

DATE: October 22, 2001

In re:

SSN: -----

Applicant for Security Clearance

CR Case No. 01-06162

DECISION OF ADMINISTRATIVE JUDGE

ROGER C. WESLEY

APPEARANCES

FOR GOVERNMENT

Marc Curry, Department Counsel

FOR APPLICANT

Stephen S. Williams, Esq.

SYNOPSIS

Applicant with history of delinquent debts attributable in major part to job loss is credited with her persuasive repayment history and restoration to financial stability and reliability but fails to surmount adverse trust and reliability implications attributable to her omissions of her delinquent federal tax debts that resulted in a tax lien placed against her property, home mortgage debt that resulted in foreclosure, and storm window debt that was ultimately written off, all made knowingly and wilfully. Clearance is denied.

STATEMENT OF THE CASE

On April 16, 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, issued a Statement of Reasons (SOR) to Applicant, which detailed 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 Applicant, and recommended referral to an administrative judge to determine whether clearance should be granted, continued, denied or revoked.

Applicant responded to the SOR on May 30, 2001, and requested a hearing. The case was initially assigned to another administrative judge, reassigned to this Administrative Judge on July 19, 2001, and scheduled on July 23, 2001, for hearing. A hearing was convened on August 13, 2001, for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny or revoke Applicant's security clearance. At hearing, the Government's case consisted of six exhibits; Applicant relied on two witnesses (including herself) and five exhibits. Both parties relied on a joint exhibit. The transcript (R.T.) of the proceedings was received on August 21, 2001.

PROCEDURAL ISSUES

Prior to the close of the hearing leave was furnished the parties to supplement the record with the file covering Applicant's foreclosure proceedings (inclusive of her deficiency indebtedness) and applicable state law governing the

availability of a deficiency for foreclosing creditors. Within the time provided the parties, Department Counsel supplemented the record with both the foreclosure file and governing state law. The entire file is accepted as Government's exhibit 7. Applicant did not provide any supplemental materials within the period allowed.

STATEMENT OF FACTS

Applicant is a 47-year old document review specialist for a defense contractor who seeks a clearance at the level of secret.

Summary of Allegations and Responses

Applicant is alleged to have financial difficulties arising from accumulated debts: (a) a mortgage deficiency in the approximate amount of \$26,633.07 after foreclosure on her home in April 1999, which ensued after years of non-payment of her mortgage loan and (b) a debt referred for collection after default and failed discharge in her husband's Chapter 13 bankruptcy filed in April 1998, which was later dismissed.

Additionally, Applicant is alleged to have falsified her Security Clearance Application (SF-86) by answering (a) "no" to question 36 regarding tax liens recorded within the past seven years and (b) "no" to questions 38 and 39, respectively, regarding any financial delinquencies over 180 days within the past seven years and 90 days currently, omitting her delinquent federal taxes for the respective tax years of 1990 through 1992.

For her answer to the SOR, Applicant admitted to her (i) possessing a promissory note with her foreclosing lender in the amount of \$26,633.07, representing the deficit balance due after their house was sold at public auction on April 16, 1999, which is currently being paid in \$200.00 monthly installments and (ii) to being in debt on an account referred for collection in the amount of \$5,000.00 by the financing creditor, payment of which is not beyond her current credit means. Applicant denied deliberate omission of a federal tax lien against her (in the amount of \$4,251.39) from her SF-86, claiming no knowledge of the tax lien prior to completing her SF-86 in May 1998, attributing the lien to her spouse's financial decision-making, and assuring the lien's release prior to her filing for a clearance. And Applicant denied any deliberate omission of her delinquent debts, claiming neither personal involvement nor knowledge of the debts before she completed her SF-86.

Relevant and Material Factual Findings

Applicant and her husband experienced financial difficulties after she lost her job in May 1992. The job had paid her over \$10.00 an hour. Unemployed for the ensuing year, she relied on unemployment compensation and her husband to take care of her finances, as she looked for work. Finally, she found a job that paid her just \$6.00 an hour, which she accepted and kept for about a year, while she looked for better paying work. She exchanged jobs for a better paying position with another company in June 1994 and held this job until she was laid off in October 1996. While she was looking for a better job, she once again turned to part time employment at a lower hourly rate (just \$6.00 an hour). Applicant went through still further job changes before she found a job with her current employer in March 1998, where she is paid a much better hourly rate of \$15.20 an hour (*see ex. 2*).

