

DATE: May 14, 2003

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-27315

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

Rita C. O'Brien, Esq., Department Counsel

FOR APPLICANT

Thomas Albin, Esq.

SYNOPSIS

As of February 2003, Applicant owes about \$60,000.00 in the aggregate on accounts that fell delinquent in 1998/99 when he was laid off from his defense contractor job. He has made some effort of late to address his indebtedness, submitting half of the \$291.97 balance owed on one credit card account, and contacting an attorney regarding a planned Chapter 7 bankruptcy filing. On their marriage in September 2002, Applicant's spouse assumed responsibility for paying the family's finances, and there is no indication of extravagant spending or new delinquencies. Yet with the bankruptcy not yet filed and with the imminent loss of his spouse's income, it is too soon to safely conclude that Applicant's financial problems are safely of the past. Clearance is denied.

STATEMENT OF 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), November 5, 2002, 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 financial considerations (guideline F) related to unresolved financial delinquencies, including an unpaid deficiency judgment of \$34,024.38 following the foreclosure of his home in May 1999.

On November 21, 2002, Applicant responded to the SOR allegations and requested a hearing before a DOHA Administrative Judge. The case was assigned to me on January 21, 2003. Pursuant to formal notice dated January 29, 2003, the hearing was scheduled for February 26, 2003. At the hearing held as scheduled, the Government submitted four documentary exhibits, which were admitted into the record. Counsel for Applicant presented one exhibit, which was entered without an objection, as well as the testimonies of Applicant and his spouse. The transcript of the hearing was received by DOHA on March 7, 2003.

The record was held open following the hearing until March 14, 2003, for Applicant to submit documentation regarding a planned bankruptcy filing. By letter of March 7, 2003, Applicant's counsel forwarded a copy of a letter from the attorney retained to represent Applicant in a Chapter 7 filing. Department Counsel having indicated on March 10, 2003, that the Government had no objection thereto, the letter from the bankruptcy attorney was marked and admitted as Exhibit B. [\(1\)](#)

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 47-year-old grinder, who worked for his current employer (company A), a defense contractor, for almost twenty-three years when he was laid off in March 1998. Rehired in July 2000, Applicant was granted a security clearance for his duties. He seeks to retain his clearance which is required for his continued employment at the company.

When Applicant was 16 and in the ninth grade, he dropped out of school. Shortly after he turned 19, Applicant was hired in May 1975 as a chipper/grinder (third step) for company A. With the exception of a couple of layoffs (for a few months in summer 1975 and for about five months in 1988), Applicant spent the next twenty-three years at the company, working his way up to the position of grinder first class. Although Applicant remained single, he was involved in a live-in relationship from 1988 to July 2000 with a woman who had two children. Household expenses were shared between them. For the most part, Applicant was current in his financial obligations, although he failed to pay his local motor vehicle taxes for tax years 1990, 1994, 1995, and 1997 when he had the financial means to pay them (SOR subparagraph 1.d., hereafter debt #1). [\(2\)](#)

Despite his seniority and status as a first class chipper/grinder, Applicant was laid off by company A in March 1998. At the time of the layoff, he was earning from \$15.00 to \$16.00 per hour plus overtime at time and a half on Saturdays and double time on Sundays. For a couple of months, Applicant collected unemployment, netting about \$289.00 per week.

In June 1998, Applicant got a temporary job as an expediter at \$10.10 per hour with a local aerospace company. While Applicant managed to get his position extended twice, he received no benefits as a temporary worker. Circa early 1999, Applicant was laid off from the job. He collected unemployment at \$200.00 per week net, for the next four or five months. In about May 1999, Applicant began selling vacuums on commission. While there were some months where he earned \$300.00 per week, other weeks he took home no more than \$50.00. Not earning enough for the amount of work and travel required, Applicant quit the job in about December 1999. The following month, he began working in the mold room for a local company, at an hourly wage of \$9.25.

