

DATE: June 22, 2004

In Re:

SSN: -----

Applicant for Security Clearance

CR Case No. 02-28727

DECISION OF ADMINISTRATIVE JUDGE

JOHN G. METZ, JR.

APPEARANCES

FOR GOVERNMENT

Jason Perry, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's pattern of financial irresponsibility renders her an unsuitable candidate for a security clearance. Clearance denied.

STATEMENT OF THE CASE

Applicant challenges the 3 June 2003 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) [\(1\)](#) recommending denial or revocation of Applicant's clearance. Applicant answered the SOR and requested an administrative decision without a hearing on 8 July 2003 and 1 December 2003. She did not respond to the Government's File of Relevant Material (FORM), issued 15 April 2004; the record in this case closed 2 June 2004, the day her response was due. The case was assigned to me on 8 June 2004 to decide if clearance should be granted, continued, denied, or revoked.

FINDINGS OF FACT

Applicant admitted the SOR allegations, except for the debt at subparagraph 1.g. Accordingly, I incorporate her admissions as findings of fact.

Applicant--a 33-year-old employee of a defense contractor--seeks access to classified information. She has not previously had a clearance.

Applicant has a history of financial difficulties and irresponsibility dating back to 1995. She has 11 delinquent credit accounts totaling over \$15,000.00, that fell past due between November 1995 and July 2001. None of these debts were caused by circumstances beyond Applicant's control. Applicant admits 10 debts totaling over \$7,000.00; she denies a debt of nearly \$8000.00 because the state statute of limitations for bringing suit on the debt has expired. However, Applicant admits she co-signed an automobile note for her sister. The car was later repossessed when her brother-in-law failed to make the payments, leaving Applicant with a deficiency balance.

Applicant attributes her financial difficulties to co-signing the automobile note for her sister and being sole obligor on a loan used to purchase a satellite dish for her brother in 1995. When she experienced some medical expenses, she fell behind in her payments on the two notes and on the medical expenses as well. She filed a chapter 13 wage-earner bankruptcy plan in August 1997 listing a total of over \$23,000.00 in secured and unsecured debt that she was to repay at the rate of \$50.00 per week over 52 months. The plan was dismissed in June 1999 for failure to make the required payments. She had paid approximately 25% of the required amount at the time the plan was dismissed.

Applicant's answer demonstrated that she had entered into debt counseling in July 2003 to repay seven of the debts alleged in the SOR, but also to address three new debts totaling over \$4,500.00. However, there is no evidence that she has begun the payment plan proposed by the credit counselor.

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in evaluating an individual's security eligibility. The Administrative Judge must take into account the conditions raising or mitigating security concerns in each area applicable to the facts and circumstances presented. Each adjudicative decision must also assess the factors listed in Section 6.3. and in Enclosure (2) of the Directive. Although the presence or absence of a particular condition for or against clearance is not determinative, the specific adjudicative guidelines should be followed whenever a case can be measured against this policy guidance, as the guidelines reflect consideration of those factors of seriousness, recency, motivation, *etc.*

Considering the evidence as a whole, the following adjudication policy factors are most pertinent to this case:

FINANCIAL CONSIDERATIONS (GUIDELINE F)

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. . . divorce or separation).

Burden of Proof

Initially, the Government must prove controverted facts alleged in the SOR. If the Government meets that burden, the burden of persuasion then shifts to an applicant to establish security suitability through evidence of refutation, extenuation or mitigation sufficient to demonstrate that, despite the existence of disqualifying conduct, it is nevertheless clearly consistent with the national interest to grant or continue the security clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. Where 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 or she is nonetheless security worthy. As noted by the United States Supreme Court in *Department of the 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."

CONCLUSIONS

The Government has established its case under Guideline F. The record demonstrates Applicant's substantial indebtedness, acquired largely through her own irresponsibility, and largely ignored since the dismissal of her chapter 13 plan in June 1999. She sought credit counseling in July 2003--apparently in response to the SOR--but there is no evidence that she has begun any repayment plan suggested by the credit counselor. Further, the counseling record includes three new debts totaling over \$4,500.00.

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and not isolated; indeed they are ongoing. They do not appear to be due to circumstances beyond her control. It does not appear that Applicant has stopped digging herself into a financial hole, much less started to pull herself out of it. I conclude Guideline F against Applicant.

FORMAL FINDINGS

Paragraph 1. Guideline F: AGAINST THE APPLICANT

Subparagraph a: Against the Applicant

Subparagraph b: Against the Applicant

Subparagraph c: Against the Applicant

Subparagraph d: Against the Applicant

Subparagraph e: Against the Applicant

Subparagraph f: Against the Applicant

Subparagraph g: Against the Applicant

Subparagraph h: Against the Applicant

Subparagraph i: Against the Applicant

Subparagraph j: Against the Applicant

Subparagraph k: Against the Applicant

Subparagraph l: 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.

John G. Metz, Jr.

Administrative Judge

1. Required by Executive Order 10865, as amended and Department of Defense Directive 5220.6, as amended (Directive).