

KEYWORD: Financial

DIGEST: This 28-year-old software engineer has a history of financial problems that remain current, with close to \$29,000 in delinquent debts. There has been minimal repayment of her debts, with only two small debts being paid off. Mitigation has not yet been adequately established. Clearance is denied.

CASENO: 06-12993.h1

DATE: 02/09/2007

DATE: February 9, 2007

In Re:)	
)	
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SSN: -----)	ISCR Case No. 06-12993
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
BARRY M SAX**

APPEARANCES

FOR GOVERNMENT

Rita C. O'Brien, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

This 28-year-old software engineer has a history of financial problems that remain current, with close to \$29,000 in delinquent debts. There has been minimal repayment of her

debts, with only two small debts being paid off. Mitigation has not yet been adequately established. Clearance is denied.

STATEMENT OF THE CASE

On August 29, 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 amended, issued a Statement of Reasons (SOR) to the Applicant. The SOR detailed reasons why DOHA could not make the preliminary affirmative finding required under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. The SOR recommended referral to an Administrative Judge to conduct proceedings and determine whether a clearance should be granted, denied or revoked.

On December 11, 2006, Applicant responded to the allegations set forth in the SOR, and elected to have a decision made by a DOHA Administrative Judge on the written record, i.e., without a hearing. Department Counsel issued a File of Relevant Material (FORM) on December 20, 2006. The Form instructed Applicant that any response to the FORM had to be submitted within 30 days of its receipt by Applicant. Applicant received the FORM on December 7, 2006. Any response was due by January 6, 2006. Applicant timely submitted additional information. The matter was assigned to me for resolution on December 20, 2006.

FINDINGS OF FACT

Applicant is a 28-year-old software engineer for a defense contractor. Her SOR contains eight (8) allegations under Guideline F (Financial Considerations). In her responses to the SOR (Item 3) and Interrogatories (Item 5), Applicant admits allegations 1`a. - 1.d., and 1.f., and denies allegations 1.e, 1.g., and 1.h. The admitted allegations are accepted and incorporated herein as Findings of Fact.

After considering the totality of the evidence derived from the FORM and its attachments, including Applicant's response to the SOR, I make the following additional FINDINGS OF FACT as to the status, past and present, of each SOR allegation:

Guideline J (Financial Considerations)

As established by Government Exhibits/Items in the FORM, Applicant owed following delinquent debts in the approximate amounts shown to the cited creditors:

1. a. –Bank A - \$2,451.00 (charged off);

1. b. - Bank B - \$1,226.00 (charged off);

1.c. - Bank C - \$1,594.00 (charged off);

1.d. - Collection Agency D - \$6,769.00;

1.e. - Dentist E - \$2,382.00;

1.f. - Collection Agency F - \$6,472.00;

1.g. - Medical Firm G - \$300.00. This debt was paid off in July 2005 (Item 3).

1.h. - Company H - \$689.00. This debt was paid off in July 2006 (Item 3).

The remaining delinquent debts (1.a. - 1.f.) total about \$20,894.00

POLICIES

Each adjudicative decision must also include an assessment of nine generic factors relevant in all cases: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowing participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence (Directive, E.2.2.1., on page 16 of Enclosure 2). I have considered all nine factors, individually and collectively, in reaching my overall conclusion.

Because each security case presents its own facts and circumstances, it should not be assumed the factors cited above exhaust the realm of human experience or that the factors apply equally in every case. Moreover, although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable financial judgment and conduct. Because Applicant chose to have this matter decided without a hearing and without submitting any additional information in response to the FORM, all credibility determinations and findings of fact are necessarily based entirely on the contents of the FORM and applicant's response thereto.

The eligibility criteria established by Executive Order 10865 and DoD Directive 5220.6 identify personal characteristics and conduct that are reasonably related to the ultimate question of whether it is "clearly consistent with the national interest" for an individual to hold a security clearance. In reaching the fair and impartial overall common sense determination based on the "whole person" concept required by the Directive, the Administrative Judge is not permitted to speculate, but can only draw those inferences and conclusions that have a reasonable and logical basis in the evidence of record. In addition, as the trier of fact, the Administrative Judge must make critical judgments as to the credibility of witnesses, here based solely on the written record.

