

KEYWORD: Financial

DIGEST: In 2000, the Applicant had in excess of \$40,000 of debts discharged by way of bankruptcy. Since then, he has incurred over \$19,000 in past due debts. He avers that, with the aid of his financial advisor fiancée, he will try to address these debts; but has only budgeted \$200 each month to this end, with little progress. These Financial Considerations are still of security significance; and as such, mitigation has not been shown. Clearance is denied.

CASENO: 06-22186.h1

DATE: 05/03/2007

DATE: May 3, 2007

In Re:	)	
	)	
-----	)	
SSN: -----	)	ISCR Case No. 06-22186
	)	
Applicant for Security Clearance	)	
	)	

**DECISION OF ADMINISTRATIVE JUDGE  
RICHARD A. CEFOLA**

**APPEARANCES**

**FOR GOVERNMENT**

Jennifer I. Goldstein, Esquire, Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

In 2000, the Applicant had in excess of \$40,000 of debts discharged by way of bankruptcy. Since then, he has incurred over \$19,000 in past due debts. He avers that, with the aid of his financial advisor fiancée, he will try to address these debts; but has only budgeted \$200 each month to this end, with little progress. These Financial Considerations are still of security significance; and as such, mitigation has not been shown. Clearance is denied.

## STATEMENT OF THE CASE

On December 27, 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, issued a Statement of Reasons (SOR) to the Applicant, which detailed the 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 the Applicant and recommended referral to an Administrative Judge to determine whether a clearance should be denied or revoked.

Applicant filed an Answer to the SOR on January 22, 2007.

The case was originally assigned to another Administrative Judge. A notice of hearing was issued on February 27, 2007, for a March 22, 2007 hearing. The case was reassigned to the undersigned on March 6, 2007; and pursuant a request from the Applicant, was continued until April 16, 2007, when it was heard. The Government submitted documentary evidence. Testimony was taken from the Applicant, who also submitted documentary evidence. The transcript (TR) was received on April 26, 2007. The issue raised here is whether the Applicant's current Financial Considerations militate against the granting of a security clearance. [The Applicant admits the underlying factual basis of all of the allegations.]

## FINDINGS OF FACT

The following Findings of Fact are based on Applicant's Answer to the SOR, the documents and the live testimony. The Applicant is 36 years of age, and is employed by a defense contractor who seeks a security clearance on behalf of the Applicant. After a complete and thorough review of the evidence in the record, and upon due consideration of the same, I make the following additional Findings of Fact.

### Guideline F - Financial Considerations

1.a. In 2000, the Applicant had in excess of \$40,000 of debts discharged by way of a Chapter 7 Bankruptcy (TR at page 27 line 14 to page 34 line 5). This bankruptcy was caused, for the most part, by unexpected medical bills due to the birth of two premature children. Since then, however, he has incurred over \$19,000 in past due debts (Government Exhibit (GX) 5). He avers that, with the aid of his financial advisor fiancée, he will try to address these debts, but has only budgeted \$200 each month to this end (Applicant's Exhibit (AppX) A at enclosures 2, 3 and 5).

1.b. and 1.i. The Applicant owes a credit card company about \$1,189 in past due indebtedness (GX 5 at page 1). He has done little to address this debt (TR at page 38 line 25 to page 42 line 7, and at page 65 line 20 to page 66 line 18).

1.c. The Applicant owes a finance company about \$8,593 in past due indebtedness, for an automobile that was repossessed (TR at page 42 lines 8~20). He has done little to address this debt (*Id.*).

1.d. The Applicant testified credibly that he has paid a \$194 telephone bill (TR at page 42 lines 8~20). This debt does not appear on the Applicant's most recent February 2007 credit report.

1.e. The Applicant has paid a \$55 telephone bill to another phone provider (TR at page 43 line 13 to page 44 line 24). The Applicant is current with this phone provider (AppX A at enclosures 13 and 15).

1.f. The Applicant owes another credit card company about \$140 in past due indebtedness (GX 5 at page 2). He has done little to address this debt (TR at page 48 line 24 to page 49 line 20).

1.g. The Applicant owes a sixth creditor about \$262 in past due indebtedness (GX 5 at page 2). He pleads ignorance as to this debt (TR at page 53 lines 1~11).

