DATE: July 31, 2003

In Re:

SSN: ----------

Applicant for Security Clearance

ISCR Case No. 02-12127

DECISION OF ADMINISTRATIVE JUDGE

ROBERT ROBINSON GALES

APPEARANCES

FOR GOVERNMENT

Robert J. Tuider, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Fifty-two-year-old Applicant's disputed indebtedness to the Government, in the approximate amount of $7,000.00, purportedly caused by his failure to fulfill a service agreement with the Government-a document which he denies ever signing, and which the Government has failed to furnish him-is unsubstantiated. His repeated, but fruitless, efforts, over a four year period, to obtain the missing document from various Government agencies, in an attempt to resolve the disputed indebtedness, are viewed as good-faith efforts to resolve that indebtedness. Applicant has mitigated the concerns by the evidence developed herein, and questions and doubts as to his security eligibility and suitability have been satisfied. Clearance is granted.

STATEMENT OF THE CASE

On March 28, 2003, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry,* dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified, 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 a clearance should be granted, continued, denied, or revoked.

In a sworn written statement, dated April 15, 2003, Applicant responded to the allegations set forth in the SOR, and requested a hearing. The case was initially assigned to another Administrative Judge on May 5, 2003, but due to caseload considerations, was reassigned to, and received by, this Administrative Judge on June 4, 2003. A notice of hearing was issued on June 4, 14, 2003, and the hearing was held before me on June 24, 2003. During the course of the hearing, three government exhibits, and 16 Applicant exhibits, and the testimony of one Applicant witness (the Applicant), were received. The transcript (Tr.) was received on July 2, 2003.

FINDINGS OF FACT

Applicant has denied the factual allegation pertaining to financial matters under Guideline F (subparagraph 1.a.), as well as the factual allegation pertaining to personal conduct under Guideline E (subparagraph 2.a.).

After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact:

He is a 52-year-old employee of a defense contractor seeking to obtain a security clearance. He previously held a TOP SECRET clearance (commencing in February 1984) and a SECRET clearance (commencing in July 1994).(1)

Applicant served as a member of the state Air National Guard (ANG) from January 1969 until January 1994,(2) with dual service, commencing in July 1972, as a military reserve technician, holding both military grade (master sergeant) and civil service (WG-12) status.(3) In 1993, his military status was changed and he was involuntarily separated from technician service, resulting in the eventual additional loss of his civilian status in January 1994.(4) Applicant was aware of the impending personnel actions before they occurred, and was advised by the Support Personnel Management Office (SPMO) he could seek relief through an authorization under Title 5, U.S. Code, § 3329.(5)

That statute provides, in part:

(b) The Secretary of Defense shall take such steps as may be necessary to ensure that, except as provided in subsection (d), any military reserve technician who is involuntarily separated from technician service, after completing at least 15 years of such service and 20 years of service creditable under section 12732 of title 10, by reason of ceasing to satisfy the condition described in section 8401(30)(B) (FOOTNOTE 1) shall, if appropriate written application is submitted within 1 year after the date of separation, be provided placement consideration in a position described in subsection (c) through a priority placement program of the Department of Defense.

(c)(1) The position for which placement consideration shall be provided to a former military technician under subsection (b) shall be a position -

(A) in either the competitive service or the excepted service;

(B) within the Department of Defense; and

(C) in which the person is qualified to serve, taking into consideration whether the employee in that position is required to be a member of a reserve component of the armed forces as a condition of employment.

(2) To the maximum extent practicable, the position shall also be in a pay grade or other pay classification sufficient to ensure that the rate of basic pay of the former military technician, upon appointment to the position, is not less than the rate of basic pay last received by the former military technician for technician service before separation.

Applicant completed the necessary paperwork and, in December 1993, submitted his application for a new civil service position under the above provisions.(6) However, despite the existence of the provisions on the books, no implementing guidance was established to enable Applicant to benefit from the law. Accordingly, faced with delays, and needing a paycheck, in June 1994, Applicant accepted a position with a government contractor at a military facility in the same town.(7)

He maintained a continuing open dialogue with the SPMO and with a point of contact at the state ANG headquarters, hoping to obtain relief and assistance in locating a position, but there appeared to be some confusion at the headquarters over the entire process.(8) When confronted by Applicant over supposed inaction, they advised him they did not yet have any directive or guidance as to what their respective responsibilities were, or to what Applicant was entitled.(9) At that point, although he had qualified for his military retirement, as a reservist, he was unable to draw any money until he reached aged 60.(10) Finally, during one of the last three months of 1994, Applicant received a letter from the SPMO

informing him that to be eligible for benefits under Title 5, U.S. Code, § 3329, he was required to submit an application within one year.(11) Applicant responded to the notice with a reminder that he had already done so, and included a completed form identical to the one previously submitted.(12) Applicant heard nothing more.(13) Eventually, Applicant received a communication from a regional center advising him he had to make his submission to the civilian personnel office at a military base near his home.(14) When he attempted to do so, he was advised he was at the wrong location and advised he had to apply with the ANG, something he had already done.(15)

