

KEYWORD: Financial; Personal Conduct

DIGEST: Applicant's long-standing financial difficulties preclude a finding that it is clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

CASENO: 05-14618.h1

DATE: 04/26/2007

DATE: April 26, 2007

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In Re:)	
)	
)	ISCR Case No. 05-14618
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
JOSEPH TESTAN**

APPEARANCES

FOR GOVERNMENT

Fahryn E. Hoffman, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

____ Applicant's long-standing financial difficulties 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 May 12, 2006, 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 June 8, 2006, and elected to have his case determined on a written record in lieu of a hearing. Department Counsel (DC) submitted the Government's written case (FORM) on or about February 13, 2007. Applicant did not file a response to the FORM. The case was assigned to me on April 9, 2007.

FINDINGS OF FACT

Applicant is a 32 year old employee of a defense contractor.

SOR Allegation 1a: Applicant is indebted to this creditor in the approximate amount of \$2,509.00 as a result of a judgment entered against him in September 2003 (Exhibit 13). In a March 2004 signed, sworn statement he gave to the Defense Security Service (DSS) (Exhibit 7), applicant stated that within sixty days he will attempt to contact the creditor and verify the debt, and if it is a “just debt” of his, he will make payment arrangements to satisfy it. Applicant has made no payments to this creditor.

SOR Allegation 1b: This allegation, that applicant is indebted to “an undisclosed medical service provider,” is found for applicant.

SOR Allegation 1c: In a December 2003 signed, sworn statement he gave to the DSS (Exhibit 6), applicant stated he did not know what the Mid Atlantic EM debt was, but since it is only \$113.00, he will contact them and satisfy the account after the holidays. In his response to the SOR, he stated that “this was a doctor bill for one of my children, and I have paid this debt and I am no longer in debt to this place.” Since this debt is not listed on applicant’s most current credit report, I find that applicant is no longer indebted to this creditor.

SOR Allegation 1d: In his December 2003 statement to DSS, applicant stated that he had spoken to his wife about this debt and she informed him that “this is a card that she had gotten, and

failed to pay.” He then stated, “she tells me that she is going to resolve the account but if she does not then I will have to make arrangements to satisfy the account.” In his response to the SOR, he denied he is indebted to First Premier Bank. He stated that this was a credit card that his wife applied for in his name without his knowledge and she never paid the bill. He further stated that his wife had filed a Chapter 13 bankruptcy and the debt was included in her bankruptcy. Based on the evidence presented, I find that applicant is still indebted to this creditor in the approximate amount of \$544.00.¹

SOR Allegation 1e: Applicant is indebted to this creditor in the approximate amount of \$8,779.00 as a result of the 2003 involuntary repossession of a vehicle he owned. In his response to the SOR, applicant denied he is indebted to this creditor because the creditor was listed in his wife’s bankruptcy. As noted earlier, the fact a debt was listed in his wife’s bankruptcy petition, standing alone, does not prove appellant is no longer indebted to the creditor.

SOR Allegation 1f: Applicant is indebted to the Department of Education in the approximate amount of \$7,944.00 for student loans on which he defaulted. An order to garnish his wages to satisfy this debt was issued in July 2003. His wages are still being garnished by the creditor.

SOR Allegation 1g: This is the same debt as the debt alleged in SOR paragraph 1a.

SOR Allegation 1h: This judgment debt in favor of Sears from 1998 was satisfied by applicant in 2000.

With respect to applicant’s current financial status, he began his response to the SOR with the following statement:

I admit that I do have some overdue expenses, but I do not feel that I am financially overextended. I am the father of six kids and sometimes circumstances arise where I cannot pay something on time or pay off something as I previously planned, but I have never engaged in any illegal acts to gain funds, and I will not do any such acts. I do the best that I can to work and pay what I can when I can.

SOR Allegations 2a, 2b, 2c, and 2d: The Government alleges that on a Security Clearance Application (SCA) he executed on September 9, 2003,² applicant lied about his financial history in

¹ Applicant submitted some of his wife’s bankruptcy paperwork in response to the SOR. Although it appears this debt was included in his wife’s bankruptcy petition, it cannot be determined from the paperwork what occurred in the bankruptcy court after the petition was filed. The fact this debt was listed in his wife’s bankruptcy petition, standing alone, does not prove applicant is no longer indebted to this creditor.

² There are two SCAs in the FORM, neither of which was executed by applicant on September 9, 2003. However, since it is clear that these two SCAs formed the basis for these four

response to four questions (Questions 35, 37, 38, and 39). Applicant denies he ever attempted to deceive the Government. He insists that any incorrect information he provided was due to his ignorance of the facts or his ignorance concerning how to properly complete the SCA. I have carefully reviewed the SCA and applicant's explanations, and I conclude he did not intentionally falsify the SCA. The fact that he disclosed two wage garnishments in response to Question 34, and a \$2,500.00 debt that was delinquent for more than 3 years in response to Question 38, put the Government on notice that he had severe financial problems, and is inconsistent with an attempt to mislead the Government about his finances.

CONCLUSIONS

_____ The evidence establishes that applicant is still indebted to numerous creditors listed in the SOR in a total amount in excess of \$10,000.00. The evidence further establishes that these debts have been past-due for years, and that applicant has taken no voluntary action to address them. 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 failed to meet his burden. Although he offered proof that he satisfied the Sears debt, he offered no credible evidence that he (1) is willing to significantly reduce the remainder of his past-due indebtedness anytime soon, (2) has the ability to significantly reduce the remainder of his past-due indebtedness anytime soon, and (3) is unlikely to experience additional financial difficulties. In fact, in his response to the SOR, he essentially admitted that he still has trouble paying all of his bills on time. These facts establish that applicant is financially overextended. As such, his situation fits squarely within the Financial Guideline Concern expressed in the Directive (E2.A6.1.1.1 - *An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.*) Based on the foregoing, I have no choice but to conclude it is not now clearly consistent with the national interest for applicant to have access to classified information.³

FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT
PARAGRAPH 2: FOR THE APPLICANT

_____ allegations, I considered them in reaching my decision.

³Applicant does not qualify for any Mitigating Conditions.

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