Due to the lack of income following his layoff from company A in March 1998, Applicant stopped payment on several financial obligations, and accounts were closed or placed for collection as follows:

- Circa late 1998, Applicant stopped payment of his \$50,000.00 mortgage, which he had taken out in October 1991 (SOR subparagraph 1.a., hereafter debt #2), to be repaid at \$508.00 per month. The property was foreclosed on in May 1999, and sold at an auction. In early July 1999, the mortgage lender obtained a deficiency judgment against Applicant in the amount of \$34,024.38. [\(3\)](#) subparagraph 1.b., hereafter debt #3). Applicant's income tax refunds were intercepted twice in partial repayment of the debt, which had a balance of about \$1,290.00 as of November 2002. charge. In early January 1999, the lender obtained a civil judgment against Applicant in the amount of \$1,417.00 (SOR subparagraph 1.c., hereafter debt #4). Ordered by the court to repay the judgment at the rate of \$25.00 per week, Applicant paid off the debt. [\(4\)](#) A, Applicant managed to pay the balances as they became due, and his account was current with \$15.89 owed as of January 1998. By August 1999, the account was \$291.00 past due and closed by the creditor (SOR subparagraph 1.e., hereafter debt #5). payments and the car was repossessed circa early 2000. Since he had cosigned on the loan, Applicant was responsible for the deficiency balance of \$8,247.00 (SOR subparagraph 1.f., hereafter debt #6). hereafter debt #7). In January 2001, the account was purchased by another lender. Applicant made no payments on the debt, and it was referred for collection in the amount of \$3,310.00. as of January 2000.

[\(5\)](#)

The debt was charged off to profit and loss (SOR subparagraph 1.h., hereafter debt #8). made to the home telephone. Applicant was unable to keep up with a repayment plan established by the creditor, and a \$1,249.00 balance was charged off in 1999 (SOR subparagraph 1.i., hereafter debt #9). January 2000, the account was placed for collection in the amount of \$6,882.00 (SOR subparagraph 1.j., hereafter debt #10).

In July 2000, Applicant and his live-in girlfriend terminated their relationship. That same month, Applicant was recalled to work at company A. After two weeks of training, he was reinstated to the position of first class chipper/grinder. In conjunction with his return, Applicant completed a security clearance application (SF 86) on or about July 12, 2000, on which he responded affirmatively to questions 38 ["In the last 7 years, have you been over 180 days delinquent on any debt(s)?"] and 39 ["Are you currently over 90 days delinquent on any debt(s)?"], and indicated he owed \$42,795.00 on the mortgage foreclosure (debt #2) ⁽⁶⁾, \$11,641.00 in a title debt (debt #3), ⁽⁷⁾ and credit card debts of \$2,300.00 (debt #7) and \$5,000.00 (debt #8). ⁽⁸⁾

Rehired at a higher hourly wage than what he had earned prior to his layoff in March 1998, Applicant neglected his old delinquencies, as he needed an automobile to get to work. In late November/early December 2000, Applicant financed a 1993 model year sedan for about \$4,000.00, with repayment at \$50.00 per month.

In October 2000, while on temporary duty out-of-state for his employer, Applicant met his future spouse. In late December 2000, she moved in with Applicant and got a part-time job, earning some weeks only about \$100.00. In early 2001, she learned that Applicant had unresolved debts. Applicant's girlfriend suggested to him that he file for bankruptcy, but he did not pursue it as he thought bankruptcy would reflect poorly on him. Applicant made no payments on his old debts in 2001, a year in which he earned between \$35,000.00 and \$36,000.00 for his work with the defense contractor as he was concentrating on the "most critical bills" first. In November 2001, Applicant opened another credit card account in case of an emergency. He has been current in his payments on that credit card account. Circa late 2001/early 2002, Applicant's girlfriend began taking a more active role in seeing that bills were paid by calling his attention to his financial obligations.

During an investigation into Applicant's background, the Defense Security Service (DSS) ran a credit check in April 2002 which revealed Applicant had several outstanding delinquencies (\$291.00 on debt #5, \$8,247.00 on debt #6, \$3,310.00 on debt #7, \$6,291.00 on debt #10, \$2,692.00 on debt #3, \$1,249.00 on debt #9 and \$6,882.00 on debt #10) and had a judgment awarded to a local bank in January 1999 for \$1,417.00 for a delinquent personal loan (debt #4).

