

ISCR Case No. 06-26686

# Applicant for Security Clearance

## APPEARANCES

Emilio Jaksetic, Department Counsel

*Pro Se*

The recency and extent of applicant's (1) financial difficulties and (2) intentional falsifications of material facts on a Security Clearance Application (SCA), precludes a finding that it is now clearly consistent with the national interest to grant her access to classified information. Clearance is denied.

## **STATEMENT OF THE CASE**

On July 27, 2007, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

Applicant responded to the SOR in writing on August 21, 2007, and elected to have her case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case (FORM) on or about October 16, 2007. Applicant filed a response to the FORM on or about November 26, 2007. The case was assigned to me on December 5, 2007.

## **FINDINGS OF FACT**

Applicant is a 54 year old<sup>1</sup> employee of a defense contractor.

**SOR Allegation 1a:** Applicant had 12 unpaid medical debts, totaling approximately \$2,866.00, placed for collection between December 2001 and April 2007.

**SOR Allegation 1b:** Applicant is indebted to CAP 1 Bank in the approximate amount of \$1,906.00 on an account that was charged off in 2002.

**SOR Allegation 1c:** Applicant is indebted to JeffersNCP in the approximate amount of \$3,876.00 on an account placed for collection in January 2004.

**SOR Allegation 1d:** Applicant is indebted to Midland Credit in the approximate amount of \$4,892.00 on an account placed for collection in February 2004.

**SOR Allegation 1e:** Applicant admits she was indebted to Credit Protection in the approximate amount of \$72.00 on an account placed for collection by Hollywood Video in February 2004. She stated in her SOR response that she paid off the debt. In her response to the FORM, she attached a credit report, and next to the entry for this debt, she wrote "Paid-Dispute." The credit report itself indicates that the debt is still outstanding.

**SOR Allegation 1f:** Applicant was indebted to Capital One in the approximate amount of \$1,219.00 as a result of a judgment entered against her on May 17, 2004. The credit report she submitted in response to the FORM indicates the judgment was satisfied in March 2005.

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<sup>1</sup>This age is based on information applicant provided on her SCA. Item 11 indicates she may be five years younger.

**SOR Allegation 1g:** Applicant denies she is indebted to Calvary Spvi LLC as a result of a judgment entered against her. Given applicant's denial, and the similarities between this judgment debt and the Capital One judgment debt (e.g., date of judgment), there is a strong likelihood these are the same debt. Accordingly, this allegation is found for applicant.

**SOR Allegation 1h:** Applicant is indebted to this creditor in the approximate amount of \$325.00 on an account placed for collection by Cross Check in February 2005.

**SOR Allegation 1i:** Applicant is indebted to this creditor in the approximate amount of \$532.00 on an account placed for collection by United Illumina in May 2005.

**SOR Allegation 1j:** Applicant is indebted to Citi in the approximate amount of \$2,622.00. This debt was charged off in 2005.

**SOR Allegation 1k:** Applicant is indebted to this creditor in the approximate amount of \$1,100.00 on an account placed for collection by Southern Connec in December 2006.

**SOR Allegation 1l:** Applicant has an automobile loan with AmeriCredit. She fell behind on her payments in early 2007. Although she stated in her SOR response that she is "payed up to date," the credit report she submitted in response to the FORM appears to indicate the account is still delinquent.

**SOR Allegation 1m:** A personal financial statement applicant prepared in March 2007 indicates her monthly expenses exceed her monthly income.

Applicant has had contact with a consumer credit counseling agency. However, in response to the FORM, she indicated the agency told her they could not help her at this time.

**SOR Allegations 2a, 2b, and 2c:** On an SCA she executed on September 14, 2005, applicant intentionally provided false, material information when, (1) in response to Question 28a, she denied she had been more than 180 days delinquent on any debts during the previous seven years, and (2) in response to Question 28b, she denied she was then over 90 days delinquent on any debt.<sup>2</sup>

**SOR Allegation 3a:** In 1980, applicant was convicted of Larceny.

**SOR Allegation 3b:** In 1984, applicant was convicted of Assault.

**SOR Allegations 3c and 3d:** In 1985, applicant was convicted of Larceny, and in a separate incident, was convicted of Issuing a Bad Check.

**SOR Allegations 3e and 3f:** In 1992, and again in 1995, applicant was convicted of issuing bad checks.

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<sup>2</sup>Applicant's response to Question 27 regarding judgments was correct. Therefore, SOR Allegation 2a is found for applicant.

## **CONCLUSIONS**

\_\_\_\_\_ With respect to Guideline F, applicant has a long history of not meeting her financial obligations. This conduct reflects adversely on her judgment and reliability, and suggests she cannot be relied upon to safeguard classified information. Disqualifying Conditions 19a (*inability or unwillingness to satisfy debts*) and 19c (*a history of not meeting financial obligations*) are applicable.

Once the Government established a *prima facie* case under Guideline F, the burden shifted to applicant to produce evidence in mitigation, extenuation or reformation sufficient to overcome the doubts about her security-worthiness raised by her financial irresponsibility. Applicant failed to meet her burden. Even if she were given the benefit of the doubt with respect to the debts alleged in SOR Paragraphs 1e, 1h, 1i and 1l, the fact remains she still has about 17 delinquent debts, totaling approximately \$17,000.00, to deal with, and with her monthly expenses exceeding her monthly income, there is little to no chance she will be in the position to deal with them anytime soon. No Mitigating Conditions are applicable, and Guideline F is found against applicant.

With respect to Guideline E, applicant's intentional falsifications of material facts on the SCA are extremely troubling. The Government relies heavily on the honesty and integrity of individuals seeking access to our nation's secrets. When such an individual intentionally falsifies material facts on an SCA, it is extremely difficult to conclude that he or she nevertheless possesses the good judgment, reliability and trustworthiness required of clearance holders. Applicant's intentional falsifications require application of Disqualifying Condition 16a (*the deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire . . .*). Because applicant's history of dishonesty dates back to the 1980s, this cannot be considered an isolated incident that is unlikely to recur. Based on the foregoing, and the fact applicant offered no positive evidence concerning her character, honesty, and integrity from people who know her well (e.g., family, friends, coworkers, supervisors), Guideline E is found against her. No Mitigating Conditions apply.

With respect to Guideline J, applicant has numerous criminal convictions. Disqualifying Condition 31a (*a single serious crime or multiple lesser offenses*) is applicable. Although applicant's criminal convictions are all over ten years old, and would have been mitigated if no subsequent criminal conduct occurred, the evidence clearly establishes that applicant violated 18 U.S.C. 1001, and thereby committed a felony, when she intentionally provided false information on her SCA. This fact precludes application of any of the mitigating conditions under Guideline J.

In reaching my decision in this case, I considered the "whole person" factors set forth in Section E2.2 of the Directive.

## **FORMAL FINDINGS**

PARAGRAPH 1: AGAINST THE APPLICANT  
PARAGRAPH 2: AGAINST THE APPLICANT  
PARAGRAPH 3: AGAINST THE APPLICANT

## **DECISION**

In light of all 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.

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Joseph Testan  
Administrative Judge