Applicant's troubled finance history

Applicant's unemployment and underemployment problems created financial difficulties for Applicant and her husband. Their problems included federal tax delinquencies covering the tax years of 1990 through 1992, which were ultimately consolidated in a tax lien the IRS placed against Applicant's property in June 1995 in the total amount of \$4,251.39. Reported delinquent state taxes for the year of 1996 approximating \$1,600.00, actually belonged to another taxpayer and were mistakenly listed in Applicant's January 2000 credit report (*see ex. 6*). Other federal taxes thought by Applicant to be delinquent for the 1996 tax year (*see ex. 4*) related to 1999 federal taxes which Applicant and her husband satisfied in November 1999 (*see R.T., at 98-99*).

Besides their delinquent taxes, Applicant and her husband became delinquent in their home mortgage and subsequent purchase of storm windows. They had purchased the home in 1992 for around \$123,000.00, and shortly thereafter acquired storm windows at a price of just over \$4,000.00 (*see R.T., at 48*). A few months later (still in 1992), Applicant

was laid off from her job. Beginning in August 1992 and continuing through the eventual foreclosure on their home, Applicant and her husband made few of their scheduled \$1,300.00 monthly mortgage payments. Relying primarily on her husband to pay the monthly mortgage payments, she paid little attention to the account, which by May 1998 had become very delinquent. The storm windows were also bank financed (this in April 1992), through a monthly payment of \$119.00. When their finances tightened, they became delinquent in this account as well, where it has remained (*see* R.T., at 55).

Applicant stressed that she relied almost exclusively on her husband to take care of their finances, even deferring to his judgment to find debt relief through a Chapter 13 wage earners's plan which her husband commenced in April 1998. It is not clear whether or not the home mortgage or storm window debts were included in the plan. The Chapter 13 plan was dismissed, though, in September 1998 for failure to establish or satisfy any developed repayment plan.

Foreclosure proceedings were initiated by the home lender in December 1997 against Applicant's deed of trust that secured a purchase note on the property (around \$123,000.00). Unclear from the furnished foreclosure file is whether or not Applicant was ever personally served with a summons on the foreclosure complaint or whether she was ever informed of the proceedings before she and her husband initiated Chapter 13 proceedings in April 1998.

A little over \$121,000.00 was owing on the home loan when judicial foreclosure proceedings were initiated against Applicant and her husband (*see* ex. 7). The property was, in turn, noticed for sale and sold at auction for \$94,366.93 in April 1999 (ex. 7), leaving a note deficiency of \$26,633.07. The copied court file includes an April 28, 1998 noticed foreclosure sale addressed to Applicant and her spouse under separate letters (*see* ex. 7). Assuming Applicant received her sale notice in the normal course of mailing, Applicant was made expressly aware of her mortgage being in serious default before the then-scheduled foreclosure sale on May 11, 1998: her general denials of ever being notified of a pending foreclosure sale notwithstanding. Thereafter, Applicant and her spouse were apparently able to stall foreclosure proceedings as they worked to rearrange their debts through the vehicle of a Chapter 13 wage earner's plan (possibly without inclusion of their home mortgage) before once again lapsing into default. What is evident from the record is that in April 1999 both Applicant and her spouse were again notified in writing of a scheduled foreclosure sale: this one to occur on April 16, 1999 (ex. 7). There is no evidence in the record, however, that either Applicant or her spouse took any action to stop this scheduled sale before the actual sale of the property at auction on the date scheduled (April 16, 1999).

