

DATE: April 27, 2004

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-17513

DECISION OF ADMINISTRATIVE JUDGE

KATHRYN MOEN BRAEMAN

APPEARANCES

FOR GOVERNMENT

Catherine Engstrom, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Security concerns remain over financial issues because of Applicant's delay in seeking to resolve these long-standing debts to multiple creditors. She has only paid off one debt and has a payment plan to resolve her past federal and state taxes. All other debts remain unresolved. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant on April 30, 2003. The SOR detailed reasons why the Government could not make the preliminary positive finding that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. [\(1\)](#) The SOR alleges specific concerns over finances (Guideline F) in paragraph 1. Applicant responded to these SOR allegations in an Answer notarized and dated June 10, 2003, where she denied 1.a. but admitted 1.b. through 1.o. with explanations. She requested a decision be made without a hearing.

The case was assigned to Department Counsel who prepared a File of Relevant Material (FORM) for the Applicant's review and on October 16, 2003, advised Applicant that she had 30 days to submit objections and/or information before the FORM was submitted to an administrative judge and that she had the right to be represented by counsel. A Personnel Security Specialist (PSS) sent the FORM to Applicant on October 17, 2003, and again notified the Applicant that she had 30 days from receipt of the letter to submit objections and/or information before the FORM was submitted to an administrative judge. Applicant received the FORM on November 1, 2003. The Applicant submitted a response on November 24, 2003 (Exhibit A). On December 1, 2003, Department Counsel indicated she had no objection to Applicant's Exhibit A. The DOHA Director assigned the case to me for a decision on the record on January 15, 2004.

FINDINGS OF FACT

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I

make the following findings of fact:

Applicant, 35 years old, has worked for defense contractor #1 in State #1 since June 2000. Previously Applicant worked for several other employers from 1991 to 2000. (Item 4)

Applicant married in June 1995 and was later divorced at a date not specified. (Items 3, 4)

Finances

When Applicant applied for a security clearance in November 2001, she completed a Security Clearance Application (Standard Form 86) (SF 86) where she revealed adverse financial issues which she stated were due to her "husband's recent disability and previous disability."

Investigation showed multiple adverse credit accounts on her December 2001 credit report. (Item 6) In an Office of Personnel Management (OPM) Affidavit in January 2002, she admitted delinquent financial accounts to several creditors which she said she was "in the process of trying to pay off." She admitted debts to the following creditors which she said accumulated after her husband had a stroke and had to stop working; at the time he was receiving disability payments. In January 2002 she reported monthly household income of \$5,300, monthly household expenses of \$3,483. She was only making one monthly debt payment of \$250 for past due taxes (SOR 1.o). (Item 5) She acknowledged the following debts:

SOR 1.b. This debt to Creditor #2, a credit account where she owed \$1,260, remains unsatisfied even though she stated in January 2002 that she intended to pay "as soon as I can." (Items 3, 5)

SOR 1.d. This debt to Creditor #4, a credit card account for which she owed \$519, remains unsatisfied even though she stated in January 2002 she intended to pay "as soon as I can." (Items 3, 5)

SOR 1.e. This debt to Creditor #5, a credit account for which she owed \$550, remains unsatisfied even though in January 2002 she stated she intended to pay "as soon as I can." (Items 3, 5)

SOR 1.f. This debt to Creditor #6, a credit card account for which she owed \$797, remains unsatisfied even though in January 2002 she intended to pay "as soon as I can." (Items 3, 5)

SOR 1.g. This debt to Creditor #7, a credit card account for which she owed \$529, remains unsatisfied even though in January 2002 she intended to pay it "as soon as I can." (Items 3, 5)

SOR 1.h. This debt to Creditor #8, a phone bill for \$314, remains unsatisfied. (Items 3, 5)

SOR 1.i. This debt to Creditor #8, a phone bill for \$1,666, remains unsatisfied. (Items 3, 5)

SOR 1.j. Applicant owes Creditor #8 for a phone bill of \$225 (alleged as \$177.59). (Item 5)

SOR 1.k. A debt to Creditor #9 for \$447 remains unsatisfied. (At the time of the OPM interview she believed she owed \$6,030 and it was the same debt as the one listed for Creditor #10.) (Items 3, 5)

SOR 1.l. Applicant has not resolved the debt to Creditor #10 for a car loan for a car that she returned to the dealer when she realized she could not afford payments. (Items 3,5)

