KEYWORD: Financial
DIGEST: This 39-year-old contractor employee obtained bankruptcy protection in 1999, but reaffirmed two mortgages on his home. He separated from his wife, who remained in the house and agreed with Applicant for her to make payments. She did not do, but neither did Applicant over the past two years. He still owes the two mortgage holders a total of at least \$140,000, but has not made any substantive effort to resolve the debts, despite having some money available to do so. No mitigation has been established. Clearance is denied.
CASENO: 01-01046.h1
DATE: 01/07/2002
DATE: January 7, 2002
In Re:

SSN:
Applicant for Security Clearance
ISCR Case No. 01-01046
DECISION OF ADMINISTRATIVE JUDGE
BARRY M. SAX
<u>APPEARANCES</u>
FOR GOVERNMENT

	Melvin A. I	Howry, Es	sauire. De	partment (Counsel
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FOR APPLICANT

Pro Se

STATEMENT OF THE CASE

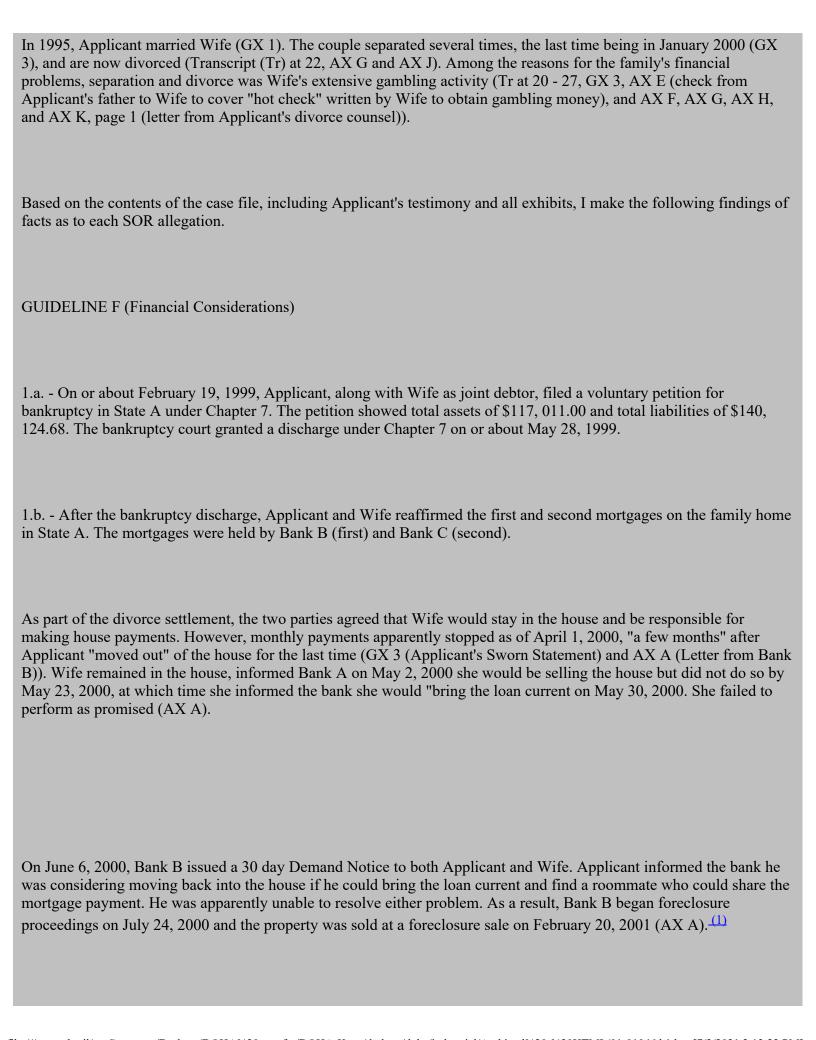
On August 10, 2001, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992 (as amended), issued a Statement of Reasons (SOR) to the Applicant. The SOR detailed reasons why DOHA could not make the preliminary affirmative finding required under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. The SOR recommended referral to an Administrative Judge to conduct proceedings and determine whether a clearance should be granted, denied or revoked.

On September 5, 2001, Applicant responded to the allegations set forth in the SOR, and elected to have a decision made after a hearing before a DOHA Administrative Judge.

