

DATE: September 5, 2001

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 00-0641

DECISION OF ADMINISTRATIVE JUDGE

KATHRYN MOEN BRAEMAN

APPEARANCES

FOR GOVERNMENT

Catherine M. Engstrom, Esquire, Attorney-Advisor to Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant failed to mitigate the security concerns raised by her finances because of long-standing debts of approximately \$7,000 to eight creditors. While she had a two year period of unemployment from 1996-1998, she took no action to address her past creditors even after she was re-employed in 1998. Neither did she seek help through financial counseling. In the succeeding years she has taken only limited steps to address her debts. It was not until after she received the Statement of Reasons detailing the financial concerns that she contacted all of her creditors. She reported in December 2000 she had plans to pay them each a small monthly amount to resolve the debts. However, since then, she failed to document any actual payments. Thus, she has not yet sufficiently demonstrated that she now has control of her 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 November 7, 2000. 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. [\(1\)](#) (Item 1) The SOR alleges specific concerns in paragraph 1 over financial issues (Guideline F). Applicant responded to these SOR allegations in an Answer notarized on November 30, 2000, and a more complete Answer on December 13, 2000. (Items 3 & 5) She admitted paragraphs 1.a. through 1.h. with explanation. She did not wish to have a hearing and requested a decision based on the information she supplied.

The case was assigned to Department Counsel. On February 16, 2001, she prepared the File of Relevant Material (FORM) for the Applicant's review and advised Applicant that she had 30 days to submit objections and/or information before the FORM was submitted to an administrative judge and that she had the right to be represented by counsel. A Personnel Security Specialist (PSS) sent the FORM to Applicant on February 20, 2001, and again notified the Applicant that she had 30 days from receipt of the letter to submit objections and/or information before the FORM was submitted to an administrative judge. Applicant received the FORM but no date of receipt was acknowledged. Although the

response was due on April 15, 2001, she did not submit any additional information. On July 10, 2001, the case was assigned to me.

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 additional Findings of Fact:

Applicant is a 32 year old employee of a defense contractor (Employer #1 in State #1) where she has worked since May 1998 on a temporary basis and since August 1998 as a permanent employee. From March 1996 to May 1998 she was unemployed; from 1989-1996 she was employed with another company (Employer #2). (Items 6 & 8)

Applicant married in 1991 and has one five-year old child. (Items 3,5, & 6)

Financial Considerations

Applicant was laid off from Employer #2 in March 1996 when they closed their plant in State #1. She drew unemployment compensation, but it was not sufficient for the family to keep current on their bills even with her husband working. (Item 8)

After she was hired by Employer #1 Applicant completed a Security Clearance Application (SF 86) in December 1998. In the SF 86 she revealed only that she had two financial delinquencies over 90 days delinquent to Creditor #6 of \$2,000 and to Creditor #7 of \$1,500 (detailed below). (Item 6)

In January 2000 she was made aware of a number of other debts reported in her credit report. (Item 7) She acknowledged those debts detailed below. She presented a Personal Financial Statement which showed her net salary is less than \$1,000 per month and her husband's net salary is \$1,125 for a combined net monthly income of \$2,115; their expenses are \$1,803 per month; they also pay \$80 per month to two creditors. Their net remainder per month is \$232. Applicant maintained she has always intended to pay her accounts when she could, but offered no plan to do so as "there is not much left to repay past due accounts with current living expenses." (Item 8)

Applicant admitted the following debts:

She is indebted to Creditor #1, a bank, for \$483.66 for an unpaid credit card where the account was closed in June 1994; she made sporadic payments with her last payment in November 1999. (She has had two other accounts with this creditor which reflect she pays as agreed.) In January 2000 she acknowledged a balance of \$400 with payments of \$30 per month toward the balance. In December 2000 she stated that she planned to pay them \$20 per month. (Items 5, 7, 8)

She is indebted to Creditor #2, a doctor, for \$438 which was turned over to a credit bureau for collection in August 1996. In January 2000 she claimed not to know that there was an outstanding balance of \$438 as he is her child's doctor. In December 2000 she stated that she planned to pay them \$25 per month. (Items 5, 7, 8)

She is indebted to Creditor #3, a department store, for \$407 for a debt charged off in January 1997. In January 2000 she acknowledged a balance of about \$407; since she said the account was written off, she had not sent any further payments. In December 2000 she stated that she planned to pay them \$20 per month. (Items 5, 7, 8)

