

DATE: April 3, 2002

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 01-22048

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

Marc Curry, Esq., Department Counsel

FOR APPLICANT

Pro Se

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 (as amended by Executive Orders 10909, 11328 and 12829) and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992 (as amended by Change 4), issued a Statement of Reasons (SOR), dated November 26, 2001, to the 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 the Applicant. DOHA recommended referral to an Administrative Judge to conduct proceedings and determine whether clearance should be granted, continued, denied or revoked. The SOR was based on: 1) financial considerations (guideline F) related to unresolved financial delinquencies; 2) personal conduct (guideline E) due to her failure to report a 1976 larceny offense on a January 1981 employment application, falsification of a January 1981 statement presented to her employer, and the omission of relevant delinquent accounts from November 1998 and February 2000 security clearance applications; and 3) criminal conduct (guideline J) on the basis the deliberate omission of material facts from a security clearance application violates Title 18, Section 1001, of the United States Code.

On December 19, 2001, Applicant responded to the allegations set forth in the SOR. By letter dated December 15, 2001, she requested a hearing before a DOHA Administrative Judge. The case was assigned to me on January 29, 2002. Pursuant to formal notice dated January 31, 2002, the hearing was scheduled for February 28, 2002. On February 23, 2002, Department Counsel requested a continuance of the hearing due to assigned Counsel's unavailability on February 26, 2002, due to a medical emergency. A brief continuance was granted, and on March 1, 2002, an amended notice was issued scheduling a hearing for March 11, 2002.

On March 4, 2002, Applicant requested a continuance of her hearing until April 2002, as she would be unavailable on March 11, 2002, due to medical treatment for a close family member. Absent any documentation confirming medical care, Applicant was advised she would be expected to appear at the hearing as scheduled. No confirmation was received and Applicant appeared for the hearing on March 11, 2002. At the hearing, the Government submitted six exhibits, which were entered into the record without any objections. Applicant testified on her behalf as well as submitted eight

character reference letters, which were marked collectively and entered into the record as Exhibit A. With the receipt on March 19, 2002, of the transcript of the hearing, the case is ripe for a decision.

FINDINGS OF FACT

After a thorough review of the evidence, and on due consideration of the same, I render the following findings of fact:

Applicant is a 49-year-old painter who was employed by the same defense contractor (company A) from December 1976 to January 2002 when she was laid off. Applicant is subject to recall if the adjudication of her clearance is favorable.

At 23 years of age, Applicant was arrested for larceny in the fourth degree (shoplifting) in mid-April 1976. When interviewed by a Defense Security Service (DSS) special agent in September 2001, Applicant maintained she had no recollection of the offense. At her hearing, she was able to recall the circumstances of the offense, testifying another person had placed sunglasses in her carriage without her knowledge. She forfeited \$75 bond.

In December 1976, Applicant went to work for company A. For reasons not apparent in the record, Applicant's employment was terminated in or before January 1981. [\(U\)](#) Seeking reinstatement with rights as a painter, Applicant in mid-January 1981 executed an application for employment with company A on which she responded negatively to whether she had ever been convicted or had a pending action for any violation of any federal law, state law, country or municipal law, regulation or ordinance. Applicant did not report her larceny offense as she did not consider herself to have been convicted of a criminal offense. Five days after she executed her application for reinstatement, Applicant signed a statement in which she certified she had not been convicted of any violations beyond what was indicated on her job application.

Over the last thirty years, Applicant has been involved off and on in a live-in relationship with the same man. While their relationship has been marked by periods of discord and separation due, at least in part, to abuse by him of Applicant, they have been together enough for him to qualify as a common law spouse. When they are together, he is responsible for half of the household expenses. During their periods of separation, most of which have been in the last six years, he provided no financial contribution. Unable to meet all of her expenses and debt repayments on her income alone, Applicant fell behind in her financial obligations when they were separated in the mid to late 1990s. Accounts were charged off and/or placed for collection, and remain unpaid, as follows:

Circa October 1994, Applicant and her common law spouse purchased on credit a television and video cassette recorder (VCR) from a local appliance retailer (debt #1). Although the electronic equipment was purchased on Applicant's credit card, her live-in common law spouse had promised to pay half of the cost. Applicant stopped paying on the account sometime prior to March 1998, and an outstanding balance of \$2,307 was charged off and placed for collection.