On June 7, 2002, Applicant was interviewed by a DSS special agent concerning his unresolved delinquencies, which he attributed to job layoff and lack of steady income. Applicant admitted owing \$441.58 in delinquent automobile taxes (debt #1), which he intended to pay "as soon as possible" so that he could re-register his automobile. In acknowledging debts #5, #7, #9, and #10, Applicant indicated he would be contacting the creditors (within 30 days with respect to debts #5 and #7), to set up repayment arrangements. Applicant did not dispute debt #3, which was being paid through interception of his federal income tax refunds, including his \$1,465.00 refund for tax year 2001, or debt #6. Applicant had no intent to take any action with respect to repayment of the \$8,247.00 balance owed on debt #6 due to the lack of available funds. Applicant disputed owing \$1,117.63 on judgment debt #4, as after he had paid the debt down to a small amount, the bank had agreed to write off the remaining balance. Asked by the DSS agent about the judgment awarded his mortgage lender to recover a foreclosure deficiency of \$34,024.38, Applicant indicated the property had been sold at an auction, but he had not been notified of any balance remaining. He expressed his intent to establish a repayment schedule so that the lender would not pursue formal collection action. Applicant explained he had not been able to make much of a dent in his delinquent accounts as he had been concentrating on buying a car and setting up a decent apartment for himself. During the interview, Applicant completed a personal financial statement in which he indicated he had a net monthly remainder of \$26.00 after payment of expenses and \$100.00 on debt #1.

On June 11, 2002, Applicant satisfied debt #1, paying his back motor vehicle taxes for tax years 1990, 1994, 1995, and 1997 to the town. ⁽⁹⁾ On July 29, 2002, Applicant paid \$120.72 to the town's tax collector, for the current taxes owed on his car and that used by his girlfriend. ⁽¹⁰⁾

In September 2002, Applicant and his girlfriend married and they opened a joint checking account. Applicant's girlfriend took over payment of their financial obligations.

On November 5, 2002, DOHA issued a SOR to Applicant, alleging outstanding delinquent debts totaling \$58,198.51. In response to the SOR, Applicant admitted the delinquent accounts, but indicated the \$441.58 in back motor vehicle taxes (debt #1) had been paid in full. Although Applicant had claimed during his interview of June 2002 that he had satisfied his judgment debt of \$1,117.63 (debt #4), he did not dispute the outstanding indebtedness when he responded to the SOR. A check of Applicant's credit in January 2003 confirmed Applicant had not paid the debts alleged in the SOR with the exception of #1 and #4.

At the suggestion of the attorney retained to represent him at his upcoming security clearance hearing, Applicant in December 2002 contacted a local attorney regarding a Chapter 7 filing to discharge him of liability for the old delinquencies, and paid him \$500.00 of his retainer fee. As of late February 2003, Applicant's petition for bankruptcy had not yet been filed, as Applicant had not provided the bankruptcy attorney with the supporting documentation required for the petition. A draft petition had been prepared for Applicant's review based on a credit report. The bankruptcy attorney expects Applicant's outstanding delinquent debts (#2, #3, #5, #6, #7, #8, #9 and #10) to be discharged under Chapter 7.

The day before his security clearance hearing, Applicant's spouse mailed a check in the amount of \$145.00 in partial repayment of debt #5, which was all they could afford. Advised by the creditor that partial payment would not be acceptable, Applicant and his spouse figured their check would not be returned to them. Applicant and his spouse intend to pay the debt in full rather than include it in his bankruptcy.

As of late February 2003, Applicant's spouse had completed Applicant's federal income tax return for tax year 2002, a year in which Applicant earned about \$39,000.00. Applicant expects his refund to be intercepted in full satisfaction of debt #3.

Applicant worked substantial overtime (sometimes seven days per week) at an hourly wage of \$18.14 with time and a half on Saturdays and double time on Sundays in an effort to get caught up financially. After payment of \$500.00 of the \$700.00 to \$800.00 in retainer fees for his bankruptcy attorney, Applicant and his spouse had about \$600.00 to \$700.00 in their checking account as of February 2003. Applicant's spouse anticipated the next few months to be "tough" financially, as her last day on the job as a part-time mess attendant (10 to 20 hours per week at \$11.01 per hour) was that Friday. Along with the loss of her job, she was also scheduled for surgery in early March 2003, which would leave her unable to work for eight to ten weeks. Applicant's spouse has a student loan obligation of almost \$5,000.00, payment of which was deferred for one year based on hardship.