Inaction and delay persisted, and in October 1996, nearly three years after submitting his initial application, Applicant finally received a telephone call from the ANG and advised a position was available at a military base in another state.(16) When Applicant asked about the lengthy delay, he was advised the only thing the government was obligated to provide was the job, and until he accepted the offered position, nothing further could be examined.(17) One day in October or November 1996, the officer who first informed Applicant of the involuntary termination three years earlier, appeared at his workplace and handed Applicant paperwork to sign in order to accept the newly offered out-of-state position.(18) Applicant's reporting date was December 8, 1996. He resigned his position with the government contractor and relocated to his new duty station expecting to be reentered into the civil service system.(19) Unfortunately for Applicant, while the position was similar to the one he had previously held, the pay was less, and he maintained his permanent residence elsewhere at considerable expense.(20)

When he accepted the new appointment, Applicant was under the impression he had to continue working for at least a year or possibly three years, depending on the resolution of the lost period.(21) During the next 10 months, Applicant again maintained a continuing effort to resolve the dispute over the lost period, and sent correspondence to various offices including the Secretary of Defense (SECDEF) and ANG. In addition, he went to the legal office at the military base, intending to file a claim,(22) but was given the runaround and told, in turn, to file it with the finance office, the labor relations office, and the ANG.(23) In addition to his salary, Applicant also received approximately $7,000.00 for what he believed was for about two months worth of reimbursable temporary living expenses for the two households.(24) Applicant requested an extension of the expenses, but was informed by the ANG it could not be extended unless he purchased a house.(25)

In October 1997, about 10 months into his assignment, Applicant abruptly resigned,(26) attributing his action to: the refusal to extend his temporary living expenses, the extra expenses anticipated because of maintaining the two households, and the continuing frustration over the fact the position he was offered was in another state rather than at the military facility in his hometown.(27) When he did so, he was not advised of any possible negative ramifications.(28)

In September 1999, nearly two years after his resignation, Applicant received some correspondence from the Defense Finance and Accounting Service (DFAS) related to what had been characterized as "an indebtedness resulting from a permanent change of station move in 1996."(29) In response, Applicant spoke with someone at DFAS and requested further information regarding the purported indebtedness. He later tried to call DFAS but could not get through to a live person and only got so far as a recording which stated all customer service representatives were busy and to call back.(30) He was subsequently successful, and was advised by a customer service representative it could take up to 45 days to obtain certain paperwork pertaining to a waiver of the indebtedness.(31) Applicant applied for the waiver but was advised DFAS did not have enough information available to process his waiver request and his waiver file was being closed until DFAS received a copy of "the transportation agreement" he supposedly signed prior to his PCS move.(32) He returned the completed paperwork in October 1999, and inquired as to the status of the account in November 1999. He was advised it had been sent for processing to the travel office at the military base where he had worked for 10 months.(33)

In December 1999, he again inquired and was told DFAS was still waiting for a response from the travel office.(34) In January 2000, he again inquired as to the status and was advised it could take from 90 to 120 days to be resolved.(35) On April 15, 2000, Applicant still had heard nothing regarding his waiver request, and asked for someone to check on

the matter because it was for something he did not feel he owed and it was apparently being reported by the government as a bad debt.(36) In June 2000, Applicant received his original waiver request from DFAS. He immediately wrote DFAS advising them he had previously submitted the materials to DFAS and was told the package had been forwarded to the base travel office for processing, but that it appeared it never was. He asked that the mistake "be taken care of right away."(37)

In November 2000, DFAS responded to Applicant and advised him "the debt originator has determined that your account is correct."(38) Attached to the letter was a memorandum from the military facility stating: "[Applicant] did not fulfill his service agreement with the government, therefore he owes back all payments made to him by the government."(39)

In January 2001, Applicant submitted a request to the National Personnel Records Center (NPRC) for a copy of his entire personnel folder, but as of May 2001, had not received a reply.(40) In May 2001, Applicant submitted a similar request to OPM.(41) By July 2001, he had still not received replies from either governmental entity, and again submitted a request to NPRC.(42) Finally, on July 27, 2001, seven months after his initial request, NPRC responded to Applicant and furnished his personnel file. They noted, however, a transportation agreement was not in the folder.(43) In August 2001, Applicant advised DFAS he had made numerous attempts to obtain the purported transportation agreement which it had required before processing Applicant's waiver request, and indicated one did not exist, per NPRC.(44) Accordingly, he requested prompt action on the waiver request as no signed transportation agreement existed.(45) No further action was apparently ever taken.

