

KEYWORD: Financial; Personal Conduct

DIGEST: Applicant's accrual of approximately \$50,000 of delinquent debt, and his omission of it from a 2004 security clearance application generate a security concern. As a commissioned Army officer, and later a civilian contractor, he was deployed overseas away from his family for lengthy periods of time, and was unaware of the delinquent debts when he completed the application. In the past six months, he has satisfied all of them, attended credit counseling, and created a budget to which he has adhered. Clearance is granted.

CASENO: 06-19610.h1

DATE: 05/30/07

DATE: May 30, 2007

In re:	)	
	)	
-----	)	ISCR Case No. 06-19610
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**

\_\_\_\_\_ Applicant's accrual of approximately \$50,000 of delinquent debt, and his omission of it from a 2004 security clearance application generate a security concern. As a commissioned Army officer, and later a civilian contractor, he was deployed overseas away from his family for lengthy periods of time, and was unaware of the delinquent debts when he completed the application. In the past six months, he has satisfied all of them, attended credit counseling, and created a budget to which he has adhered. Clearance is granted.

### **STATEMENT OF THE CASE**

On November 3, 2006, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) explaining why they concluded 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 12, 2007, admitting all of the allegations, and requesting a hearing.

The case was assigned to me on March 26, 2007. DOHA issued a notice of hearing on March 29, 2007, scheduling it for April 18, 2007. The hearing was held as scheduled. During the hearing, I received four government exhibits, five 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. That day, he submitted one additional exhibit which I marked and received as Exhibit F. DOHA received the transcript on May 8, 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 43-year-old married man with three children. He is a U.S. Army veteran who served from 1981 through his retirement in 2003. In the early 1990s, Applicant briefly left the Army to obtain a college degree. Upon returning, he attended officer training school, became a commissioned officer in 1994, and retired as a captain.<sup>1</sup>

Currently, Applicant provides intelligence training for troops preparing to deploy to overseas combat theaters.<sup>2</sup> This is similar to the work he performed as an intelligence officer in the Army during the five years before his retirement.

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<sup>1</sup>Tr. 29, 50.

<sup>2</sup>Reference Letter from Applicant's Supervisor, dated April 17, 2007, as included in Exhibit C, page 2, Answer, dated January 12, 2007, at 3.

Because Applicant spent much of his time working overseas away from his family, his wife managed their finances. In approximately 1999, they grew estranged.<sup>3</sup> Shortly thereafter, a physician diagnosed his wife with depression, unbeknownst to Applicant.<sup>4</sup> During the estrangement, and his wife's struggle with depression, her management of their finances lapsed.<sup>5</sup>

Applicant and his wife ultimately reconciled when he returned from his most recent overseas assignment in 2004. He discovered upon returning, however, that many of their debts had grown delinquent. He then began requesting credit reports, and negotiating settlements with creditors. In January 2007, he enrolled in an online credit counseling course.<sup>6</sup> By the end of that month, he had satisfied subparagraphs the debts listed in subparagraphs 1.h.,<sup>7</sup> 1.j.,<sup>8</sup> 1.k.,<sup>9</sup> and 1.m.<sup>10</sup>

In February 2007, Applicant refinanced his home. As a condition for the execution of the home refinance, he satisfied subparagraph 1.c.<sup>11</sup> After the settlement, he received approximately \$16,700 which he used to satisfy subparagraphs 1.a.,<sup>12</sup> 1.f.,<sup>13</sup> 1.i.,<sup>14</sup> and 1.l.<sup>15</sup> His new, post-refinance monthly mortgage payment is only nominally higher than the original monthly mortgage payment.<sup>16</sup>

During the course of Applicant's research into his delinquencies, he discovered that subparagraph 1.e. was the same as subparagraph 1.c., and subparagraph 1.g. was the same as subparagraph 1.f.<sup>17</sup> He was unable to locate the creditor to whom he allegedly owed \$90, as alleged in subparagraph 1.b. When he contacted the phone company whom he allegedly owed \$313, as listed

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<sup>3</sup>Tr. 31.

<sup>4</sup>Letter of Applicant's Spouse, dated January 11, 2007, as included in Answer at page 8.

<sup>5</sup>*Id.*; Answer, dated January 12, 2007, at 2.

<sup>6</sup>Tr. 33.

<sup>7</sup>Letter from Creditor to Applicant, dated January 5, 2007, as included in Answer at 4.