SOR 1.n. A debt to Creditor #12, a fitness club, for \$1,200 remains unsatisfied. (Items 3, 5)

SOR 1.o: She admitted a lien for \$2,873 filed against her for federal and Maryland income taxes owed where she was paying \$150 per month for the federal taxes and \$100 per month for the state income taxes. (Items 3, 5)

She denied debts to the following creditors:

SOR 1.a. Creditor #1 for \$655. (Item 5)

SOR 1.c. Creditor #3 for \$16,196 (alleged as \$4,093 for an unpaid account referred for collection in September 1996). (Item 5)

She paid a debt to a community college for \$437 in 2003. (SOR 1.m.) (Item 3)

While she claimed that financial delinquencies were due to "financial distress" within a seven-year marriage which ultimately ended in divorce and were also due to her "youthful irresponsibility," she did not provide details on how the divorce adversely impacted her financially. (Item 3) Further, she provided no information as to how she was reformed her financial practices or whether she has received or is receiving counseling for her financial problems.

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility. They are divided into conditions that could raise a security concern and may be disqualifying and conditions that could mitigate security concerns in deciding whether to grant or continue an individual's access to classified information. But the mere presence or absence of any given adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I applied relevant Adjudication Guidelines listed below:

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.

Conditions that could raise a security concern and may be disqualifying include:

1. A history of not meeting financial obligations;
3. Inability or unwillingness to satisfy debts;

Conditions that could mitigate security concerns include:

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

The responsibility for producing evidence initially falls on the Government to demonstrate that it is not clearly consistent with the national interest to grant or continue Applicant's access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance.

Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

CONCLUSIONS

Financial Considerations

Applicant has (1) a history of financial problems and has shown (3) an inability or unwillingness to satisfy all of her debts. Although she stated some of the debts stemmed from her husband's disability and her later divorce, she did not explain how her husband's disability or the divorce led to her financial problems. While she was made aware of these debts and acknowledged them in a January 2002 OPM interview, she only resolved one debt. She made no documented efforts to resolve the majority of these alleged debts. Thus, security concerns persist because of the long-standing nature of these debts and because of her failure to resolve them or to seek financial counseling.

Applicant mitigated ⁽²⁾ one debt she paid to a community college alleged in SOR 1.m and has been paying \$250 per

month for a tax debt alleged in SOR 1.o. Thus, Mitigating condition (MC) 6 applies to those debt as she initiated a good faith effort to resolve those two debts. Also, she disputed two other debts alleged in SOR 1.a. and 1.c. However, she has resolved no other debt. Further, she did not document that she made managing her finances a priority. Nor has she documented under MC 3, exactly how the conditions that resulted in the behavior were largely beyond her control. Further, under MC 4 she did not provide any evidence that she received or is receiving counseling for the problem. Consequently there are no clear indications that all of her financial problems are being resolved or are under control. After considering the Adjudicative Process factors and the Adjudicative Guidelines, I conclude that she has mitigated the allegation in SOR subparagraphs 1.a., 1.c., 1.m. and 1.o, but failed to mitigate 1.b, 1.d, 1.e., 1.f., 1.g., 1.h., 1.i., 1.j., 1.k., 1.l, and 1.n. I rule against Applicant under SOR Paragraph 1.

FORMAL FINDINGS

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: Against Applicant

Subparagraph 1.c.: For Applicant

Subparagraph 1.d.: Against Applicant

Subparagraph 1.e.: Against Applicant

Subparagraph 1.f.: Against Applicant

Subparagraph 1.g.: Against Applicant

Subparagraph 1.h.: Against Applicant

Subparagraph 1.i.: Against Applicant

Subparagraph 1.j.: Against Applicant

Subparagraph 1.k.: Against Applicant

Subparagraph 1.l.: Against Applicant

Subparagraph 1.m.: For Applicant

Subparagraph 1.n.: Against Applicant

Subparagraph 1.o.: For 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 the Applicant.

Kathryn Moen Braeman

Administrative Judge

1. This procedure is required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated January 2, 1992 (Directive), as amended by Change 4, April 20, 1999.
2. **Conditions that could mitigate security concerns include:** 1. The behavior was not recent; 2. It was an isolated incident; 3. The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation); 4. 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; 5. The affluence resulted from a legal source; and 6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.