Between 1997 and 1998, Applicant incurred \$259 in cellular telephone charges (debt #2) which she failed to address. Her cellular phone service was cut off, and the debt was placed for collection in February 1999.

Applicant's revolving charge account with a retailer, delinquent since 1995, was charged off in March 1998 in the amount of \$252. In March 2001, a then outstanding balance of \$384 (debt #3) was placed for collection.

Circa June 1998, Applicant signed a contract for a home study course costing \$675 (debt #4). Her adult son promised to pay for the course since it was his idea. Applicant elected not to take the course and attempted to cancel by calling prior to the deadline. Advised she would have to request cancellation in writing, Applicant testified at the hearing she could not recall whether or not she had ever followed up. She made no payment toward the debt, and in January 1999, the account was placed for collection. In response to requests for payment, Applicant told the collection agent she had canceled the course.

In June 1995, Applicant opened a revolving charge with a nationwide retailer. A \$16 balance (debt #5) was written off by the creditor in September 1998.

Circa April 1998, a tax lien was placed against Applicant in the amount of \$425 for delinquent property taxes. On her

satisfaction of the amount, the lien was released.

Required to obtain a security clearance for her duties with company A, Applicant executed a security clearance application (SF 86) on November 5, 1998. Applicant responded affirmatively to questions 38 ["In the last 7 years, have you ever been over 180 days delinquent on any debt(s)?"] and 39 ["Are you currently over 90 days delinquent on any debt(s)?"], disclosing the unpaid appliance store debt (debt #1) of approximately \$2,000 for the purchase of the television and video cassette recorder. At the time, Applicant was aware that a tax lien had been filed against her, (2) debt #3 had been charged off in March 1998, that she was late in her wireless phone services and had made no payments on the training course debt. (3) While Applicant submits she canceled the course within the time specified, she testified she had been told cancellation had to be in writing, and she could not recall whether she had ever written to the creditor. Whereas her account was turned over for collection in January 1999, it can reasonably be inferred that Applicant owed the debt as of the time she executed the SF 86, but it is not clear whether she was more than ninety days delinquent on the account. Applicant's claim to having had no knowledge of debt #5 is accepted. With regard to those known delinquencies not listed on the SF 86, Applicant has inconsistently claimed that she listed what she could recall (Ex. 3); there was no room on the form to list other debts, but if she had been asked she would have said that she had more debt (Transcript p. 68); she did not believe she had those debts (#2 and #3) at the time she executed the SF 86 (Transcript p. 70); she forgot to list the tax lien. Applicant's failure to provide a consistent, credible explanation leads me to conclude her omissions were deliberate.

In April 1999, a tax lien in the amount of \$1,153.00 was placed against Applicant because of unpaid property taxes. In February 2000, Applicant completed another SF 86, this one electronically generated. She again responded "No" to question 36 asking whether any liens had been filed against her in the last seven years, and answered "Yes" to questions 38 and 39. She reported only debt #1 in answer to 38 and 39, even though other debts remained unpaid, due to financial constraints caused by Applicant receiving no aid from her common law spouse. Applicant having secured a restraining order against him for abuse, they lived apart during the 1999/00 time frame. The \$675 debt for the home study course had been placed for collection in January 1999. The unpaid balance (\$259) of Applicant's closed cellular phone account had been referred for collection in February 1999. Nor had she made any payments on known delinquent debts #1 or #3. She elected to report only that debt disclosed on her initial SF 86.

