

DATE: March 17, 2003

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 01-26675

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Melvin A. Howry, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Too many unanswered questions remain concerning applicant's period of financial irresponsibility. Clearance is denied.

STATEMENT OF THE CASE

On May 7, 2002, 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 May 18, 2002, 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 August 26, 2002. Applicant filed a response to the FORM on October 10, 2002. Department Counsel did not object to applicant's response. The case was assigned to me on October 16, 2002.

FINDINGS OF FACT

Applicant is a 54 year old Technician.

With respect to SOR Allegations 1a, 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1k, 1l, 1m, and 1n, the evidence establishes that applicant (1) was indebted in the amounts alleged, and (2) all of the debts were delinquent as of September 2000.⁽¹⁾

Applicant filed a Chapter 7 bankruptcy petition in July 2001. His petition listed over \$123,000.00 in unsecured debt. All of the aforementioned debts were discharged in October 2001, with the possible exception of the \$10,175.01 state tax lien alleged in SOR Paragraph 1n. Applicant is disputing the tax lien, but states that if it is determined he owes the money, he will pay it.

According to applicant's various statements, his financial difficulties began after a cappuccino business he started failed after eight months, and they apparently continued due to "low paying jobs" (Exhibit 6). This resulted in applicant having to live off credit cards from approximately 1995 to 1998 (Exhibit 5).

Applicant states that "a return to gainful employment and discharge of debts through Chapter 7 bankruptcy has cleared the way for a much more productive life" (SOR Answer). His latest financial statement, dated May 2001, indicated that, excluding the debts that were subsequently discharged, applicant had a positive cash flow.

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.
3. Inability or unwillingness to satisfy debts.

Mitigating Conditions:

None.

CONCLUSIONS

The evidence establishes that applicant accumulated such a large amount of unsecured debt in the late 1990s that, in his own words, he had "no ability to pay" his creditors. As a result, in July 2001 he sought relief in bankruptcy court, and in October 2001 most, if not all, of his debts were discharged by the bankruptcy court. Applicant's history of failing to satisfy his financial obligations reflects adversely on his judgment and reliability, and strongly suggests that he cannot now be relied upon to safeguard classified information.

Applicant blames his financial problems on a failed business and low paying jobs. Given the extremely large amount of unsecured debt he accrued, these uncorroborated general statements, with little or no facts to back them up, do not adequately explain his years of financial irresponsibility, and accordingly, leave me unable to conclude that his financial irresponsibility is unlikely to recur. Unanswered questions remain, including how he financed a one month "pleasure" trip overseas in 1997, during which time he was, by his own admission, living off credit cards (Exhibit 4). These unanswered questions leave doubts about applicant's security-worthiness, and under the "clearly consistent with the national interest" standard for issuing security clearances, these doubts must be resolved against applicant.

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 Government failed to offer any *credible* evidence that applicant is indebted as alleged in SOR Paragraph 1j. Accordingly, this subparagraph is found for applicant.