Faced with a court-supervised deficiency hearing, the foreclosing lender waived any right to a deficiency (ex. 7), a waiver apparently unknown to either Applicant or her spouse. Applicant's spouse assured that he never went to court to have a personal judgment entered against him for a deficiency (R.T., at 105), for which he is corroborated by the record (*see* ex. 7)

Without any apparent disclosure of its previous deficiency waiver, the home lender called Applicant's spouse in early 2001 to inform him of a \$40,00.00 deficiency still owing on their foreclosed home (*see* R.T., at 107-08). Uncertain of whether the lender was still entitled to a deficiency, Applicant and her spouse executed a new promissory note, committing to 205 payments of \$200.00 a month on a claimed \$58,754.58 deficiency (*see* exs. 6 and C). Whether the note covered the claimed \$58,754.58 deficiency cited in the parties' repayment agreement, the \$40,000.00 claimed by the foreclosing lender's representatives in their post-sale telephonic demands, or the \$26,633.07 difference between the reported sale amount (*i.e.*, \$94,366.93) and the pre-foreclosure balance due, is not entirely clear. But the 200 scheduled payments add up to about \$41,000.00, which based on a 9 per cent note, amortized over a five year period, would suggest a principal closer to the \$26,633.07 figure urged by the Government in the SOR and claimed by Applicant in her answer to have been reduced to a new promissory note. So, while Government's claims of a \$58,754.58 default in its post-hearing submission (ex. 7) may be taken as accurate for default purposes, it may not for deficiency purposes, after crediting Applicant and her spouse with the proceeds of the reported sale (*i.e.*, \$94,366.93). For both deficiency and note computation purposes, the \$26,633.07 figure is accepted as the most accurate and reliable figure.

Applicant and her spouse have continued to make their scheduled note payments over the past three months (*see* R.T., at 108). Whether or not such a reaffirming note is an enforceable obligation, or one lacking in any requisite consideration, and quite possibly the result of lender deception, is a matter between the lender, Applicant and her husband, and the courts. By accepting responsibility for the deficiency, though, Applicant and her spouse demonstrate commendable

integrity and accountability in resolving their perceived outstanding debts.

Unable to work out any monthly payment arrangement with the storm window collection agency, who had since taken an assignment for collection from the original lender, Applicant and her husband initiated monthly \$200.00 payments. They document making three such regular payments, which have not so far been returned by the collection agency assigned the debt (*see ex. B*). Applicant assures she and her husband will continue to make both these payments and the monthly payments on their deficiency note with the home lender. Based on the good faith and earnestness they have shown to date in forging good faith repayment commitments, they are entitled to acceptance of their assurances.

Applicant's SF-86 omissions

Asked to complete an SF-86 on May 20, 1998, Applicant omitted the IRS's 1995-placed tax lien covering their 1990, 1991 and 1992 federal taxes. She insisted she did not find out about the tax lien until after she received the release of the lien from the IRS: after she completed her SF-86 (*see R.T.*, at 25-26 and 70-71; *exs. 6 and A*). Given the April 21, 1998 date of the release, it seems likely she received it before May 20, 1998 (when she executed her SF-86). Moreover, even assuming for the sake of argument she received the release after May 20, knowledge of delinquent tax debts must still be imputed to her on the strength of her acknowledging her husband's telling her of his problems in paying unpaid taxes owed to the IRS for the tax years of 1990-1992 (*see R.T.*, at 24-25). Overall, inferences warrant that Applicant was not only aware of the release of tax lien before May 20, 1998, but that she was aware of tax delinquencies exceeding 180 days and 90 days, respectively, within the previous seven years, when she declined any knowledge of the same in her completed SF-86 of May 20, 1998.

Along with the tax lien the IRS placed against Applicant and her husband's property, Applicant also omitted her delinquent federal taxes (for tax years 1990-1992), mortgage and storm window debts in her completed SF-86, each of which exceeded 180 days and 90 days, respectively, of delinquency within the year preceding her execution of her SF-86. Applicant provides no persuasive explanations as to why she failed to list these longstanding debts in her SF-86, absent which inferences of knowing and wilful omission must be attributed to her. That she may have relied on her husband to manage their finances following her job-layoff in 1992 does not excuse her from providing truthful answers to questions posed in her SF-86 about extended delinquencies she is aware of. Her denials alone of having any knowledge of pending foreclosure proceedings against their home are not sufficient to extinguish presumptions of receipt of the lender's April 28, 1998 notice of pending sale addressed to both herself and her husband, absent convincing explanations to the contrary. This she does not provide. There were good reasons, too, for Applicant to harbor suspicions of financial difficulties when she executed her SF-86 in May 1998. Too precarious were her overall finances over the intervening years when she lacked good paying, full time employment.