1.h. The Applicant owes a credit union about \$1,001 in past due indebtedness (GX 5 at page 2). He has done little to address this debt (TR at page 53 line 12 to page 54 line 3).

1.i. The Applicant owes a third credit card company about \$3,539 in past due indebtedness. He has done little to address this debt (TR at page 54 line 4 to page 57 line 20).

1.j. and 1.k. The Applicant owes a bank about \$4,402 in past due indebtedness on two separate accounts (GX 5 at page 2). He has done little to address these debts (TR at page 57 line 21 to page 59 line 15).

### Mitigation

The Applicant and his fiancée aver that he hopes to address his debts in the future, and is currently living within his means (AppX A at enclosures 2 and 3).

---

## **POLICIES**

Enclosure 2 and Section E2.2. of the 1992 Directive set forth both policy factors and conditions that could raise or mitigate a security concern, and which must be given binding consideration in making security clearance determinations. The conditions should be followed in every case according to the pertinent criterion, however, the conditions are neither automatically determinative of the decision in any case, nor can they supersede the Administrative Judge's reliance on his own common sense. Because each security clearance case presents its own unique facts and circumstances, it should not be assumed that these conditions exhaust the realm of human experience, or apply equally in every case.

As set forth in the Directive, each clearance decision must be a fair and impartial common sense determination based upon consideration of all the relevant and material information and the pertinent criteria and adjudication policy in enclosure 2, including as appropriate:

- a. Nature, extent, seriousness of the conduct, and surrounding circumstances.

- b. Frequency and recency of the conduct.
- c. Age and maturity of the applicant.
- d. Motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequence involved.
- e. Absence or presence of rehabilitation.
- f. Probability that circumstances or conduct will continue or recur in the future.

The Administrative Judge, however, can only draw those inferences or conclusions that have a reasonable and logical basis in the evidence of record. The Judge cannot draw inferences or conclusions based on evidence which is speculative or conjectural in nature.

The Government must make out a case under Guideline F (Financial Considerations) which establishes doubt about a person's judgment, reliability and trustworthiness. While a rational connection, or nexus, must be shown between an applicant's adverse conduct and his ability to effectively safeguard classified information, with respect to sufficiency of proof of a rational connection, objective or direct evidence is not required.

Then, the Applicant must remove that doubt with substantial evidence in refutation, explanation, mitigation or extenuation, which demonstrates that the past adverse conduct is unlikely to be repeated, and that the Applicant presently qualifies for a security clearance.

An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. The Government must be able to place a high degree of confidence in a security clearance holder to abide by all security rules and regulations at all times and in all places.

---

### **CONCLUSIONS**

The Applicant has in excess of \$19,000 in past due indebtedness, dating back to his 2000 bankruptcy. The first and third disqualifying conditions are therefore applicable in this case, as there is a "history of not meeting financial obligations," and an "inability or unwillingness to satisfy debts." I can find no countervailing mitigating conditions, as the Applicant has done little to address the vast majority of his past due debts. He and his fiancée aver to his future intentions, but this is too little too late. Guideline F is therefore found against the Applicant.

Considering all the evidence, the Applicant has not rebutted the Government's case regarding his Financial Considerations. The Applicant has thus not met the mitigating conditions of Guideline F, and of Section E2.2. of the Directive. Accordingly, he has not met his ultimate burden of persuasion under Guideline F.

---

### **FORMAL FINDINGS**

Formal Findings required by paragraph 25 of Enclosure 3 of the Directive are:

Paragraph 1:

**AGAINST THE APPLICANT**

- a. Against the Applicant.
- b. Against the Applicant.
- c. Against the Applicant.
- d. For the Applicant.
- e. For the Applicant.
- f. Against the Applicant.
- g. Against the Applicant.
- h. Against the Applicant.
- i. Against the Applicant.
- j. Against the Applicant.
- k. Against the Applicant.
- l. Against the Applicant.

Factual support and reasons for the foregoing are set forth in **FINDINGS OF FACT** and **CONCLUSIONS**, supra.

---

**DECISION**

In light of 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.

Richard A. Cefola  
Administrative Judge