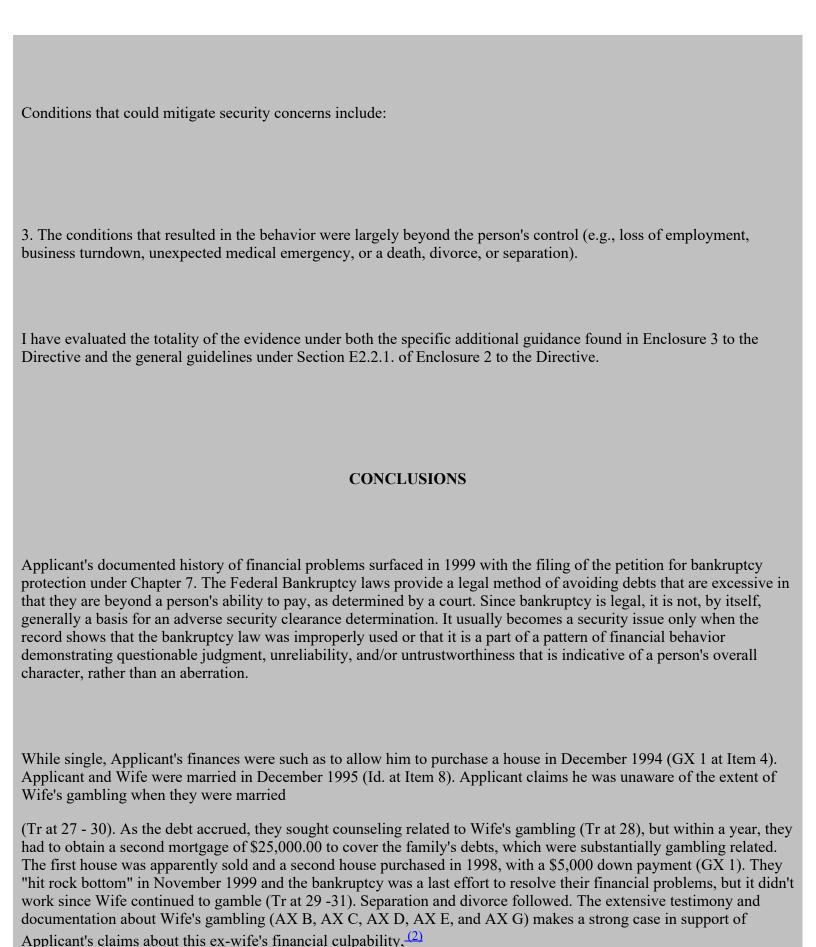
The case was assigned to me on October 4, 2001. A Notice of Hearing was issued on October 9, 2001 and the hearing was conducted on October 26, 2001. At the hearing, Department Counsel offered five exhibits, which were marked as Government Exhibits (GX) 1 - 5. Applicant testified on his own behalf and offered a number of exhibits, which were marked for identification as Applicant's Exhibits (AX) A - J. Without objection by either party, all above exhibits were admitted into evidence as marked. Another exhibit, actually a collection of documents, was timely received after the hearing and, without objection by Department Counsel, was marked and admitted collectively as AX K, pp. 1 - 8. The transcript (Tr) was received at DOHA on November 6, 2001.

