

DATE: December 31, 2007

In Re:)	
)	
-----)	ISCR Case No. 06-19941
SSN: -----)	
)	
Applicant for Security Clearance)	

**DECISION OF ADMINISTRATIVE JUDGE
KATHRYN MOEN BRAEMAN**

APPEARANCES

FOR GOVERNMENT

Stephanie C. Hess, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant failed to mitigate security concerns over his continuing financial problems, including medical debts and other debts as well as an involuntary repossession of his car in 2001. While he stated in 2006 that he had an intent to develop a plan to resolve his problems, he provided no evidence that he has paid any of his outstanding debts or to demonstrate sufficient positive changes in behavior. Consequently, security concerns remain over finances. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR)

to the Applicant on January 04, 2007. The SOR detailed reasons why the Government could not make the preliminary positive finding that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant.¹ The SOR alleged specific concerns over Financial Considerations (Guideline F) in paragraph 1 based on the revised Adjudicative Guidelines² issued on December 29, 2005, and implemented by the Department of Defense, to be effective September 1, 2006. Applicant responded to these SOR allegations in a notarized Answer of January 16, 2007 where he admitted all of the allegations, but did not request a hearing.

Department Counsel on September 10, 2007, prepared a File of Relevant Material (FORM) which was provided to Applicant on September 14, 2007, which he received on September 20, 2007, detailing the Government's evidence and his right to respond. However he provided no response before the October 20, 2007, deadline. The case was assigned to me on November 9, 2007.

FINDINGS OF FACT

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following Findings of Fact:

Applicant, 63 years old, has worked as a security guard for a defense contractor³ from October 2002 to present. He now earns \$8 per hour. He was previously granted a Secret clearance in 1980. Applicant completed a Security Clearance Application (SF 86) to obtain a security clearance in April 2005. Previously, he worked as a security guard for other employers. He has no degree. (Exhibits 3, 4) Applicant has served in the military from July 1963 to November 1965. (Exhibit 1) He was married in 1969, has one child and was divorced in 1981. (Exhibit 4) He currently has no one financially dependent on him. (Exhibits 3, 4, 5)

Finances

Applicant disclosed on his SF-86 that he had a car repossessed in 2002, an unpaid judgment from 2003, and had other delinquencies. While he stated in 2006 that had an intent to take care of his debts, he failed to do so as he has limited income. His overall debts total over \$18,000. Those debts include several to medical providers (SOR ¶1.a.to ¶1.d., ¶1.f., and ¶1.i.), furniture (SOR ¶1.e.), a \$9,877 debt from a 2001 car repossession (SOR ¶1.j.), and a debt for tires. (SOR 1.k.) Also, he has not resolved a judgment of \$4,895 from 2001. (SOR 1.¶1) Finally, he has an unresolved small credit card debt of \$95 referred for collection which he has not paid. (SOR ¶1.m.). (Answer; Exhibits 4, 5, 6) He admitted all these debts and did not document any dispute with the creditors. (Answer) Nor has he contacted any individuals to help him resolve his debt issues on his limited income. He has never taken any classes on financing or budgeting. He reported no savings, and he submitted no plan

¹ This procedure is required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated January 2, 1992 (Directive), as amended by Change 4, April 20, 1999.

² Applicant did receive a copy of the DoD Directive 5220.6 which was sent with his Statement of Reasons (SOR).

³ He was allowed additional time to submit letters of reference or evaluations, but did not submit any such evidence. (TR 40-41)

to pay any of the debts.

Applicant's current monthly rent is \$425, car payment \$477, cell phone \$51, and car insurance is \$81. He did not disclose any other expenses, such as food and utilities. He lives beyond his means with take home pay of \$1,030 per month based on his pay of \$8 per hour. (Exhibit 5)

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility which are divided into conditions that could raise a security concern and may be disqualifying and conditions that could mitigate security concerns. In deciding whether to grant or continue an individual's access to classified information, the mere presence or absence of any adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I weighed these relevant Revised Adjudication Guidelines:

Guideline F: Financial Considerations

18. *The Concern.* Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, clack 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. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts.

The responsibility for producing evidence initially falls on the Government to demonstrate that it is not clearly consistent with the national interest to grant or continue Applicant's access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance. Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

Section 7 of Executive Order 10865 specifically provides industrial security clearance decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." The decision to deny an individual a security clearance is not necessarily a determination as to the allegiance, loyalty, and patriotism of an applicant.⁴ It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a security clearance.

CONCLUSIONS

⁴Executive Order No. 10865 § 7.

Financial Considerations

The government provided substantial evidence of Applicant's financial problems reflected his car being repossessed, a judgement unpaid, medical and other expenses which remain unpaid. Consequently, Financial Considerations Disqualifying Condition (DC), AG ¶ 19(a), (*inability or unwillingness to satisfy debts*) and DC, AG ¶ 19(c), (*a history of not meeting financial obligations*) apply.

With the government's case established, the burden shifted to Applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him. While he hoped to resolve these debts in 2006, he has made no demonstrable efforts to resolve his credit problems which continue to raise security concerns. He failed to consult any sources for help with credit counseling, nor has he contested or paid any of these numerous debts. Thus, Applicant has not established a case in mitigation. For example, he provided no evidence under Mitigating Condition (MC) AG ¶ 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*). Neither was there substantial mitigating evidence under AG ¶ 20(b), (*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) and the individual acted responsibly under the circumstances*). He has been single since his divorce in 1981 and continues to accumulate debt. Applicant has not demonstrated that he has paid even one debt, large or small. Thus, he fails to meet AG ¶ 20(d), (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). While he has a position with a limited income, his failure to resolve his debts creates an ongoing security concern.

Whole Person Analysis

Having considered both the record and Applicant in light of the "whole person" concept, I conclude he is an sincere person who has struggled with reforming his financial practices; but he has not made sufficient progress even after he has stated an intent to do so. While stating an intent to resolve his debts in May 2006 during the investigation, he subsequently failed to change his financial practices and continues to live beyond his means with no resources to resolve the past debt. His failure to address the ongoing debt continues to raise security concerns. The potential for pressure, coercion, exploitation, or duress is high even though he has an employment history since 2003. In sum, the likelihood of new debts and related problems is high.

After weighing the disqualifying and mitigating conditions, and all the facts and circumstances in the context of the whole person, I conclude he has failed to mitigate the security concerns pertaining to financial considerations. I rule against Applicant on subparagraphs 1.a. through 1.m. under SOR Paragraph 1.

FORMAL FINDINGS

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following

formal findings:

Paragraph 1. Guideline F:

AGAINST APPLICANT

Subparagraph 1.a through 1.m.

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 the Applicant. Clearance is denied.

Kathryn Moen Braeman
Administrative Judge