In 1999 or 2000, Applicant obtained a telephone calling card from a long distance carrier in order to call relatives residing in another state. Applicant gave the calling card to her daughter, who was then fifteen or sixteen years of age, as she wanted her to be able to call home in an emergency. (4) Without Applicant's knowledge, her daughter and her niece incurred approximately \$2,161 (debt #6) in telephone charges on her calling card over the course of a week to a month. When Applicant received her phone bill reflecting the charges, she confronted her daughter, who admitted she and her cousin had made calls to a distant state. Applicant notified the long distance provider, who advised her to make a copy of the bill and send it to them. Applicant did not do so as her daughter did not have the financial means to pay the bill and Applicant had no intent of paying it for her. The creditor placed an outstanding balance of \$2,161 for collection in ay 2001.

In 2000, Applicant began to rely on credit to pay some of her bills. In about April 2000, Applicant opened three individual revolving charge accounts through different lenders. A revolving charge account on which she was extended high credit of \$293 was charged off in June 2000 with a \$810 balance (debt #7) outstanding. In August 2000, a \$444 balance (debt #8) owed on another credit card was written off to profit and loss. In September 2000, an account on which she had been extended \$1,048 in credit, was canceled by the credit grantor when it reached a balance of \$1,050 with \$197 past due (debt #9). In May 2000, a tax lien of \$839 was filed against Applicant due to her failure to pay her property taxes. The tax lien was released following payment. As of September 2001, she was paying \$50.00 per month toward her property tax obligations. Following payment of insurance for medical services, Applicant owed \$50.00 to a local hospital. That amount (debt #10) was referred for collection in February 2001. Applicant ran up \$792.00 in unpaid charges (debt #11) for electric service to her residence. This past due balance was placed for collection in February 2001. Applicant's telephone at her residence has been disconnected by her local service provider in the past when she failed to pay the bill. As of September 2001, the account was open but had a delinquent balance of \$113.00 (debt #12).

Applicant made no effort to resolve her financial problems in 2001, even though she and her common law spouse resided together during that entire year.

During the course of Applicant's background investigation, the DSS ran a credit check in September 2001. The credit report revealed the aforesaid delinquencies, with the exception of debt #1. Other accounts were rated as pays as agreed, including Applicant's mortgage, an individual revolving retail charge account on which she had a \$301 balance, and a home furnishings account on which she owed \$256.

Two weeks later, Applicant was interviewed by a special agent of the Defense Security Service (DSS). Applicant denied any recollection of the circumstances surrounding the arrest, charge or bond forfeiture for larceny in the fourth degree. Applicant indicated that she had received mental health counseling regarding relationship/domestic issues from 1995 or 1996 to September 2000. Regarding those accounts reported as delinquent on her credit report, Applicant acknowledged she had made no effort to repay her \$2000 debt for the television/VCR since sometime between 1996 and 1999. While she expressed her intent to pay the debt in full, she was not certain as to when she would be able to do so. Applicant denied any knowledge of debts #5 or #12, but indicated she would pay them as soon as possible.⁽⁵⁾ She claimed not to recognize the \$675 in unpaid training costs (debt #4), which had been referred for collection in January 1999. Applicant expressed an intent to pay debt #4 at some point in the future, but only if the debt was proven legitimate and she was legally required to pay it. Applicant related she had no recall of her remaining debts until she reviewed her credit report. She indicated she would pay debts #3, #7, and #10 as soon as possible, with the others being satisfied at some point in the future depending on her means. Concerning debt #6, Applicant claimed to have no recall as to how her name got associated with the contract for what she maintained were cellular phone charges incurred by her daughter and her friend.⁽⁶⁾ She expressed a hope to be able to pay the debt in the future by obtaining the monies from her daughter and daughter's friend. Applicant denied any intent to conceal any of the delinquent financial information from the Government, maintaining she had forgotten to list the tax liens on her security clearance and listed what she had recalled. During the course of her subject interview, Applicant executed a Personal Financial Statement in which she reported a monthly net remainder of \$133.30 after payment of half of the household's living expenses, including her mortgage, and \$10.00 on a \$301 charge account balance with a retailer.

