

DATE: June 25, 2002

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 01-09781

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Melvin A. Howry, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's long-standing indebtedness precludes a finding that it is clearly consistent with the national interest to grant him access to classified information at the present time. Clearance is denied.

STATEMENT OF THE CASE

On November 26, 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 denied or revoked.

Applicant responded to the SOR in writing on December 14, 2001, and elected to have his case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case (FORM) on or about February 21, 2002. Applicant filed a response to the FORM on April 1, 2002. Department Counsel did not object to applicant's response. The case was assigned to me on April 9, 2002.

FINDINGS OF FACT

Applicant is employed as a programmer by a defense contractor.

SOR Allegation 1a: Applicant was indebted to the State for unpaid State income tax for tax year 1992. In 1998, a tax lien in the amount of \$3,253.13 was filed against him. Apparently his wages were garnished, which reduced the debt to \$87.46. Applicant states in his response to the SOR that this debt has "been paid in full," but offered no documentary evidence to corroborate this statement. Based on the evidence presented, I find that applicant is still indebted to the State in the approximate amount of \$87.46.

SOR Allegation 1b: Applicant is indebted to the State for unpaid State income tax for tax years 1996, 1997 and 1998. In 1999, a tax lien in the amount of \$1,493.55 was filed against him. In his response to the SOR, applicant states that this debt has "been paid in full," but offered no documentary evidence to support this statement. Based on the evidence presented, I find that applicant is still indebted to the State in the approximate amount of \$1,493.55.

SOR Allegation 1c: This credit account was opened in May 1999. As of February 2000, this account was past-due in the amount of \$689.23. Applicant states in his response to the SOR that this debt has been "paid in full," but offered no documentary evidence to corroborate this statement. Based on the evidence presented, I find that applicant is still indebted to this creditor in the approximate amount of \$689.23.

SOR Allegation 1d: Although applicant admits that he purchased merchandise/services from a company at the cost of \$2,584.65, he does not believe he is responsible for payment because, in his words, he did not use the services offered, and he tried returning the merchandise to the original creditor for a refund without success. Since applicant failed to offer any evidence that establishes he was entitled to rescind the purchase contract and/or receive a refund, I find that he is still owes this creditor \$2,584.65. [\(1\)](#)

SOR Allegation 1e: Applicant is indebted to this creditor in the amount of \$565.00 for an account opened in 1993. Applicant states in his response to the SOR that this delinquent account has been "paid in full," but offered no documentary evidence to corroborate this statement. Based on the evidence presented, I find that applicant is still indebted to this creditor in the approximate amount of \$565.00.

SOR Allegation 1f: Applicant became indebted to this creditor, a dentist, in the amount of \$54.33. Given applicant's inconsistent reasons for disputing the debt, [\(2\)](#) I find that he is still indebted to the dentist in the amount alleged.

SOR Allegation 1g: Applicant is indebted to this creditor in the amount of \$703.83. This debt has been delinquent for over two years and has been "charged off." Applicant states in his response to the SOR that he "is currently in negotiation to settle this debt."

SOR Allegation 1h: Applicant is indebted to this creditor in the amount of \$300.00. This debt has been delinquent for over two years and has been "charged off." Applicant states in his response to the SOR that he is "currently in negotiation to settle this debt."

SOR Allegation 1i: As of February 2000, applicant was indebted to this creditor for a past-due account in the approximate amount of \$160.00. He states in his response to the SOR that the debt has "been paid in full." However, he offered no documentary evidence to corroborate this statement. Based on the evidence presented, I find that applicant is still indebted to this creditor in the approximate amount of \$160.00.

SOR Allegation 1j: Applicant's current monthly income exceeds his current monthly expenses.

Applicant claims that he has been using the proceeds from an insurance settlement that resulted from an automobile accident involving his wife to pay off his debts. However, as noted above, he offered no independent proof that he has satisfied any of the aforementioned debts.

According to applicant, his financial difficulties began in 1998 when his wife had to stop working because of health problems. It is noted, however, that at least some of his income tax debt became delinquent prior to his wife's inability to work.

POLICIES

Enclosure 2 of the Directive sets forth Guidelines (divided into conditions that could raise security concerns and conditions that could mitigate security concerns) which must be followed by the Administrative Judge. Based on the foregoing Findings of Fact, the following conditions are applicable:

Financial Considerations

Disqualifying Conditions:

1. A history of not meeting financial obligations.
2. Inability or unwillingness to satisfy debts.

Mitigating Conditions:

None.

CONCLUSIONS

The evidence establishes that applicant has nine long-standing, past-due debts totaling over \$6,000.00, and that except for a garnishment of his wages that reduced one tax debt, applicant has taken no action toward satisfying them. These facts reflect adversely on applicant's judgment and reliability.

Applicant claims that he has satisfied a number of the debts in question and is negotiating the settlement of others, but he offered absolutely no evidence to support his claims. The fact that he submitted eight pages of documents to support his statements about his work experience, educational pursuits, and membership in the Knights of Columbus, leads me to conclude that this failure was not a mere oversight on applicant's part, but rather was due to the fact he has no evidence to offer corroborating his alleged satisfaction of the debts.

In view of applicant's long-standing financial delinquencies, and the lack of any evidence that would suggest his financial situation is likely to significantly improve any time soon, it is not clearly consistent with the national interest to grant him access to classified information at the present time.

FORMAL FINDINGS

PARAGRAPH 1: 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.

Joseph Testan

Administrative Judge

1. The account was referred to collection, and allegedly the debt now stands at \$3,114.91. Because the validity of the increase in debt has not been established, I find that applicant is indebted in the original amount owed, i.e., \$2,584.65.
2. In a signed, sworn statement dated February 4, 2000, he stated that the dentist "was supposed to have taken care of this bill by getting his work precertified by my dental insurance." In his response to the SOR, applicant stated that this debt resulted from the "dentist's refusal honor (sic) his agreement as a preferred provider to discount his services."