In February 2002, during the investigation of this matter, a customer service representative at DFAS was interviewed and indicated the travel debt in question was "incurred in February 1997" at the military facility at which Applicant accepted his civil service position for "payment of a PCS move where the service obligation incurred was not met."(46) The account was turned over to DFAS for collection in March 1999, and DFAS sent Applicant billing through December 2000.(47) DFAS acknowledged no bills were sent to Applicant after December 2000 because Applicant "had not responded to any of the requests for payment."(48) Moreover, DFAS stated it "never had any direct contact with [Applicant]."(49)

The original indebtedness was $6,680.22,(50) but in September 2001, DFAS took Applicant's $600.00 tax rebate and applied it to the debt.(51) The resulting indebtedness, which included interest, fees, and other charges, was $7,417.36.(52) The account was subsequently closed as uncollectable.(53) The balance, as of August 2001, was $7,962.00.(54)

In August 2001, Applicant completed an SF 86,(55) and in response to a finance-related inquiry, responded "no." That inquiry was: Number 39 (*"Are you currently over 90 days delinquent on any debt(s)?"*).(56) He certified his response was true, complete, and accurate. It was theoretically false. Applicant attributed his response to his continuing dispute with DFAS over the charges, and not to any intent to falsify or omit the disputed charges.

Applicant has continued to seek information regarding the disputed indebtedness and the missing or disputed transportation agreement. In April 2003, he filed a Privacy Act request with DSS-a request to which DSS responded. In June 2003, 12 days before the hearing, he again wrote DFAS disputing the indebtedness and the purported transportation agreement.(57) He did so again out of frustration and because he could not get through by telephone, getting only useless recordings about being closed, or all representatives being busy.(58) One week later, he was successful in speaking with someone at DFAS, but disappointed when he was told DFAS had not received anything on his account.(59) He called again the day prior to the hearing, and was initially told there was nothing, but upon further inquiry, was also told something had apparently triggered a request for his case file.(60)

Applicant adamantly disputes the indebtedness and denies ever having signed a transportation agreement. Nevertheless, he has stated that if he did sign such an agreement, and the debt is found to be legitimate, he will pay it off.(61)

Applicant has been employed as a laboratory chief by a government contractor since October 1997. The quality of his performance was not developed.

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (Disqualifying Conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (Mitigating Conditions).

An Administrative Judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the Adjudicative Process provision in Section E2.2., Enclosure 2, of the Directive, are intended to assist the Administrative Judge in reaching fair and impartial common sense decisions.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. The Adjudicative Process factors which an Administrative Judge should consider are: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guidelines most pertinent to an evaluation of the facts of this case:

[Guideline F - Financial Considerations]: 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.

[Personal Conduct - Guideline E]: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, pertaining to both adjudicative guidelines are set forth and discussed in the Conclusions section below.

Since the protection of the national security is the paramount consideration, the final decision in each case must be arrived at by applying the standard the issuance of the clearance is "clearly consistent with the interests of national security,"[(62)] or "clearly consistent with the national interest." For the purposes herein, despite the different language in each, I have concluded both standards are one and the same. In reaching this Decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

In the decision-making process, the burden of producing evidence initially falls on the Government to establish a case which demonstrates, in accordance with the Directive, it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. If the Government meets its burden, the heavy burden of persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation or mitigation sufficient to overcome the doubts raised by the Government's case, and to ultimately demonstrate it is clearly consistent with the national interest to grant or continue the applicant's clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information.

Decisions under this Directive include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

One additional comment is worthy of note. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides industrial security clearance decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this Decision should be construed to suggest I have based this decision, in whole or in part, on any express or implied decision as to Applicant's allegiance, loyalty, or patriotism.

CONCLUSIONS

Upon consideration of all the facts in evidence, an assessment of the witness credibility, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to each allegation set forth in the SOR:

Applicant is the unfortunate victim of government bureaucratic runaround, inaction, and non-responsiveness, all arising from a personnel action set forth more fully above.