In the defense industry, the security of classified information is entrusted to civilian workers who must be counted on to safeguard classified information and material twenty-four hours a day. The Government is therefore appropriately concerned where available information indicates that an

applicant for a security clearance, in his or her private life or connected to work, may be involved in conduct that demonstrates poor judgment, untrustworthiness, or unreliability. These concerns include consideration of the potential, as well as the actual, risk that an applicant may deliberately or inadvertently fail to properly safeguard classified information

An applicant's admission of the information in specific allegations relieves the Government of having to prove those allegations. If specific allegations and/or information are denied or otherwise controverted by the applicant, the Government has the initial burden of proving those controverted facts alleged in the Statement of Reasons. If the Government meets its burden (either by the Applicant's admissions or by other evidence) and proves conduct that creates security concerns under the Directive, the burden of persuasion then shifts to the Applicant to present evidence in refutation, extenuation or mitigation sufficient to demonstrate that, despite the existence of conduct that falls within specific criteria in the Directive, it is nevertheless consistent with the interests of national security to grant or continue a security clearance for the Applicant. I find that the financial issues in question do raise security concerns under Directive Guideline F.

A person seeking access to classified information enters into a fiduciary relationship with the Government based upon trust and confidence. As required by DoD Directive 5220.6, as amended, at E2.2.2., "any doubt as to whether access to classified information is clearly consistent with the interests of national security will be resolved in favor of the nation's security."

CONCLUSIONS

Since this matter is being decided without a hearing, my evaluation is necessarily limited to the contents of the various documents that are found in the case file, including Applicant's responses to the SOR and FORM. In attachments to his response to the SOR, Applicant established that he had paid off the debts cited in 1.f and 1.g. However, he had not documented the paying off or other resolution of the remaining delinquent debts cited in the SOR, and totaling about \$20,894. In her response to the FORM, she explains the circumstances behind her problems and adds that she is "making an effort to pay off my accounts." To date, however, she has not documented either payments or any other efforts at resolving the debts.

The overall record shows a history of delinquent debts, most of which have not yet been resolved despite the passage of significant time since the beginning of the present security clearance investigation and adjudication. Applicant's statement that three of her debts had been written off (Item 5) may or may not have been meant as a denial of responsibility, but it at least suggests a lack of understanding of the effect of such thinking and/or conduct on her eligibility to hold a security clearance.

The Concern: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

Conditions that could raise a security concern and may be disqualifying include: 1. A history of not meeting financial obligations; and 3. Inability or unwillingness to satisfy debts.

Conditions that could mitigate security concerns include: None that are established by the record; e.g., 1. The behavior is still recent; 2. It was not an isolated incident; 3. There is no showing

that the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation); There is no evidence that Applicant has received or is receiving counseling for the problem and there are no clear indications that the problem is being resolved or is under control; and 6. Applicant's efforts at resolving her delinquent debts is, in context, minimal, and does not yet show that she has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Likewise, under the Directive's whole person concept, I come to the same conclusion. In summary, the Government's evidence makes a prima facie case against Applicant, and Applicant's evidence does not come anywhere near meeting her obligation to refute the overwhelming negative evidence. The evidence compels the conclusion that Applicant currently lacks the judgment, reliability, and trustworthiness required of anyone seeking access to the nation's secrets.

FORMAL FINDINGS

Formal Findings as required by Section 3, Paragraph 7 of Enclosure 1 of the Directive are hereby rendered as follows:

Guideline F (Financial Considerations)	Against the Applicant
Subparagraph 1.a.	Against the Applicant
Subparagraph 1.b.	Against the Applicant
Subparagraph 1.c.	Against the Applicant
Subparagraph 1.d.	Against the Applicant
Subparagraph 1.e.	Against the Applicant
Subparagraph 1.f.	For the Applicant
Subparagraph 1.g.	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.

BARRY M. SAX
Administrative Judge