Applicant and his spouse reside in a rental unit costing them \$600.00 per month. Their cars, a 1995 compact vehicle and a 1993 mid-size sedan, are paid for. They go out to eat about once a month. Applicant and his spouse have been current in their living expenses, with the exception of the telephone, which was three weeks late at one time but has been brought current. As of late February 2003, Applicant had a balance of less than \$100.00 on the credit card account opened in November 2001.

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)

E2.A6.1.3.6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

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 his 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 he 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 Applicant and his spouse, I conclude the following with respect to guideline F:

Employed by a defense contractor and sharing living expenses with a cohabitant girlfriend, Applicant took advantage of credit extended to him in the early and mid 1990s. Despite almost 23 years on the job, he was laid off in March 1998. Unable to find a position at a wage comparable to what he had been making as a defense contractor employee, Applicant earned about \$10.00 an hour as an expeditor from June 1998 to December 1998, when he laid off. After netting about \$200.00 per week in unemployment compensation for four or five months, he began selling vacuums solely on commission. Due to the lack of income, Applicant stopped payment in 1998 and 1999 on several financial obligations, including his mortgage which was foreclosed on in May 1999. By the time of his rehire by the defense contractor, he had delinquent obligations of more than \$60,000.00, including \$34,024.38 in judgment debt for the deficiency balance of his mortgage loan. Disqualifying conditions E2.A6.1.2.1., a history of not meeting financial obligations, and E2.A6.1.2.3., inability or unwillingness to satisfy debts, are pertinent to an evaluation of Applicant's security worthiness.

Security significant financial considerations are potentially mitigated under the Directive if the behavior was not recent (E2.A6.1.3.1.), it was an isolated incident (E2.A6.1.3.2.), the conditions that resulted in the behavior were largely beyond the person's control (E2.A6.1.3.3.), the person has received or is receiving counseling for the problem, and there are clear indications that the problem is being resolved or is under control (E2.A6.1.3.4.), or the individual initiated a good-faith effort to repay creditors or otherwise resolve debts (E2.A6.1.3.6.). Although Applicant had satisfied debts #1 and #4, and just the day before the hearing made a partial payment of debt #5, he still owes some \$60,000.00. His financial problems are recent and extensive. E2.A6.1.3.3. applies in mitigation, but only of incurring the delinquencies. Of primary concern in this case is Applicant's lack of attention to his delinquent accounts after he was reinstated to his position of first class chipper/grinder with the defense contractor in July 2000.

Recognizing that Applicant needed some time to reestablish financial solvency, his failure to attend to his indebtedness during the latter half of 2000 is excusable. However, Applicant has failed to prove extenuating circumstances that could justify his inaction on most of his old delinquencies in 2001 and 2002. Needing an automobile to get to work, Applicant bought a 1993 model year sedan in late November 2000/early December 2000 for \$4,000.00. Given the modest repayment obligation of \$50.00 per month, and wage earnings of between \$35,000.00 and \$36,000.00 for 2001 and \$39,000.00 for tax year 2002, he should have been able to afford the car and to make payments, albeit not in lump sum, of his bad debts. Although Applicant claimed in April 2002 to have only \$26.00 per month in discretionary funds, he was able to make a lump sum payment of \$441.58 in June 2002 in satisfaction of his delinquent motor vehicle taxes, which indicates he had more funds available than his personal financial statement indicates. In June 2002, Applicant expressed an intent to contact his creditors (with the exception of the bank loan cosigned for his former girlfriend) to make arrangements to pay off his debts. Of his old debts, Applicant paid the delinquent motor vehicle taxes, which he needed to do to re-register his motor vehicle. This suggests he was motivated by self-interest rather than a recognition of his legal and ethical obligation to attend to his just debts. Applicant testified he made in June/July 2002 one \$120.00 payment and a couple of \$30.00 payments on the mortgage deficiency judgment of \$34,024.38, but there is no proof of those payments. [\(11\)](#)

Before he initiated bankruptcy, he had an obligation to contact his creditors and make repayment arrangements. The absence of creditor contact raises doubts, not only about his financial judgment, but also as to whether Applicant can be relied on to abide by his stated intentions.