Applicant earned \$28,000 in 2001. With her common law spouse living with her for fifteen months as of the hearing, he was providing her financial support. Applicant had made no payments toward any of her delinquent debts as of March 2002 or taken any steps to make arrangements for repayment with her creditors as she does not presently have the funds to do so. Laid off from her position with company A in early January 2002, Applicant has been collecting unemployment compensation of \$270 per week.

Applicant is well regarded by those with whom she worked at company A for her conscientious performance and pleasant demeanor. She has a reputation for honesty and trustworthiness among her friends and coworkers.

POLICIES

The adjudication process is based on the whole person concept. All available, reliable information about the person, past and present, favorable and unfavorable, is to be taken into account in reaching a decision as to whether a person is an acceptable security risk. Enclosure 2 to the Directive sets forth adjudicative guidelines which must be carefully considered according to the pertinent criterion in making the overall common sense determination required. Each adjudicative decision must also include an assessment of the nature, extent, and seriousness of the conduct and surrounding circumstances; the frequency and recency of the conduct; the individual's age and maturity at the time of the conduct; the motivation of the individual applicant and extent to which the conduct was negligent, willful, voluntary or undertaken with knowledge of the consequences involved; the absence or presence of rehabilitation and other pertinent behavioral changes; the potential for coercion, exploitation and duress; and the probability that the circumstances or conduct will continue or recur in the future. See Directive 5220.6, Section 6.3 and Enclosure 2, Section E2.2. Because each security case presents its own unique facts and circumstances, it should not be assumed that the factors exhaust the realm of human experience or that the factors apply equally in every case. Moreover, although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility or emotionally unstable behavior. See Directive 5220.6, Enclosure 2, Section E2.2.4.

Considering the evidence as a whole, this Administrative Judge finds the following adjudicative guidelines to be most

pertinent to this case:

Financial Considerations

E2.A6.1.1. The Concern: 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.

E2.A6.1.2. Conditions that could raise a security concern and may be disqualifying include:

E2.A6.1.2.1. A history of not meeting financial obligations

E2.A6.1.2.3. Inability or unwillingness to satisfy debts

E2.A6.1.3. Conditions that could mitigate security concerns include:

E2.A6.1.3.3. 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).

Personal Conduct

E2.A5.1.1. The Concern: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

E2.A5.1.2. Conditions that could raise a security concern and may be disqualifying also include:

E2.A5.1.2.2. The deliberate omission, concealment, or falsification 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.

E2.A5.1.3. Conditions that could mitigate security concerns include:

None.

Criminal Conduct

E2.A10.1.1. The Concern: A history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness.

E2.A10.1.2. Conditions that could raise a security concern and may be disqualifying include:

E2.A10.1.2.1. Allegations or admission of criminal conduct, regardless of whether the person was formally charged

E2.A10.1.2.2. A single serious crime or multiple lesser offenses

E2.A10.1.3. Conditions that could mitigate security concerns include:

None.

Under the provisions of Executive Order 10865 as amended and the Directive, a decision to grant or continue an applicant's clearance may be made only upon an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination required, the Administrative Judge can only draw those inferences and conclusions which have a reasonable and logical basis in the evidence of record. In addition, as the trier of fact, the Administrative Judge must make critical judgments as to the credibility of witnesses. Decisions under the Directive include consideration of the potential as well as the actual risk that an applicant may

deliberately or inadvertently fail to properly safeguard classified information.