FINDINGS OF FACT

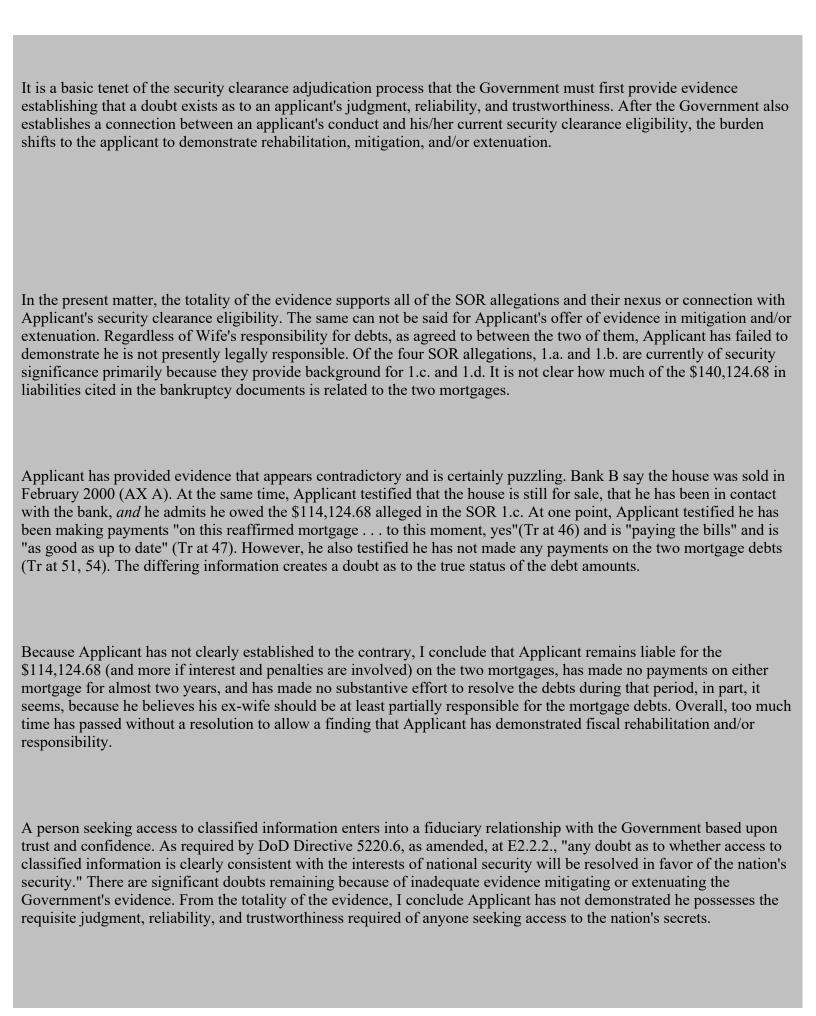
Applicant is a 39-year-old Logistician for a defense contractor. His employer is seeking a Secret security clearance for Applicant in connection with his employment.



1.c Applicant is indebted to Bank B in the amount of approximately \$89,300.00 for past due/delinquent mortgage payments owed on the first mortgage (GX 1 at Item 38). It does not appear that Applicant has made any payment on this debt. He has contacted Bank B but has not reached any agreement or ascertained the exact amount now owing (Tr at 53).
1.d Applicant is also indebted to Bank C in the amount of approximately \$25,047.78, for
a second real estate mortgage on the same property as that in SOR 1.a. Applicant did not pay his monthly installments on time. As of January 2000, the house was sold at a foreclosure sale (AX A, letter from Bank B). However, according to Applicant, as of August and September 2000, the house was in foreclosure proceeding in a State A court (GX 1 at Item 38, GX 2 at p.3, GX 3, and GX 4. As of the hearing date, Applicant admittedly has not made any payments on the second mortgage debt (Tr at 54), and is still waiting to learn from bank B if he owes anything under the first mortgage (Tr at 50 -52). The house "is still for sale" (Tr at 57). I accept Applicant's statements as being most current and likely to be accurate.
POLICIES
Considering the evidence as a whole, I find the following specific adjudicative guidelines to be most pertinent to this case:
GUIDELINE F (Financial Considerations)
The Concern: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.
Conditions that could raise security concerns and may be disqualifying include:
1. A history of not meeting financial obligations;
3. Inability or unwillingness to satisfy debts.



but the same evidence does not reduce Applicant's joint responsibility for resolving the mortgage-related debts.



FORMAL FINDINGS

Formal Findings as required by Section 3, Paragraph 7 of Enclosure 1 of the Directive are hereby rendered as follows:
Guideline F (Financial Considerations) Against the Applicant
Subparagraph 1.a Against the Applicant
Subparagraph 1.b. Against the Applicant
Subparagraph 1.c Against the Applicant
Subparagraph 1.d. Against the 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.

BARRY M. SAX

ADMINISTRATIVE JUDGE

 Applicant claims he has recently driven by the house and it is "still for sale" (Tr at 57). The apparent discrepancy does not affect the admitted and otherwise unrefuted point that Applicant owes about \$114,124.68 on the two mortgages After the granting of a divorce in 2000, Applicant's ex-wife was held in contempt of court for not honoring financial
obligations agreed to as part of the divorce settlement (AX H).