Suspicious circumstances are not enough, for sure, to impute knowing and wilful falsification to an applicant who fails to acknowledge aging debts in a security clearance application. Had Applicant checked the court records covering initiated proceedings against herself and her husband before checking no to financial delinquencies exceeding 180 days and 90 days, respectively, in her SF-86, she could be expected to have found not only the pending foreclosure start-up against her home, but the foreclosing lender's waiver of any deficiency as well. Finding the waiver would tend to lessen any exposure to deficiency liability; this much is true. But it would not extinguish any debt delinquencies altogether over the preceding six months. And her insistence aside, Applicant cannot avoid common sense inferences that she was at least generally privy to budding problems in the debt servicing of her home mortgage: problems that had been escalating for at least several months before the home lender started foreclosure proceedings in December 1997 and continued through the execution of her SF-86 in May 1998.

Besides her imputed receipt of the lender's April 28, 1998 sale notice, Applicant's imputed general knowledge was every bit sufficient to expect some qualified response to questions 38 and 39 of her SF-86, either in the form of a noted question mark, opportunity to speak to a DSS representative, or explanation of her familiarity with any problem debts and/or corrective steps by her husband. That she chose to stand pat with **no** answers is most indicative of an applicant with either some firm grasp of the state of her finances, or search for plausible denial. Either way, Applicant cannot avert the many revealing indications of debts out of balance for periods exceeding 180 and 90 days, respectively, when she executed he SF-86 back in May 1998. Inferences of knowing and wilful omission of her federal tax (1990-1992), mortgage and storm window delinquencies must be attributed to her, accordingly, based on her imputed pre-SF-86

knowledge of the extended delinquency status of her mortgage and storm window debts.

While no falsification significance can be made of either Applicant's 1996 state tax lien noted in her credit report (shown in her credit report to have been incorrectly associated with Applicant) or cited delinquencies in connection with her 1996 federal taxes owed (given both her credit report's explanations (ex. 6) and her own explanations of her mistakes in citing to previous 1996 federal tax debts owed, instead of 1999 debts), Applicant may not avert overall inferences of failure to correct any mis-impressions about her candor in explaining her delinquency history when afforded three separate opportunities to do so by DSS in 1999 and 2000 before being confronted with her credit report (*see* exs. 2, 3 and 4).

Applicant has shown praiseworthy performance with her current employer and is credited with excellent performance evaluations and commendations.

POLICIES

The Adjudicative Guidelines of the Directive (Change 4) list "binding" policy considerations to be made by Judges in the decision making process covering DOHA cases. The term "binding," as interpreted by the DOHA Appeal Board, requires the Judge to consider all of the "Conditions that could raise a security concern and may be disqualifying" (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied. The Guidelines do not require the Judge to assess these factors exclusively in arriving at a decision. In addition to the relevant Adjudicative Guidelines, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in E.2.2 of the Adjudicative Process of Enclosure 2 of the Directive, which are intended to assist the judges in reaching a fair and impartial common sense decision.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

Financial Considerations

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

Disqualifying Conditions

DC 1. A history of not meeting financial obligations.

DC 3. Inability or unwillingness to satisfy debts.

Mitigating Conditions

MC 1. The behavior was not recent.

MC 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).

MC 6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Personal Conduct

Basis: conduct involving questionable judgment, untrustworthiness, unreliability, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

Disqualifying Conditions:

DC 2 The deliberate omission, concealment, falsification or misrepresentation of relevant and material 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.

Mitigating conditions: None.