Burden of Proof

Initially, the Government has the burden of proving any controverted fact(s) alleged in the Statement of Reasons. If the Government meets its burden and establishes conduct cognizable as a security concern under the Directive, the burden of persuasion then shifts to the applicant to present evidence in refutation, extenuation or mitigation sufficient to demonstrate that, despite the existence of criterion conduct, it is clearly consistent with the national interest to grant or continue her security clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. Where the facts proven by the Government raise doubts about an applicant's judgment, reliability or trustworthiness, the applicant has a heavy burden of persuasion to demonstrate that she is nonetheless security worthy. As noted by the United States Supreme Court in *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988), "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security. See Enclosure 2 to the Directive, Section E2.2.2.

CONCLUSIONS

Having considered the evidence of record in light of the appropriate legal precepts and factors, and having assessed the credibility of the Applicant, I conclude the following with respect to guidelines F, E and J:

Involved off and on in a live-in relationship for the last thirty years, Applicant began to experience financial difficulties in the mid to late 1990s caused, at least in part, by the absence of financial support from her common law spouse when they were living apart. In March 1998, Applicant stopped paying for a television and VCR purchased in about October 1994. An outstanding balance of \$2,307 was subsequently charged off and placed for collection. About \$259 in unpaid cellular phone charges was placed for collection in February 1999. A revolving charge with a retailer, which had been delinquent since 1995, was placed for collection in March 2001 in the amount of \$384. Electing to forego a training opportunity that she had signed up for, Applicant did not follow the creditor's directions regarding canceling the program and a \$675 unpaid balance was placed for collection in January 1999. A minor \$16 balance on Applicant's account with a major retailer was written off in September 1998. Tax liens were placed against Applicant in 1998, 1999 and 2000 for failure to pay property taxes amounting to \$2,417 in the aggregate. In 2000, Applicant began to rely on credit to pay her living expenses. Three individual revolving charge accounts opened by Applicant in April 2000 fell delinquent and were charged off over the next six months with balances of \$810, \$444, and \$1,050, respectively. Applicant's daughter and niece ran up \$2,161 in long distance telephone charges on Applicant's telephone calling card in about 2000. Although Applicant was not aware of the charges until she received her phone bill, she is legally responsible for the balance. Following payment of insurance for medical services, Applicant owed \$50.00 to a local hospital. She ran up \$792.00 in unpaid charges for electric service to her residence. Applicant's telephone at her residence has been disconnected by her local service provider in the past when she failed to pay the bill. As of September 2001, the account was open but had a delinquent balance of \$113.00.

As of March 2002, Applicant's aggregate delinquent indebtedness amounted to about \$9,061. Applicant maintains she owes only half of debts #1 and #11, debt #12 belongs to her common law spouse alone, her daughter and niece incurred the long distance telephone calling card obligation, and she canceled the training so is not responsible for debt #4. Whereas those charges were all incurred under her name, Applicant remains legally liable for all these delinquencies. Under guideline F, the security eligibility of an applicant is placed into question when the applicant is shown to have a history of excessive indebtedness, recurring financial difficulties, or a history of not meeting financial obligations. Disqualifying conditions (DC) E2.A6.1.2.1. (a history of not meeting financial obligations) and E2.A6.1.2.3. (inability or unwillingness to satisfying debts) must be considered in evaluating Applicant's security worthiness.

With respect to the corresponding mitigating conditions (MC), her financial difficulties are too recent and extensive to fall within E2.A6.1.2.1. (behavior was not recent) or E2.A6.1.3.2. (isolated incident). Even ongoing financial difficulties can be mitigated where the financial problems were caused by factors largely beyond a person's control (See MC E2.A6.1.3.3.). The evidence reflects Applicant received no financial assistance from her common law spouse when they

