

DATE: December 29, 2003

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-28489

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant ignored two outstanding debts for many years. His relatively recent attempts to repay these debts are not a good-faith effort to repay overdue creditors. In addition, he lied about his financial condition on a Security Clearance Application (SCA). Clearance is denied.

STATEMENT OF THE CASE

On December 26, 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 January 16, 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 July 23, 2003. Applicant filed a response to the FORM on August 5, 2003. The case was assigned to me on September 3, 2003.

FINDINGS OF FACT

Applicant is a 37 year old employee of a defense contractor.

Applicant is indebted to the U.S. Department of Education (USDE) for two student loans he received in 1992. Applicant ignored this debt for many years. In his words, he did so hoping that it "would just go away." In 1995, the IRS began applying his annual tax refunds to the USDE debt. In May 2002, applicant contacted the USDE and made arrangements to satisfy this debt, which at the time stood at \$7,317.61. By July 2003 he had reduced the debt to \$4,683.81. Applicant intends to continue making payments until the debt is paid. Applicant decided to start paying off this debt when he "decided it was not going to go away." He also knew that he had to get his "finances straight" because of his "job and

security clearance"(Exhibit 9).

Applicant was indebted to Verizon in the amount of \$844.29 for an unpaid phone bill he incurred in or before 1998. He knew about the debt but "just kept putting it off until [he] got a little better off financially" (Exhibit 9). Finally, in May 2002, he contacted the creditor and they reached a repayment agreement. In his response to the FORM, applicant stated that this debt "will be paid off this month of August 2003."

The Government's evidence is insufficient to establish that applicant made the statements attributed to him in SOR Allegation 2a.

Applicant executed an SCA on April 10, 2002. In response to Question 39, which asked, "Are you currently over 90 days delinquent on any debt(s)?" applicant stated "no." Applicant's response was false because, as noted above, applicant had been delinquent on at least two debts for years. Applicant admits that he "mistakenly" responded "no," but claims he was confused by some of the wording in Question 38. Since applicant failed to list his two long-standing debts in response to either Question 38 or Question 39, his explanation is not credible. I find that applicant intentionally provided a false response to Question 39.

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.

Personal Conduct

Disqualifying Conditions

E2.A5.1.2.2: The deliberate omission of relevant and material facts from any personnel security questionnaire.

Mitigating Conditions

None.

CONCLUSIONS

With respect to Guideline F, the evidence establishes that applicant has been indebted to the USDE for approximately ten years and that he has been indebted to a phone company since at least 1998. Both of these debts were past-due for many years before applicant decided to take any action toward satisfying them. Applicant's conscious decision to ignore these two financial obligations reflects adversely on his judgment, reliability and trustworthiness, and suggests he cannot be relied upon to safeguard classified information.

In May 2002, applicant contacted both creditors and arranged to satisfy both debts by making monthly payments. Applicant's efforts, occurring during the course of his security clearance investigation, are a step in the right direction. However, given the many years that he allowed these debts to remain unpaid, I cannot conclude that these efforts

constitute "a good-faith effort to repay overdue creditors or otherwise resolve debts." [\(1\)](#) In view of applicant's long-standing failure to repay these two debts, it is not now clearly consistent with the national interest to grant him access to classified information.

With respect to Guideline E, applicant's falsification of material facts on the SCA concerning his debts is extremely troubling. The Government relies heavily on the honesty and integrity of individuals seeking access to our nation's secrets. When such an individual intentionally falsifies material facts on a security clearance application, it is extremely difficult to conclude that he or she nevertheless possesses the good judgment, reliability and trustworthiness required of clearance holders. In this case, the recency of applicant's dishonesty, together with the lack of any evidence from individuals who know him well (e.g., family, friends, co-workers, supervisors) indicating that applicant is a reliable and trustworthy individual, precludes a finding that it is now clearly consistent with the national interest to grant him access to classified information.

FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT

PARAGRAPH 2: 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. Accordingly, Mitigating Condition E2.A6.1.3.6 is not applicable.