<sup>8</sup>Letter from Creditor to Applicant, dated January 5, 2007, as included in Answer at 5.

<sup>9</sup>Letter from Creditor to Applicant, dated June 21, 2006, as included in Answer at 6.

<sup>10</sup>Letter from Creditor to Applicant, dated January 4, 2007, as included in Answer at 7.

<sup>11</sup>Exhibit F, Refinance Documents, dated February 15, 2007, at 2.

<sup>12</sup>Tr. 17; Outgoing Money Transfer Debit, dated February 22, 2007, as included in Exhibit B, Miscellaneous Documents, at 5.

<sup>13</sup>Outgoing Money Transfer Debit, dated February 22, 2007, as included in Exhibit B, Miscellaneous Documents, at 7.

<sup>14</sup>Letter from Creditor to Applicant, dated February 28, 2007, as included in Exhibit B, at 3.

<sup>15</sup>Account Itemization, dated April 2, 2007, as included in Exhibit B, at 11.

<sup>16</sup>Tr. 38.

<sup>17</sup>Tr. 22.

in subparagraph 1.d., he was told the debt had been transferred to a collection agency. He then contacted the collection agency to whom he was referred, and was informed that it had no account in his name on file.<sup>18</sup>

Currently, Applicant adheres to a budget he developed in January 2007 through the credit counseling course. He has approximately \$2,500 of income remaining each month after expenses.<sup>19</sup>

Applicant answered “no” in response to Question 38 (*In the past 7 years, have you been over 180 days delinquent on any debt(s)?*), and Question 39 (*Are you currently over 90 days delinquent on any debt(s)?*). When he completed the SF 86, he was deployed overseas. When he contacted his wife to ask her about their finances, she reassured him that none were delinquent.<sup>20</sup>

Currently, Applicant shares the responsibility for managing the family finances with his wife. He monitors all of their outgoing expenses

### POLICIES

The adjudicative guidelines, as revised December 29, 2005, and implemented by the DoD 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 guidelines are 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.

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<sup>18</sup>Tr. 21.

<sup>19</sup>Tr. 50.

<sup>20</sup>Wife’s Statement, dated January 11, 2007, as included in Answer, attachment 5.

Guideline E - Personal Conduct: Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified information.

Conditions pertaining to these adjudicative guidelines 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."<sup>21</sup> 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**

Between 1999 and 2004, Applicant accrued approximately \$50,000 of delinquent debt. Financial Considerations Disqualifying Condition (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 delinquencies were caused primarily by marital difficulties that occurred simultaneously with consecutive extended overseas deployments. After returning from his most recent deployment and reconciling in 2004, he obtained credit reports, contacted creditors, and began negotiating settlements. After identifying the delinquencies, he gradually began satisfying them. He satisfied the remaining ones in February 2007 through the cash generated from the refinance of his home. Since then, he has enrolled in financial counseling, and organized a budget to which he has been adhering. Financial Considerations Mitigating Condition (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*, FC MC 20 (c) :*the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control*, and FC MC 20(d):*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*, apply. Applicant has mitigated the financial considerations security concern.

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<sup>21</sup>See generally, Directive, Sec. 2.3, Sec. 2.5.3, Sec. 3.2, and Sec. 4.2.

## Personal Conduct

Applicant's SF-86 omission of financial information triggers the issue of whether Personal Conduct Disqualifying Condition (PC DC) 16(a): *deliberate omission concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities*, applies. Applicant was stationed abroad when he completed the SF-86. His responses were consistent with the information that his wife provided when he contacted her to help him complete the application. I conclude his omissions were not intentional, and that there are no personal conduct security concerns.

## Whole Person Concept

Applicant has spent nearly his entire adult life serving the country either through the military or through the support of the military. Unfortunately, the stress inherent with serving the country during wartime led to marital problems and the neglect of his finances.

Since returning from his most recent deployment three years ago, Applicant reconciled with his wife, organized his finances, and satisfied all of his delinquent debt. Given his strong character, the cause of the delinquencies, and his intensive efforts at financial rehabilitation, I am firmly convinced that the problem will not recur. Clearance is granted.

## FORMAL FINDINGS

Paragraph 1 – Guideline F:	FOR APPLICANT
Subparagraphs 1.a-1.m:	For Applicant
Paragraph 2 - Guideline E:	FOR APPLICANT
Subparagraphs 1.a-1.b:	For Applicant

## DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Marc E. Curry  
Administrative Judge