With respect to Guideline F, the Government has established its case. As set forth above, on its face, Applicant appears to owe the Government an amount of money, variously reported in the range of $6,680.22--$7,962.00, because he failed to fulfill his service agreement. In support of that indebtedness, the Government has offered a letter from DFAS in which a Government "debt originator" ruled Applicant "did not fulfill his service agreement with the government, therefore he owes back all payments made to him by the government." In addition, the report of credit issued in August 2001 indicated the account was sent to collection in 1999. Furthermore, although DFAS made several attempts through December 2000 to collect what it considered to be the indebtedness, Applicant failed to pay it off, and made no arrangements to do so. That conduct, without more, gives rise to Financial Considerations Disqualifying Condition (DC) E2.A6.1.2.1. (*history of not meeting financial obligations*); and DC E2.A6.1.2.3. (*inability or unwillingness to satisfy debts*).

But the inquiry does not stop there. Despite numerous attempts made by Applicant to resolve the issue, DFAS, ANG, and others, either ignored his requests for further supporting information, or refused to furnish same. In this instance, Applicant denied ever signing a transportation or service agreement--the document upon which the Government has based its entire claim. When pressed to furnish it to him, the Government was unable to do so. In a dispute such as this, when the debtor denies responsibility and requests documentation supporting the purported debt, the creditor would seem to have the obligation to furnish such documentation. Simply because the creditor herein is the Government does not excuse it from incurring the same responsibility. When Applicant denied signing the purported document, and requested a copy of it, the Government was obligated to furnish it to prove the legitimacy of the charges.

Aside from the Government's refusal to furnish a copy of the supporting documentation, the issue of credibility has arisen--not that of Applicant, but rather that of DFAS and the military facility at which Applicant had worked for 10 months. Applicant has offered numerous examples of documentation reflecting his many attempts to acquire information and documents, and included therein are some statements made by customer service representatives of DFAS indicating either ineptitude, or worse. For example, despite the many letters and Applicant's contemporaneous memos pertaining to telephone conversations with particular DFAS customer service representatives, the undated DSS ROI referred to above reported that DFAS "never had any direct contact with [Applicant]." That statement was obviously erroneous. The second disputed matter is the pronouncement by the military facility that "[Applicant] did not fulfill his service agreement. . . ." If no agency in the Government can find a copy of the service agreement, upon what evidence did the author of the ruling base that decision?

In September 2001, DFAS garnished Applicant's $600.00 tax rebate and applied it to the indebtedness. His continuing efforts to resolve the entire matter, including the delayed processing of his re-employment under Title 5, U.S. Code, § 3329, and the Government's refusal to properly or timely respond to him or furnish the requested documentation, would seem to bring this matter within Financial Considerations Mitigating Condition (MC) E2.A6.1.3.3. (*the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business turndown, unexpected medical emergency, or a death, divorce or separation*)). His continuous and fruitless efforts, as well as his promise to pay off the indebtedness, should it be proven to him that it is legitimate, also come within MC E2.A6.1.3.6. (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). Under these circumstances, I find substantial evidence of positive action on his part to resolve his outstanding debt, to the extent that it may be legitimate, before this security clearance review process commenced. Under these circumstances, I believe Applicant has, through evidence of extenuation and explanation, successfully mitigated or overcome the Government's case. Accordingly, allegation 1.a. of the SOR is concluded in favor of Applicant.

With respect to Guideline E, the Government has established its case. Examination of Applicant's actions pertaining to his incorrect response to the SF 86 financial delinquency inquiry reveals a consistent pattern of conduct in disputing the legitimacy of the indebtedness and seeking the documents which supposedly support the Government's claim. His declared intentions and actions in this regard are unrebutted. As noted above, Applicant has a continuing dispute with DFAS pertaining to the purported indebtedness and was unaware it had been reported to any credit reporting agency as delinquent. He clearly denied checking his credit report during the past five or six years because he had no need to do so.[(63)] In

the absence of evidence rebutting Applicant's testimony, I can find no evidence that he was, in fact, aware that the disputed indebtedness had yet achieved the status of delinquent debt.

In this regard, I had ample opportunity to evaluate Applicant's demeanor, observe his manner and deportment, appraise the way in which he responded to questions, assess his candor or evasiveness, read his statements, listen to his testimony, and watch the interplay between himself and those around him. Applicant's explanations pertaining to this issue are consistent, and, considering the quality of the other evidence, have the resonance of truth. Accordingly, in weighing the evidence before me, for the reasons set forth above, I find that Applicant did not knowingly or intentionally falsify, lie, or omit material facts pertaining to the inquiry in the SF 86, as alleged in the SOR, or as to any other issue raised or discussed during the hearing. In this instance, with the absence of intent, I find that Applicant's overall personal conduct in this regard clearly does not fall within Personal Conduct DC E2.A5.1.2.2. (*the deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities*). Under these circumstances, I believe Applicant has, through evidence of extenuation and explanation, successfully mitigated or overcome the Government's case. Accordingly, allegation 2.a. of the SOR is concluded in favor of Applicant.

