

KEYWORD: Financial; Personal Conduct

DIGEST: Applicant's financial difficulties are long-standing and unlikely to be resolved anytime soon. Clearance is denied.

CASENO: 06-05983.h1

DATE: 01/03/2007

DATE: January 3, 2007

In Re:	)	
	)	
	)	
-----	)	ISCR Case No. 06-05983
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's financial difficulties are long-standing and unlikely to be resolved anytime soon. Clearance is denied.

## STATEMENT OF THE CASE

On July 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, (as administratively reissued on April 20, 1999), 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 30, 2006. The case was assigned to me on October 2, 2006. A Notice of Hearing was issued on November 20, 2006, and the hearing was held on December 21, 2006. The transcript was received on January 3, 2007.

## FINDINGS OF FACT

---

Applicant is a 56 year old employee of a defense contractor. She is a retired civilian employee of the U.S. Air Force.

**SOR Allegations 1a and 1b:** In 1998, applicant filed either one or two Chapter 13 bankruptcy petitions.<sup>1</sup> She did so because the person with whom she purchased a house passed away and applicant was unable to make the mortgage payments herself. When Applicant realized she did not have the finances to work out a deal with the creditor, she told her attorney to dismiss the petition(s), and he did.

**SOR Allegation 1c:** In October 2004, a Federal Tax lien in the amount of \$12,234.00 was filed against applicant. Applicant was unaware of the lien until recently (TR at 32). She testified that she became indebted to the IRS because her tax preparer had prepared incorrect tax returns for numerous years, something she was unaware of until she was audited. Applicant had been making payments to the IRS pursuant to a repayment plan, but defaulted. She testified that she reached a new agreement with the IRS in early 2006 and has made about six payments pursuant to that agreement. She estimates that her current Federal Tax debt is \$16,000.00 (TR at 19).

**SOR Allegation 1d:** Although in her SOR response applicant admitted this debt, she testified that she doesn't recognize the creditor or the \$25.00 debt.

**SOR Allegations 1e, 1f, and 1g:** Applicant testified that these are cell phone debts that her son incurred in her name without her knowledge (TR at 21). A letter from the son corroborates this testimony (Exhibit A).

**SOR Allegation 1h:** Applicant is indebted as alleged. She testified that she contacted the

---

<sup>1</sup>Applicant testified that she filed one bankruptcy petition, but Exhibit 3 seems to indicate that two petitions were filed.

creditor and made arrangements to satisfy the debt in January 2007 (TR at 24).

**SOR Allegation 1i:** Applicant testified that she satisfied this past-due debt in September 2006, but offered no proof (TR at 24).

**SOR Allegation 1j:** Applicant is indebted as alleged. This \$11,021.00 debt arose when applicant guaranteed a car loan taken out by her sister. The sister defaulted on the loan and the car was repossessed.

**SOR Allegation 1k:** Applicant is indebted as alleged.

**SOR Allegation 1l:** Applicant is indebted as alleged. She incurred this \$4,884.00 debt by guaranteeing a car loan taken out by her son. He stopped making payments on the loan and the car was repossessed.

Applicant testified that she intends to satisfy all of her debts. She further testified that she usually has no money left over at the end of each month.

Applicant completed and executed a Security Clearance Application (SCA) on October 27, 2000 (Exhibit 1). She provided false material information in response to Questions 33, 38 and 39 when she stated that (1) she had not filed for bankruptcy during the previous seven years, (2) she had not been over 180 days delinquent on any debt during the previous seven years, and (3) she was not then over 90 days delinquent on any debt.

Applicant completed and executed a second SCA on January 20, 2003 (Exhibit 2). She provided the same false information in response to the same three questions.<sup>2</sup>

With respect to the first SCA, applicant testified that although she knew her “no” responses were wrong, she was having trouble with the computer while completing the SCA, and was under pressure to get it done, so she just answered “no.” She doesn’t know why she didn’t explain her actions in the “General Remarks” section (Question 43) (TR at 29-30). Regarding the second SCA, she testified that she just copied her answers from the first SCA. She did so even though she knew her responses to the three questions on the first SCA were false. Although applicant testified that she did not intend to deceive the Government, the facts speak otherwise. Based on the evidence presented, I find that applicant’s falsifications on both SCAs were intentional.

## CONCLUSIONS

After giving applicant the benefit of the doubt with respect to the debts alleged in SOR Paragraphs 1d, 1e, 1f, 1g, and 1i, the evidence establishes that she is currently indebted to at least

---

<sup>2</sup>Applicant did not intentionally provide false information in response to Question 35, which asked if she had any property repossessed during the previous seven years. The two cars that were repossessed were not her property, and most people would not equate a foreclosure with a repossession.

five different creditors in the total past-due amount of approximately \$32,000.00. These facts require application of 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*).

Although applicant testified credibly that most of her financial problems resulted from her attempt to help out family members, the fact remains these decisions to help her family members were made by her voluntarily. Accordingly, Mitigating Condition E2.A6.1.3.3 (*the conditions that resulted in the behavior were largely beyond the person's control*) does not apply. Mitigating Condition E2.A6.1.3.6 (*the individual has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) is not applicable either because applicant has done very little to satisfy her past-due debts.

Applicant has the income to satisfy her current bills. However, when her past-due debts are factored in, she is clearly financially overextended. As such, her 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.

With respect to Guideline E, applicant's falsifications of material facts on the SCAs 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 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