on Applicant's appeal from that adverse decision.

Appeal Issue

The Administrative Judge made findings of fact about Applicant's history of financial difficulties. On appeal, Applicant

does not challenge the Judge's factual findings. However, Applicant argues: (1) her history of financial difficulties does not make her a candidate to engage in criminal acts to generate funds; (2) her employment record demonstrates she exercises good judgment and reliability; (3) she has admitted her past mistakes and looks forward to the future; and (4) if she is granted a security clearance, she will prove her value and worth to her employer. The Board construes Applicant's arguments as raising the issue of whether the Judge's adverse decision is arbitrary, capricious, or contrary to law. For the reasons that follow, the Board concludes Applicant's arguments fail to demonstrate the Judge erred.

The United States must be able to repose a high degree of trust and confidence in persons granted access to classified information. *Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980). Furthermore, the Government need not wait until an applicant actually mishandles or fails to properly safeguard classified information before it can deny or revoke that person's access to classified information. *Adams v. Laird*, 420 F.2d 230, 238-39 (D.C. Cir. 1969), *cert. denied*, 397 U.S. 1037 (1970). All that is required is proof of facts and circumstances that indicate a particular applicant is at risk for mishandling classified information, or does not demonstrate the high degree of judgment, reliability, and trustworthiness required of persons granted access to classified information.

Under Criterion F, the security eligibility of an applicant is placed into question when that applicant is shown to have a history of excessive indebtedness or recurring financial difficulties. *See* ISCR Case No. 95-0611 (May 2, 1996) at p. 2 (discussing then Criterion L, which was predecessor to the current Criterion F). "Furthermore, '[f]inancial difficulties, financial irresponsibility and greed have proven to be significant motivating forces for espionage or attempted espionage. It is clear that the United States must consider whether individuals granted access to classified information are, through financial irresponsibility, greed or financial misfortune, in a position where they may be more susceptible to mishandling or compromising classified information or material for financial gain.'" ISCR Case No. 95-0611 (May 2, 1996) at pp. 2-3 (quoting earlier Board decision).

Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a situation of risk that is inconsistent with the holding of a security clearance. Here, Applicant's overall history of financial difficulties, which spans a period of approximately 7 years (1989-1996), provides a rational basis for the Administrative Judge's adverse security clearance decision.

Neither Applicant's employment record nor her value to her employer require a favorable security clearance decision. An applicant's security eligibility is not limited to consideration of the applicant's job performance. Off-duty conduct that raises security concerns can form the basis of an adverse clearance decision. *See, e.g.*, ISCR Case No. 95-0793 (September 30, 1996) at p. 4. Therefore, though Applicant's history of financial problems has not interfered with her job performance, it could still raise concerns about her eligibility for security clearance sufficient for the Administrative Judge to make an adverse decision. Moreover, Applicant's value to her employer is not relevant or material to her security eligibility. Even an applicant who is a valued employee of a defense contractor may be in a situation such that a Judge rationally could conclude it is not clearly consistent with the national interest to grant that applicant access to classified information.

Conclusion

Applicant has failed to meet her burden on appeal of demonstrating error below. Accordingly, the Board affirms the Administrative Judge's November 19, 1996 decision.

Signed: Emilio Jaksetic

Emilio Jaksetic

Administrative Judge

Chairman, Appeal Board

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Member, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board