resided apart, and that at least one of their separations was court-mandated as a result of his abuse of her. MC E2.A6.1.3.3. applies in explanation of her falling behind on her accounts in the first place. However, security concerns persist because of her ongoing disregard of her legitimate indebtedness. From 2001 on, Applicant and her common law spouse have resided together. Based on her income alone, Applicant had a monthly remainder as of September 2001 of \$133.30 after payment of expenses. She promised the DSS agent she would repay debts #3, #5, #7, #10, #12 as soon as possible, yet she had not even contacted the creditors by March 2002. Clearly, Applicant did not have the financial means to satisfy her indebtedness in full at that time, but it does not justify her failure to contact her creditors to ascertain whether they would be willing to accept installment or other partial payments. With her layoff from her position at company A in early January 2002, Applicant's financial status appears even more tenuous than it was in 2001 when her annual earnings amounted to \$28,000. While the Directive does not require one be debt free, Applicant has failed to demonstrate that she has the willingness and/or present monetary means to address those delinquent financial obligations for which she remains responsible. Adverse findings are warranted with respect to subparagraphs 1.a., 1.b., 1.c., 1.d., 1.e., 1.f., 1.g., 1.h., 1.i., 1.j., 1.k., 1.l. and 1.m. of the SOR.

The Government's case under guideline E (personal conduct) is based on Applicant's failure to report her 1976 fourth degree larceny on an application and a statement which she completed in 1981 when seeking reinstatement to a painter's position at company A, and more recently, on Applicant's failure to report some financial delinquencies on her November 1998 and February 2000 security clearance applications. Applicant has denied deliberate falsification of any of these documents. With regard to the 1981 employment application, the relevant question which Applicant is alleged to have falsified is whether Applicant had ever been convicted or had any pending action for any violation of any federal law, state law, county or municipal law, regulation or ordinance. Applicant testified at the hearing she did not think the larceny offense, for which she forfeited \$75 bond, qualified as a criminal conviction. Favorable findings are returned as to subparagraphs 2.a. and 2.b., as her denial of any intentional falsification of those documents was accepted.

Concerning her failure to accurately disclose her financial delinquencies on her security clearance applications, Applicant reported debt #1 on both the November 1998 SF 86 and the February 2000 SF 86. By November 1998, Applicant knew she was late in her cellular phone payments and that her account with a retailer had been charged off in March 1998. By February 2000, the \$675 training course debt had been in collection for a year, so that debt should have been listed on the more recent SF 86. Applicant provided inconsistent explanations for the omissions (e.g., no room on the questionnaire; failure to recall the debts). Although not alleged by the Government, Applicant responded "No" to any tax liens, even though tax liens had been filed against her in 1998 and 1999. Her failure to report the tax liens on her security clearance applications undermines her credibility with regard to her failure to list her seriously delinquent accounts #2 and #3 on both applications and #4 on her February 2000 application. With Applicant found to have misrepresented the extent of her financial delinquencies on her SF 86 forms, DC E2.A5.1.2.2. of the personal conduct guideline applies.

During a September 2001 interview, Applicant did not deny some of her financial delinquencies, yet she was not completely candid with the DSS agent about other debts or the extent to which she knew of her indebtedness. It stretches credulity she lacked recall of most of her debts until she reviewed her credit report. Applicant told the DSS agent that she did not recognize the \$675 owed for training that she never recalled receiving. Yet, at the hearing, she admitted she had been contacted by the collection agent in connection with the training course debt. While MC E2.A5.1.3.3. (the individual made prompt, good faith efforts to correct the falsification before being confronted with the facts) has potential applicability in cases where an applicant corrects during a DSS interview misrepresentations made on an SF 86, there is no evidence Applicant volunteered the adverse credit information upfront, before being confronted with the credit report. Applicant testified credibly at the hearing about her financial problems, admitting at the hearing that she has made no effort to satisfy her past due accounts. Yet, concerns persist for her judgment, reliability and trustworthiness because of her failure to provide a consistent, believable explanation for why she did not fully disclose her indebtedness on her security clearance applications. Adverse findings are returned with respect to subparagraphs 2.c. and 2.d. of the SOR.

Furthermore, by certifying falsely that her statements on the security clearance applications were "true, complete and correct to the best of [her] knowledge and belief," Applicant violated Title 18, Section 1001 of the United States Code.

