

DATE: December 29, 2003

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-06087

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Melvin A. Howry, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

In view of the manner in which applicant accrued such a large amount of unsecured debt, and his long-standing failure to make any meaningful progress toward repaying it, it is not clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

STATEMENT OF THE CASE

On January 31, 2003, 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 March 7, 2003, 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 May 13, 2003. Applicant filed a response to the FORM on an unknown date. The case was assigned to me on July 10, 2003.

FINDINGS OF FACT

Applicant is a 47 year old mechanic employed by a defense contractor.

SOR Allegation 1a: Applicant owes Discover Financial at least \$914.00 on an account that was charged off by the creditor. In his response to the FORM, applicant stated that this debt was paid on May 31, 2003. However, he presented no documentary evidence to corroborate his statement.

SOR Allegation 1b: Applicant owes WM Finance at least \$191.21 on an account that was charged off by the creditor.

SOR Allegation 1c: Applicant owes Associates/Citi Bank at least \$2,014.66 on an account that was charged off by the creditor.

SOR Allegation 1d: Applicant owes Household Bank at least \$183.46 on an account that was placed in collection and/or charged off by the creditor.

SOR Allegation 1e: Applicant is indebted to Charter Communications in the amount of \$108.00. This account went delinquent and was turned over to a collection agency.

SOR Allegation 1f: Applicant owes HFC at least \$5,286.65. This debt is past-due. The creditor has closed the account.

SOR Allegation 1g: As of May 30, 2002, applicant owed his State's taxing authority a total of \$1,479.72 in taxes, penalties and interest for tax years 2000 and 2001. As of March 2003, applicant still owed at least \$1,179.00. In his response to the FORM, applicant stated that this debt was paid. He offered no other details, such as when or how it was paid.

SOR Allegation 1h: At the time the SOR was issued, applicant was indebted to the IRS in the amount of \$1,800.00 for tax years 2000 and 2001. In his response to the FORM, applicant stated that this debt has been paid. He offered no other details, such as when or how it was paid.

SOR Allegation 1i: A Personal Financial Statement (PFS) prepared by applicant on December 13, 2002 indicates he has a positive monthly cash flow of \$68.00.

In his response to the SOR, applicant stated that he took out a loan from his 401K account, and "all debt will be satisfied by 1 April 2003." Despite this statement, applicant has not satisfied all of his debts.

Applicant's financial difficulties go back to at least 1997 when, by his own admission, he made charges on his credit cards without realizing "how much (he) had actually charged on these accounts" (Exhibit 6). He utilized the services of a consumer credit counseling company (CCC) in the late 1990s to help him repay his past-due debts. It is unclear from the record just how much progress he made in repaying his debts. It is clear, however, that he is still indebted to some of the same creditors he was attempting to repay through the CCC in the late 1990s.

In late 2002, applicant again sought the services of a CCC to help him repay his past-due debts. Since applicant was still indebted to some of the same creditors that were part of his previous CCC payment plan, it is reasonable to conclude that the previous CCC plan was not successful. A client progress report in the record indicates that applicant has made one or more payments pursuant to the 2002 plan.

POLICIES

Enclosure 2 of the Directive sets forth Guidelines (divided into Disqualifying Factors and Mitigating Factors) which must be followed by the Administrative Judge. Based on the foregoing Findings of Fact, the following Disqualifying Factors and Mitigating Factors are applicable:

Financial Considerations

Disqualifying Factors

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

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

Mitigating Factors

None.

CONCLUSIONS

The evidence establishes that applicant's financial difficulties, which by his own admission were caused by his overuse of his credit cards, began in or before 1997. The evidence further establishes that, despite receiving assistance from a CCC in the late 1990s, applicant is still indebted to some of the same creditors he was indebted to in the 1990s. Applicant's history of financial difficulties reflects adversely on his judgment, reliability and trustworthiness, and suggests he cannot be relied upon to safeguard classified information.

In his response to the FORM, applicant stated that his debt to Discover Financial and his two tax debts have been satisfied in full. Except for stating that the debt to Discover Financial was satisfied "as of May 31, 2003," applicant failed to provide any details about his alleged satisfaction of these debts. This fact, together with his failure to offer any documentation to corroborate his statement that the debts have been paid, leaves me unable to conclude that these debts have in fact been satisfied. *See*, ISCR Case No.01-03695 (October 16, 2002) at p. 4.

With respect to the payment plan he had set up with the assistance of a CCC in late 2002, this is a step in the right direction. It is far too soon, however, to conclude that this payment plan will be successful, particularly since his earlier payment plan was unsuccessful. And, based on the limited record in this case, ⁽¹⁾ I cannot determine if this payment plan constitutes "a good-faith effort to repay overdue creditors or otherwise resolve debts." Accordingly, Mitigating Condition E2.A6.1.3.6 is not applicable.

In view of the manner in which applicant accrued such a large amount of unsecured debt, and his long-standing failure to make any meaningful progress toward repaying it, it is not clearly consistent with the national interest to grant him access to classified information.

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. As an example of the limited record, I cannot determine if applicant sought the services of the CCC in 2002 before or after he received the financial interrogatories (Exhibit 7) from DOHA.