

KEYWORD: Financial; Personal Conduct

DIGEST: Applicant's long-standing financial difficulties, and his failure to disclose material information about his finances on a Security Clearance Application (SCA), preclude a finding that it is clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

CASENO: 05-05428.h1

DATE: 05/21/2007

DATE: May 21, 2007

In Re:	)	
	)	
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SSN: -----	)	ISCR Case No. 05-05428
	)	
Applicant for Security Clearance	)	

**DECISION OF ADMINISTRATIVE JUDGE  
JOSEPH TESTAN**

**APPEARANCES**

**FOR GOVERNMENT**

Pamela C. Benson, Department Counsel

**FOR APPLICANT**

*Pro Se*

## SYNOPSIS

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Applicant's long-standing financial difficulties, and his failure to disclose material information about his finances on a Security Clearance Application (SCA), preclude a finding that it is clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

## STATEMENT OF THE CASE

On November 7, 2005, 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 January 31, 2007, and elected to have his case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case (FORM) on or about February 27, 2007. Applicant filed a response to the FORM on or about March 31, 2007. The case was assigned to me on April 18, 2007.

## FINDINGS OF FACT

Applicant is a 61 year old employee of a defense contractor.

Applicant has been experiencing significant financial difficulties since at least 1999. He has filed for Chapter 13 bankruptcy protection four times. His first Chapter 13 petition was filed in 1999; the case was dismissed sometime in 2002. His second Chapter 13 petition was filed in September 2002. It was dismissed in May 2003. His third Chapter 13 petition was filed in September 2004, and was dismissed in August 2005. Applicant's last Chapter 13 petition was filed in September 2005. A repayment plan was approved by the bankruptcy court, and pursuant to that plan, applicant has been making monthly payments of approximately \$800.00 to the bankruptcy trustee since December 2005. As of August 2006, he had paid the trustee \$6,865.45, and had a plan balance of approximately \$43,884.00. Applicant's primary reason for repeatedly filing Chapter 13 petitions was to keep his house out of foreclosure.

Applicant admits he is indebted as alleged in SOR Allegations 1e through 1o.<sup>1</sup> These

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<sup>1</sup>Despite his admission, it appears the debts alleged in SOR Paragraphs 1l and 1m are the same.

allegations are therefore incorporated by reference as Findings of Fact. A letter from his bankruptcy lawyer (Exhibit 19) states the debts listed in the SOR are part of the current bankruptcy case, and when the payment plan is completed, these debts will be discharged. Since the bankruptcy schedules are not part of the record, this assertion cannot be corroborated.

Applicant completed and executed an SCA in August 2004 (Exhibit 6). He provided false, material information in response to two questions on the SCA. In response to Question 33, he stated he had not filed a bankruptcy petition during the previous seven years. In fact, he had filed two bankruptcy petitions during that time period. In response to Question 38, he falsely stated that during the previous seven years he had not been over 180 days delinquent on any debt. In a January 2005 signed statement he gave to an OPM investigator (Exhibit 9), applicant stated he didn't include his bankruptcies on the SCA because he "did not think a bankruptcy was relevant."

### CONCLUSIONS

\_\_\_\_\_ With respect to Guideline F, the evidence establishes that applicant has been experiencing significant financial difficulties since at least 1999. Applicant's failure to honor his financial obligations reflects adversely on his judgment and reliability, and suggests he cannot be relied upon to safeguard classified information. With respect to the Financial Considerations guideline, Disqualifying Conditions E2.A6.1.2.1 (*a history of not meeting financial obligations*) and E2.A6.1.2.3 (*inability or unwillingness to satisfy debts*) are applicable.

Once the Government established a *prima facie* case under Guideline F, the burden shifted to applicant to show he has reformed. Applicant did not meet his burden. Applicant has made significant progress with his most recent bankruptcy case, as evidenced by his payment of nearly \$7,000.00 to the bankruptcy trustee. For this he deserves credit. However, he still owes the bankruptcy trustee over \$40,000.00, and in view of his previous failures to complete Chapter 13 payment plans, it is too soon to safely conclude that he will complete this plan and that his financial difficulties are behind him. No mitigating conditions are applicable, and Guideline F is found against applicant.

With respect to Guideline E, applicant's falsifications of material facts on the SCA are 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 E2.A5.1.2.2 (*the deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire . . .*). No Mitigating Conditions apply. Based on the foregoing, Guideline E is found against applicant.

### FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT

PARAGRAPH 2: 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.

Joseph Testan  
Administrative Judge