(7) Under guideline J, criminal conduct, the fact that Applicant has never been formally charged with a violation of that

statute does not preclude its consideration for security purposes, as any criminal conduct is potentially disqualifying. DC E2.A10.1.2.1. (allegations or admission of criminal conduct, regardless of whether the person was formally charged) as well as E2.A10.1.2.2. (a single serious crime) must also be considered in evaluation of Applicant's security worthiness.

As noted, Applicant continues to deny any intentional falsification or concealment of information from her November 1998 and February 2000 security clearance applications. While security clearance decisions are not designed to punish applicants for past wrongdoings, rehabilitation of such serious criminal conduct requires a showing of remorse and a demonstrated track record of reform. Applicant's reputation for honesty and trustworthiness among her friends and coworkers is noted, but it does not mandate a favorable outcome. While her conduct was most likely motivated by her desire (and need given her financial status) to retain her position with company A, the Government can ill afford having individuals decide for themselves the timing and extent of disclosure. Subparagraph 3.a. is concluded against her as it is not clear that she is successfully rehabilitated.

FORMAL FINDINGS

Formal Findings as required by Section 3. Paragraph 7 of Enclosure 1 to the Directive are hereby rendered as follows:

Paragraph 1. Guideline F: 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

Subparagraph 1.e.: Against the Applicant

Subparagraph 1.f.: Against the Applicant

Subparagraph 1.g.: Against the Applicant

Subparagraph 1.h.: Against the Applicant

Subparagraph 1.i.: Against the Applicant

Subparagraph 1.j.: Against the Applicant

Subparagraph 1.k.: Against the Applicant

Subparagraph 1.l.: Against the Applicant

Subparagraph 1.m.: Against the Applicant

Paragraph 2. Guideline E: AGAINST THE APPLICANT

Subparagraph 2.a.: For the Applicant

Subparagraph 2.b.: For the Applicant

Subparagraph 2.c.: Against the Applicant

Subparagraph 2.d.: Against the Applicant

Paragraph 3. Guideline J: AGAINST THE APPLICANT

Subparagraph 3.a.: 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.

Elizabeth M. Matchinski

Administrative Judge

1. Applicant's security clearance applications, executed in 1998 and 2000, reflect no break in her employment with company A from December 1976. (See Exs. 1, 2). Applicant executed an application for employment in mid-January 1981 for reinstatement with rights as a painter. (Ex. 6).
2. Applicant responded "No" on the SF 86 to question 36 ["In the last 7 years, have you had a lien placed against your property for failing to pay taxes or other debts."]. Although the Government did not allege any falsification with respect to question 36, her credibility is undermined by her failure to report her tax lien on her SF 86.
3. Applicant has maintained she was unaware of the \$16 balance (debt #5) owed on her retail charge account and that she had made efforts to cancel the training course debt (debt #4) within the time specified for cancellation before charges would be incurred.
4. It is inferred from Applicant's testimony that Applicant's daughter was living with her adult brother, who apparently did not have long distance service at his residence.
5. In the case of the \$113 utility debt, Applicant expressed her belief the debt belonged to her common law spouse. She indicated she would pay it herself if he failed to do so.
6. Applicant's hearing testimony casts doubt on her claim during her DSS interview that she was unaware of some of her debts and failed to recall others. Regarding the calling card debt, Applicant testified at the hearing that she gave the card to her daughter and on receipt of the phone bill reflecting the substantial charges, she confronted her daughter. Of the training course debt, Applicant testified to making efforts to cancel it by calling the creditor. Given her contacts with the creditors, it is especially difficult to believe she lacked recall of these debts as of her DSS interview in September 2001.
7. Section 1001 of Title 18 of the United States Code provides in pertinent part:
 - (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully-
 - (1) falsifies, conceals, or covers up by any trick scheme, or device a material fact;
 - (2) makes any materially false, fictitious, or fraudulent statement or representation; or
 - (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;shall be fined under this title or imprisoned not more than 5 years, or both.