She is indebted to Creditor #4 for \$175 for an unpaid account turned over to a credit bureau for collection in April 1997. In December 2000 she stated that she planned to pay them \$25 per month. (Items 5, 7, 8)

She is indebted to Creditor #5, a bank, for \$432.52 for a credit card account which was turned over to a collection agency in May 1997. In January 2000 she acknowledged a balance but had made no payments as the account was charged off in the amount of about \$400. In December 2000 she stated that she planned to pay them but did not indicate what the monthly payment would be. (Items 5, 7, 8)

She is indebted to Creditor #6, a bank, for \$1,457.48 for a credit card debt which was charged off in March 1997 due to

a history of delinquent payments. In January 2000 she acknowledged a balance of about \$2,000 and said she could not recall when she last sent money to that creditor. In December 2000 she stated she planned to pay them \$40 per month. (Items 5, 7, 8)

She is indebted to Creditor #7 for \$3,061.05 for a credit card debt which was turned over to a collection agency in August 1998. In January 2000 she acknowledged a balance of about \$3,000 and said she had not recently sent any money to that creditor. In December 2000 she stated she planned to pay them \$30 per month. (Items 5, 7, 8)

She is indebted to Creditor #8 for \$238 for an account turned over for collection in December 1998. In January 2000 she acknowledged a balance of about \$238 which she had not paid. In December 2000 she stated she planned to pay them but did not indicate what the monthly payments would be. (Items 5, 7, 8)

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility. They 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. But the mere presence or absence of any given adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I weighed relevant Adjudication Guidelines as set forth below :

Guideline F - Financial Considerations

An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

Conditions that could raise a security concern and may be disqualifying include:

- (1) a history of not meeting financial obligations;
- (3) inability or unwillingness to satisfy debts;

Conditions that could mitigate security concerns include:

None

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.

CONCLUSIONS

Financial Considerations

Applicant has (1) a history of financial problems and has shown (3) an inability or unwillingness to satisfy debts (SOR 1.a-h.) Admittedly, Applicant had some difficult times because of her unemployment for two years from 1996-1998. However, even after she was hired by Employer #1 in May 1998 (on a temporary basis) and since August 1998 as a permanent employee, she took no steps to address her past financial delinquencies. Indeed she neglected her financial obligations for several years including a period of time while she worked for Employer #2 as one account with Creditor #1 was closed in June 1994 while she was still employed.

Applicant asserts that her unemployment for two years was a condition largely beyond her control which caused her financial problems. However, Applicant has not shown sufficient evidence to meet mitigating conditions (MC-⁽²⁾). While security concerns may be mitigated if conditions were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), she failed to address these debts even after she was again employed. Further, she understated the extent of her debts on her 1998 security form in listing only two of her eight creditors.

Applicant now has a stable job and income, but she was in that position for over two years before she developed a plan to address her past financial debts. Even though she was on notice of the security concerns raised by these debts by her security interview in January 2000, Applicant maintained she could offer no plan to repay these accounts as "there is not much left to repay past due accounts with current living expenses." Her financial information in January 2000 showed that with a net remainder per month of \$232, she had sufficient financial resources to begin to address these debts, but she took no action to do so until November 2000 after she received the SOR

After the SOR was issued, Applicant took the positive step of contacting all eight of the creditors to whom she owes a total of approximately \$7,000 and reported that she made arrangements to start making monthly payments. While she is to be credited for having developed a plan to repay these creditors, she failed to document any actual payments. Even after the FORM was sent to her in February 2001, Applicant did not respond and provided no further evidence that she actually made these payments. Neither did she provide an update on the status of her overall finances.

Thus, Applicant has failed to sufficiently demonstrate she is now financially responsible. In addition, Applicant has not demonstrated that she meets C 4: The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control. With no current budget provided, there is no way to assess if her current debt to earnings ratio is within the acceptable range or if she is financially over-extended.

After considering the Appendix I Adjudicative Process factors and the Adjudicative Guidelines, I rule against Applicant on subparagraphs 1.a. through 1.h. 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.: Against Applicant

Subparagraph 1.b.: Against Applicant

Subparagraph 1.c.: Against Applicant

Subparagraph 1.d.: Against Applicant

Subparagraph 1.e.: Against Applicant

Subparagraph 1.f.: Against Applicant

Subparagraph 1.g.: Against Applicant

Subparagraph 1.h.: 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.

Kathryn Moen Braeman

Administrative Judge

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. Conditions that could mitigate security concerns include: 1. The behavior was not recent; 2. It was an isolated incident; 3. 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); 4. The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control; 5. The affluence resulted from a legal source; and 6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.