Burden of Proof

By dint of the precepts framed by the Directive, a decision to grant or continue an Applicant's request for security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires Administrative Judges to make a common sense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. As with all adversary proceedings, the Judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the Judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) It must prove any controverted fact[s] alleged in the Statement of Reasons and (2) it must demonstrate that the facts proven have a nexus to the applicant's eligibility to obtain or maintain a security clearance. The required showing of nexus, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, consideration must take account of cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of persuasion shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

CONCLUSIONS

Applicant comes to these proceedings with a history of security-significant problems: troubled finances and concealment of major debt delinquencies that create judgment and reliability issues germane to appraising her eligibility to access classified information.

Financial issues

Financial problems have plagued Applicant in recent years. Even before her job lay-off in 1992, she and her husband were experiencing problems in paying their federal taxes. Financial difficulties escalated for them after Applicant lost her full time job in 1992. Failing in their struggles to stay current with all of their debts, they became further delinquent in not only their federal taxes, but in their home mortgage and storm window financing as well, once Applicant lost her full time job. What followed were an array of enforcement actions by their creditors: a federal tax lien placed against their property in 1995 covering the tax years of 1990 through 1992 and mortgage foreclosure proceedings instituted against their home. Along with these creditor actions, Applicant's storm window debt was written off as a bad debt.

At issue in this proceeding is Applicant's reliability and trustworthiness in light of her financial troubles that led to a federal tax lien being placed against her property and ensuing foreclosure on her home, along with a major home accessory debt being written off. Security determinations have never confined risk considerations to the elimination of debts that result from tax liens, foreclosures and single debt write-offs, but rather it has looked to the applicant's overall financial history to shed light on her most recent conduct as an indicator of recurrence risks. This the Government has done in its underscoring of Applicant's still ongoing financial difficulties associated with her continuing repayment responsibilities. The reasoning is this: While a tax lien release, mortgage foreclosure and time-barred debt may give a debtor a fresh start, the discharge does not equate to a seasoned track record of financial reform. In other words, judgment/trust concerns are implied from past financial problems when considering the security significance of a bankruptcy discharge, quite separate from enforceability concerns.

While Applicant cannot be faulted for incurring all of her debts at a time when she and her husband possessed the visible means of taking care of most of them, some judgement imprudence must be imputed to her for not making more

concerted efforts in trying to obtain more part time employment before giving up on her major debts. Initial security concerns justifiably attach, accordingly, to Applicant's failure to make more earnest efforts to seek employment and get in touch with her storm window creditor earlier to work out repayments. Appraising the security significance of Applicant's financial deficiencies, several Disqualifying Conditions (DC) of the Adjudicative Guidelines (for financial) apply: DC 1 (history of not meeting financial obligations) and DC 2 (inability or unwillingness to satisfy debts).

To be fair, though, Applicant may rightfully claim considerable extenuation and mitigation under the Adjudicative Guidelines. Debt defaults attributed to her with respect to her prior unpaid federal taxes, home loan foreclosure and storm window purchase have since been satisfied in full (taxes) or are the subject of repayment arrangements. Especially commendable is Applicant's execution of a new promissory note with her mortgage lender to cover the established deficiency (*viz.*, \$26,633.07). Although the state law governing foreclosure procedures in Applicant's state provides for court-directed deficiency enforcement in the event foreclosed realty does not bring enough to satisfy the mortgage indebtedness, deficiency entitlement may not be obtained without prior notice to the mortgagor. *See* Rule 14-208(b) of State Code Ann. Deficiency relief is *in personam* and can only be provided by order of a court. *See* Rule 2-121 of State Code Ann. Without notice a foreclosure action is *in rem* only and precludes any pursuit of a deficiency. In Applicant's case, not only did the lender waive deficiency but it took no manifest steps to seek court lifting of its waiver. So, under the circumstances, Applicant's agreement to a new note to cover the claimed deficiency would appear to lack any consideration and is of questionable enforceability. That she and her husband chose to execute the note speaks positively to both their good faith and accountability for their debts. Likewise, Applicant and her husband have instituted monthly payments on their storm window delinquency, notwithstanding its age and apparent statute of limitations bar. And since her federal tax lien was previously paid in 1998, it no longer poses any financial risks for her either.