For the reasons stated, I conclude Applicant is eligible for access to classified information.

FORMAL FINDINGS

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1. Guideline F: FOR THE APPLICANT

Subparagraph 1.a.: For the Applicant

Paragraph 2. Guideline E: FOR THE APPLICANT

Subparagraph 2.a.: For the Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant.

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Robert Robinson Gales

Chief Administrative Judge

1. Government Exhibit 1 (Security Clearance Application (SF 86), dated August 14, 2001), at 7.

2. *Id.*, at 5.

3. Tr., at 26.

4. Id., at 26-28.

5. *Id.*, at 28.

6. *Id.*, at 29.

7. *Id.*, at 30.

8. *Id.*

9. *Id.*

10. *Id.*, at 31-32.

11. *Id*., at 32-33.

12. *Id*., at 33.

13. *Id.*

14. *Id*., at 34.

15. *Id.*

16. *Id.*

17. *Id*., at 34-35.

18. *Id*., at 35-36.

19. *Id*., at 36.

20. *Id.*, at 36-37, 40-41.

21. *Id*., at 37.

22. *Id*., at 38.

23. *Id*., at 38-39.

24. *Id.*, at 41; Government Exhibit 2 (Statement of Subject, dated November 29, 2001), at 1.

25. *Id*. Tr., at 41-41.

26. Applicant Exhibit A (Notification of Personnel Action (SF Form 50-B), dated October 13, 1997).

27. Tr., at 43, 46.

28. *Id*., at 48.

29. Applicant Exhibit I (Letter from DFAS, illegible date), referring to an earlier unspecified action.; and Applicant Exhibit K (Applicant's handwritten notes with various dated entries).

30. *Id.* Applicant Exhibit K.

31. *Id.*

32. Applicant Exhibit I, *supra* note 29.

33. Applicant Exhibit M (Applicant's letter to DFAS (incorrectly identified as DAFS), dated April 15, 2000.

34. *Id*.

35. *Id*.

36. *Id.*

37. Applicant Exhibit N (Applicant's letter to DFAS, dated June 3, 2000).

38. Applicant Exhibit G (DFAS letter, dated November 4, 2000).

39. Applicant Exhibit D (Department of the Air Force-local military facility-letter, dated October 12, 2000.

40. Applicant Exhibit B (Applicant's letter to Office of Personnel Management, dated May 18, 2001).

41. *Id.*

42. Applicant Exhibit C (Applicant's letter to NPRC, dated July 12, 2001).

43. Applicant Exhibit P (NPRC Response Letter, dated July 27, 2001), at 3.

44. Applicant Exhibit F (Applicant's letter to DFAS, dated August 3, 2001), at 2.

45. *Id.*

46. Applicant Exhibit F (Extract of Defense Security Service (DSS) Report of Investigation (ROI), undated), at 3.

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id*.

54. Government Exhibit 3 (Report of Credit, dated August 23, 2001), at 4.

55. Government Exhibit 1, *supra* note 1.

56. *Id.*, at 8.

57. Applicant Exhibit P (Applicant's letter to DFAS, dated June 12, 2003), *supra* note 43, at 1.

58. *Id*.

59. Tr., at 63.

60. Id., at 64.

61. Tr., at 68; Government Exhibit 2, *supra* note 24, at 1.

62. *See* Exec. Or. 12,968, *"Access to Classified Information;"* as implemented by Department of Defense Regulation 5200.2-R, *"Personnel Security Program,"* dated January 1987, as amended by Change 3, dated November 8, 1995, and further modified by memorandum, dated November 10, 1998. However, the Directive, as amended by Change 4, dated April 20, 1999, uses both "clearly consistent with the national interest" (*see* Sec. 2.3.; Sec.2.5.3.; Sec. 3.2.; and Sec. 4.2.; Enclosure 3, Sec. E3.1.1.; Sec. E3.1.2.; Sec. E3.1.25.; Sec. E3.1.26.; and Sec. E3.1.27.), and "clearly consistent with the interests of national security" (*see* Enclosure 2, Sec. E2.2.3.); and "clearly consistent with national security" (*see* Enclosure 2, Sec. E2.2.2.)

63. Tr., at 64.