

KEYWORD: Financial

DIGEST: Between 1996 and 2005, Applicant accrued approximately \$20,500 of delinquent debts. He has neither made significant progress toward reducing these delinquencies, nor developed a coherent plan to resolve them in the future. Clearance is denied.

CASENO: 06-17209.h1

DATE: 06/13/2007

DATE: June 13, 2007

In re:)	
)	
)	
-----)	ISCR Case No. 06-17209
SSN: -----)	
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
MARC E. CURRY**

APPEARANCES

FOR GOVERNMENT

Ray T. Blank, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Between 1996 and 2005, Applicant accrued approximately \$20,500 of delinquent debts. He has neither made significant progress toward reducing these delinquencies, nor developed a coherent plan to resolve them in the future. Clearance is denied.

STATEMENT OF THE CASE

On November 29, 2006, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) explaining why it was not clearly consistent with the national interest to grant or continue a security clearance. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended. Applicant answered the SOR on January 16, 2007, admitting the allegations and requesting a hearing.

The case was assigned to me on March 12, 2007. DOHA issued a notice of hearing on March 28, 2007, scheduling Applicant's hearing for April 18, 2007. During the hearing, I received six government exhibits, two Applicant exhibits, and Applicant's testimony. At the Applicant's request, I left the record open through May 4, 2007 to allow him to submit additional exhibits. On May 3, 2007, he submitted nine additional exhibits which I marked and received as Exhibits C through K. DOHA received the transcript on May 9, 2007.

FINDINGS OF FACT

_____The SOR admissions are incorporated as findings of fact. In addition, I make the following findings of fact.

Applicant is a 49-year-old married man with five adult children. He is a U.S. Army veteran, serving from 1976 through his retirement in 1996. He earned a bachelor's degree in theology in 1981, and is working toward another bachelor's degree in systems administration.¹ Currently, he works as a systems administrator.

Applicant is highly respected at work and in his community. A coworker characterized him as reliable and hardworking.² The senior pastor at the church where he serves as an associate pastor described him as a man of "high morale [sic] standards."³

Applicant's financial problems began when he retired from the military in 1996. At that time, he experienced trouble finding a well-paying job. His job situation stabilized in 1999 when he first began working as a systems administrator.⁴ By 2002, his salary had increased to the point where he

¹Tr. 19.

²Exhibit K, Reference Letter dated April 30, 2007.

³Exhibit J, Reference Letter dated May 2, 2007.

⁴Tr. 40.

had \$794 of monthly income remaining after expenses. By early 2006, his monthly after-expense income increased to approximately \$1,500.⁵

Nevertheless, by that time, Applicant had accrued approximately \$20,500 of delinquent debt. He owes approximately \$12,500 of this delinquent debt to a car dealer, as listed in SOR subparagraph 1.a, who had financed the purchase of a car Applicant owned at the time. At some time in 2005, Applicant took the car to a shop to get it repaired. The estimated repair costs were double what he could afford, and were more than he owed the creditor at the time.⁶ Subsequently, he neither fixed it, nor continued to make monthly car payments.

Approximately five months later, the dealer repossessed the car and resold it.⁷ The amount due represents the difference between Applicant's purchase price and the resale amount. Applicant talked to the creditor a few times in 2006 in an attempt to reduce the amount of the delinquency. He was unsuccessful. He intends to make payments toward its satisfaction by the end of 2007 after he has satisfied the other delinquencies.⁸ Recently, Applicant financed the purchase of a 2007-model car for \$27,000. He pays \$631 per month toward the satisfaction of the car note.

SOR subparagraph 1.b is a delinquency Applicant owes a phone company for \$279. He negotiated a payoff in the amount of \$139, and paid it in May 2007.⁹

Subparagraph 1.c is a delinquency originating from a loan Applicant executed when he was in the military. During that time, payments were automatically deducted from his paycheck. This stopped after he retired, and he subsequently fell behind. By January 2002, he owed approximately \$2,579. In April 2007, he successfully negotiated a settlement in the amount of \$1,000, and satisfied it shortly thereafter.¹⁰

Over the past year, Applicant has intermittently discussed resolving the remaining SOR delinquencies with the respective creditors, but has been unable to structure any repayment arrangements. He projects that he will complete the delinquency settlement process and satisfy them by the end of 2007. In October 2006, in response to interrogatories propounded by the government, Applicant stated that he planned on resolving all of his debts "in the near future."¹¹

POLICIES

⁵Tr. 38.

