

KEYWORD: Financial; Personal Conduct

DIGEST: Applicant has numerous debts that have been past-due for many years. These debts leave applicant financially overextended - which puts him squarely within the concern expressed in the Financial Considerations Guideline of the Directive. Clearance is denied.

CASENO: 06-04084.h1

DATE: 01/18/2007

DATE: January 18, 2007

In Re:)	
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)	
-----)	ISCR Case No. 06-04084
SSN: -----)	
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
JOSEPH TESTAN**

APPEARANCES

FOR GOVERNMENT

Jennifer I. Goldstein, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

____ Applicant has numerous debts that have been past-due for many years. These debts leave applicant financially overextended - which puts him squarely within the concern expressed in the Financial Considerations Guideline of the Directive. Clearance is denied.

STATEMENT OF THE CASE

On August 31, 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 October 7, 2006. The case was assigned to the undersigned on November 14, 2006. A Notice of Hearing was issued on November 27, 2006, and the hearing was held on December 28, 2006. The transcript was received on January 10, 2007.

FINDINGS OF FACT

Applicant is 58 years of age. He has been employed with the same defense contractor since 2004.

SOR Allegation 1a: Applicant filed a Chapter 13 bankruptcy petition in 1995. When he could no longer make the bankruptcy plan payments, the case was dismissed.

SOR Allegation 1b: In September 1997, applicant filed a second Chapter 13 bankruptcy petition, listing approximately \$90,000.00 in debts. Most of this indebtedness related to a delinquent mortgage on his home. The bankruptcy case was dismissed in September 1999. Applicant lost the home through foreclosure in October 1999.

SOR Allegation 1c: In 1999, applicant wrote a check that bounced. When he was informed of the problem, he made good on the check. He was initially charged with Fraudulent Check, but the charge was dropped.

Applicant signed up with a debt consolidation company (ECC) in September 2006. His plan was to pay an initial fee to ECC and then make monthly payments to them. The monthly payments would then be divided up and forwarded to his various creditors by ECC. Applicant testified that he paid an initial fee of \$141.00 to ECC in September, and believes he made a second payment in the amount of \$280.00 in either September or October. He further testified that he made no payments to ECC in November or December, and has had no contact with ECC in the last 45 days, because he has been concentrating on paying his current expenses (TR at 31). He is not sure when he will make his next payment to ECC, or what the amount of that payment will be.

SOR Allegation 1d: Applicant admits that he is indebted to Midland in the approximate amount of \$844.00 and that the debt was placed for collection. This is one of the debts that will be handled by ECC (Exhibit E).

SOR Allegation 1e: Applicant admits that he is indebted to Prime Rate Premium in the

approximate amount of \$346.00, and that the debt was placed for collection in about August 1999. This debt is being handled by ECC.

SOR Allegation 1f: Applicant had cosigned on a student loan for his son. The debt went delinquent but has since been satisfied by the son (Exhibit B).

SOR Allegations 1g and 1h: Exhibit C establishes that these IRS debts have been satisfied.

SOR Allegation 1i: Applicant is indebted to this creditor in the approximate amount of \$424.00. This debt was placed for collection in about March 2000, and is being handled by ECC.

SOR Allegation 1j: This past-due student loan debt stood at \$5,150.21 as of September 15, 2006 (Exhibit D). Applicant worked out a repayment schedule with the creditor in mid-2006 which requires him to make monthly payments of \$55.00 beginning on August 7, 2006 (Exhibit 2).

SOR Allegation 1k: Applicant is indebted to this creditor in the approximate amount of \$128.00. The account was placed for collection in 2001, and is being handled by ECC.

SOR Allegation 1l: Applicant is indebted to this creditor in the approximate amount of \$199.00. The debt was placed for collection in 2001, and is being handled by ECC.

SOR Allegation 1m: Applicant is indebted to this creditor in the approximate amount of \$200.00. This debt has been delinquent since May 2004, and is being handled by ECC.

SOR Allegation 1n: Applicant satisfied this \$236.00 debt (Exhibit F; TR at 36-37).

SOR Allegation 1o: Applicant is indebted to this creditor in the approximate amount of \$721.00. This debt was placed for collection in April 2005, and is being handled by ECC.

Applicant testified that he began experiencing financial problems in the 1990s after he was injured at work. He was out of work for eight to nine months and was unable to collect workers compensation benefits or any other type of aid. He has been unable to work his way out of his financial problems since then.

Applicant completed and executed a Security Clearance Application (SCA) in 2004 (Exhibit 1). The Government alleges that he intentionally provided false information about his financial condition when he responded to Questions 38 and 39. Although applicant's responses to these two questions were less than perfect, when his responses to all of the financial questions are viewed as a whole,¹ it is clear that he put the Government on notice that he had experienced significant

¹In response to Question 26, he stated he had been charged with writing a bad check. In response to Question 33, he admitted filing for bankruptcy. In response to Question 35, he admitted he had property repossessed. Although he responded "no" to Question 38, in the General Remarks Section (Question 43) he, in effect, changed his answer to Question 38 from "no" to "yes," and then provided details about two of his delinquent debts. And, he responded "yes" to Question 39, and provided the name of an additional creditor.

financial problems. I therefore find that applicant did not intend to mislead the Government.

CONCLUSIONS

_____ The evidence establishes that (1) applicant has been experiencing significant financial difficulties since the 1990s, and (2) he is still indebted to eight creditors for past-due debts in the approximate total amount of \$8,000.00. 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.

Given applicant's credible testimony concerning how his financial difficulties began, he qualifies for Mitigating Condition E2.A6.1.3.3 (*the conditions that resulted in the behavior were largely beyond the person's control*).

Applicant has been with his current employer since April 2004. Since then, he has done very little to address his delinquent debts. Although his two IRS debts² have been satisfied, and he has reduced his student loan debt over the years, he did nothing to address the debts listed in SOR Paragraphs 1d, 1e, 1i, 1k, 1l, 1m and 1o until he contacted ECC in September 2006, after the SOR was issued. And since contacting ECC and making at most two payments to them, he has stopped communicating with them. These facts preclude application of Mitigating Condition E2.A6.1.3.6 (*the individual has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

At the present time, applicant is having trouble making ends meet. When questioned about his monthly cash flow, applicant testified that just this month he secured a part time job, which will provide him with an additional \$1,200.00 per month and give him a positive monthly cash flow. Hopefully this new job works out for applicant. Having just secured it, however, it is too soon to determine if it will work out and provide applicant the additional income that applicant believes it will.

Based on the evidence presented, applicant has been experiencing significant financial difficulties for ten years. These difficulties continue, as evidenced by his inability to follow through with ECC. Applicant's financial 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 this fact, I have no choice but to conclude that it is not now clearly consistent with the national interest for applicant to have access to classified information.

² It is not clear if the IRS debts were satisfied by voluntary payments or involuntary payments (e.g., applying applicant's income tax refunds).

FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT

PARAGRAPH 2: FOR 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