Each of Applicant's listed debts were extenuated some by Applicant's financial circumstances attending her loss of gainful employment in 1992, and are absolved of security concerns by application of MC 3 (circumstances beyond Applicant's control, such as unemployment and medical emergency). Age of the debts (the loan foreclosure is over two years now) and the elimination of the other covered debt through voluntary monthly payments combine to neutralize any active Applicant exposure to coercion, pressure or compromise out of any pressing need to generate funds.

Favorable conclusions warrant, accordingly, with respect to the allegations covered by sub-paragraphs 1.a and 1.b of Guideline F.

Falsification issues

Potentially serious and difficult to reconcile with the trust and reliability requirements for holding a security clearance are the timing and circumstances of Applicant's respective SF-86 omissions of her federal tax lien and debts exceeding 180 and 90 days, respectively, in delinquent status over the previous seven years. So much trust is imposed on persons cleared to see classified information that deviation tolerances for incidents of trust betrayal are calibrated narrowly.

Applicant fails to provide any persuasive cover for omitting her federal tax lien, or her federal tax, mortgage or storm window debts extant that exceeded 180 and 90 days in delinquent status. The questions posed were straightforward and sought no more than Applicant's respective recollection of any known tax liens or aged debts (*viz.*, debts exceeding 180 and 90 days delinquent, respectively). Her completed SF-86 does not reflect any (a) good faith attempt to list them, (b) raised questions about any she might have been unsure of, or (c) calls for a DSS representative to talk to. Facially, Applicant's various omission explanations are not persuasive.

Motivation is the key here and provides the all too critical backdrop by which Applicant's omission explanations must be assessed, both in the way she approached her SF-86 and her ensuing DSS interviews. Even obvious omissions of material facts (to include a federal tax lien and her delinquent home and storm window debts) may be mitigated where circumstances indicate the declarant was under some mistaken impression or understanding when he executed a government form (such as an SF-86) or signed off on a deficient signed, sworn statement. *Cf. Raybourne v. Gulf Atlantic Towing Corp.*, 276 F.2d 90, 92 (4th Cir. 1960). MC 2 of the Directive's Change 4 amendments and relevant case authorities underscore the importance of motive and subjective intent considerations in gauging knowing and wilful behavior. *Cf. United States v. Chapin*, 515 F.2d 1274, 1283-84 (DC Cir. 1975); *United States Steinhilber*, 484 F.2d 386,

389-90 (8th Cir. 1973); *United States v. Diogo*, 320 F.2d 898, 905 (2d Cir. 1963).

Manifestly, Applicant approached question 36 and questions 38 and 39 of her SF-86 with the intent to withhold as much adverse information about her major debt delinquencies within the previous seven years as she could reasonably escape with. Her omissions were knowing, deliberate and material to a determination about her clearance suitability. They invite application of DC 2 of the Adjudication Guidelines (for falsification). And since Applicant never acknowledged her federal tax lien, or her federal tax (1990-1992 tax years) and home/storm window debt delinquencies, until she was confronted with a credit report in ensuing DSS interviews, she cannot be credited with making any prompt, good faith corrections under the governing Adjudicative Guidelines for Personal Conduct.

Considering all of the evidence produced in this record and the available guidelines in the Directive (inclusive of the E.2.2 factors), unfavorable conclusions warrant with respect to sub-paras. 2.a and 2.b of Guideline E.

In reaching my recommended decision, I have considered the evidence as a whole, including each of the factors set forth in the Procedures section (paragraph 6) of the Directive, as well as E.2.2 of the Adjudicative Process of Enclosure 2 of the same Directive.

FORMAL FINDINGS

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the FINDINGS OF FACT, CONCLUSIONS, CONDITIONS, and the factors listed above, this Administrative Judge makes the following FORMAL FINDINGS:

GUIDELINE F (FINANCIAL CONSIDERATIONS): FOR APPLICANT

Sub-para. 1.a : FOR APPLICANT

Sub-para. 1.b: FOR APPLICANT

GUIDELINE E (PERSONAL CONDUCT): AGAINST APPLICANT

Sub-para. 2.a: AGAINST APPLICANT

Sub-para. 2.b: 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 Applicant's security clearance.

Roger C. Wesley

Administrative Judge