⁶Tr. 22.

⁷*Id.*

⁸Tr.24; 67.

⁹Exhibit E, Credit Union Account Summary, dated May 3, 2007.

¹⁰*Id.*

¹¹Interrogatories, dated October 19, 2006 at 3.

The adjudicative guidelines, as revised December 29, 2005, and implemented September 1, 2006, apply to the analysis of this case. In addition to brief introductory explanations for each guideline, they are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (disqualifying conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (mitigating conditions).

Because the entire process is a scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future.

The following adjudicative guideline is raised:

Guideline F - Financial Considerations: Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information.

Conditions pertaining to this adjudicative guideline that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, are set forth and discussed in the conclusions below.

Since the protection of national security is the paramount consideration, the final decision in each case must be reached by applying the standard that the issuance of the clearance is "clearly consistent with the national interest."¹² In reaching this decision, I have drawn only those conclusions that are based on the evidence contained in the record.

The Government is responsible for presenting evidence to establish facts in the SOR that have been controverted. The applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by the Government, and has the ultimate burden of persuasion as to obtaining a favorable security decision.

CONCLUSIONS

Financial Considerations

Applicant has struggled to manage his finances for more than ten years. By November 2006, he had accrued approximately \$20,500 of delinquent debt. Financial Considerations Disqualifying

¹²See generally, Directive, Sec. 2.3, Sec. 2.5.3, Sec. 3.2, and Sec. 4.2.

Condition (FC DC) 19(a): *Inability or unwillingness to satisfy debts*, FC DC 19(c): *a history of not meeting financial obligations*, and FC DC 19(e): *consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant negative cash flow, high debt-to-income ratio, and/or other financial analysis*, apply.

Applicant's financial problems began in 1996, and the majority of his delinquencies are still unpaid. Financial Considerations Mitigating Condition (FC MC) 20(a): *the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment*, does not apply.

Applicant attributes his financial problems to a lapse in income he experienced shortly after leaving the military in 1996, and he attributes his inability to make more significant progress toward their satisfaction to his preoccupation with legal issues that arose following his father's death in late 2005. As of May 2002, Applicant had approximately \$800 of monthly income remaining after expenses.¹³ By February 2006, his monthly after-expense income had increased to \$1,500. Later that year, he financed the purchase of a \$27,000 automobile. His lingering financial problems stem more from problems with money management rather than cash flow problems or unanticipated family issues. FC MC 20(b): *the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances*) does not apply.

Applicant received counseling in mid-2006. Also, he satisfied two of the SOR delinquencies, and has been negotiating with creditors to satisfy the remainder. FC MC 20(c): *the person has received or is receiving counseling for the problem*, and FC MC 20(d): *the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*, apply.

Whole Person Concept

Applicant is a conscientious employee who served the country as a member of the Army for 20 years, and currently serves his community as an associate pastor at a neighborhood church. He has had, however, lingering problems managing his finances. Although Applicant promised to begin satisfying his delinquencies in October 2006, he did not begin until April 2007, approximately a week after the hearing. His improved financial circumstances enhance the likelihood that he will be able to pay the remaining debts. This positive factor is diminished by his past procrastination. Moreover, his decision to finance the purchase of a \$27,000 car while he still owes more than \$12,000 for a repossessed vehicle leads me to question whether he has reformed his financial management skills. Consequently, although Applicant's recent efforts at resolving his delinquencies constitute a step in the right direction, it is too soon to conclude his financial situation no longer poses a security risk. Clearance is denied.

¹³Exhibit 3, Signed, Sworn Statement, dated May 2, 2002 at 5.

FORMAL FINDINGS

Paragraph 1 – Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against 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. Clearance is denied.

Marc E. Curry
Administrative Judge