On the advice of legal counsel, Applicant is pursuing bankruptcy, a legal remedy that may afford Applicant a fresh start. While discharge is not required before one can be granted access, it is premature at this juncture to conclude that Applicant's financial problems are safely of the past. A Chapter 7 petition has not yet been filed, due largely to Applicant's failure to adequately document his debts. Applicant's spouse has been handling the family's bills, with one exception paying them on time since September 2002, but she also testified to expecting a "tight" financial situation due to her impending job loss and planned surgery. While there is no evidence of recent overextension on credit, Applicant has also had no counseling, which could assist him in coping successfully with

a tight financial situation. As evidenced by his failure to provide the necessary documentation to his bankruptcy attorney, Applicant does not have an adequate handle on his finances. Since those debts alleged in SOR subparagraphs 1.b. (through interception of federal tax refunds), 1.c., 1.d., and 1.e. have been, or in the process of being repaid, favorable findings are returned as to those allegations. Adverse findings are warranted as to subparagraphs 1.a., 1.f., 1.g., 1.h., 1.i., and 1.j. of the SOR, Applicant having failed to mitigate his record of disregard of these financial obligations until it became clear to him that his clearance was in jeopardy because of his unresolved indebtedness.

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.: For the Applicant

Subparagraph 1.c.: For the Applicant

Subparagraph 1.d.: For the Applicant

Subparagraph 1.e.: For 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

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. The Government's response, dated March 7, 2003, was received by the undersigned via facsimile transmission of March 10, 2003.
2. Asked at the hearing why he did not pay his motor vehicle taxes for those years, given that he was employed by company A throughout that period, Applicant responded, "I think what happened was the bills kept on being misplaced, put in the file and I put them in the wrong place. I'm not really sure why they weren't paid." (Transcript p. 67).
3. When Applicant was interviewed by a Defense Security Service (DSS) special agent in June 2002, he indicated he was not notified there was a balance due on the mortgage following the foreclosure and sale of the property, and that he became aware on June 7, 2002 (the date of his interview) that he had been sued by the bank for a remaining balance of \$34,024.38.

4. The Government alleged in SOR subparagraph 1.c. that Applicant owed approximately \$1,117.63, on the debt, which Applicant disputed as of June 2002. During his interview in June 2002, Applicant indicated he had almost paid off the entire loan, and had received a letter from the bank indicating the remaining balance would be written off. (Ex. 2). However, when he responded to the SOR, he admitted the outstanding delinquency. The January 2003 credit report (Ex. 4) indicates the account has a zero balance.
5. The Government alleged Applicant is in debt in the amount of \$1,197.00 on the account charged off in January 2000. Applicant's credit reports indicate \$1,197.00 was the maximum delinquency, but also the account has a balance of \$6,291.00. (Ex. 3; Ex. 4).
6. Applicant inconsistently listed a date of debt satisfaction of October 1999. (Ex. 1).
7. Based on the account number, this debt appears to be the delinquent account alleged in SOR subparagraph 1.b.
8. The credit card debts are those alleged in SOR subparagraphs 1.g. and 1.j., respectively.
9. The personal check of \$441.58 was made out by Applicant's girlfriend and signed by Applicant. (Ex. A).
10. Applicant's girlfriend testified the July 29, 2002, payment represented back taxes as well, for two cars owned by Applicant in the past. (Transcript p. 101). Applicant testified he made a \$120.00 payment toward the judgment on the mortgage deficiency in June or July 2002 and a couple of \$30.00 payments pursuant to a settlement where he was to repay the debt at \$30.00 per month (Transcript pp. 40, 59-60), but he provided no proof of payment.
11. Applicant testified he was required to make \$30.00 monthly payments to the bank on the deficiency judgment of \$34,024.38. Assuming he made the one \$120.00 payment and a couple of \$30.00 payments he testified to, the relevant inquiry then is why he did not continue to make those payments. Applicant testified in that regard, "Well, I was trying to pay what I could and it just it seemed hard to keep up with that." (Transcript p. 40). Given Applicant's annual earnings, it is difficult to believe he could not afford the \$30.00 monthly payment. Clearly, he demonstrated little resolve to satisfy his debts until it became clear to him that his clearance was in jeopardy.