

DATE: October 1, 2003

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 02-17873

**DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

**APPEARANCES**

**FOR GOVERNMENT**

Jennifer I. Campbell, Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

In view of the facts that applicant's financial difficulties were caused in large part by factors beyond his control, he is no longer legally liable for his past-due indebtedness, his current income is more than sufficient to cover his current expenses, and he has handled his financial obligations in a responsible manner since at least June 2002, I conclude that applicant is now financially stable and likely to remain that way. Clearance is granted.

**STATEMENT OF THE CASE**

On February 4, 2003, 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, (as administratively reissued on April 20, 1999), 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 February 19, 2003. The case was assigned to the undersigned on April 10, 2003. A Notice of Hearing was issued on July 2, 2003, and the hearing was held on July 22, 2003. The transcript was received on August 1, 2003.

**FINDINGS OF FACT**

Applicant is a 59 year old Vietnam veteran. He is employed as a security officer by a defense contractor.

Applicant had no significant financial difficulties prior to 1996. In January 1996, his employer, for whom he worked since 1984, began downsizing. Although applicant probably could have stayed employed at the company for another year, he decided to accept a lay off along with a severance package. The primary reason he accepted the lay off and

[\(1\)](#)

severance package was that his mother, who was living with him at the time, was ailing and needed his assistance. In an attempt to ensure a smooth transition into a different job, prior to accepting the severance package, applicant inquired about employment opportunities at a trucking firm. He was told by the trucking company that once he obtained his trucking license, he would be hired. As a result of the trucking company's representation, applicant went to trucking school from January to March 1996. Unfortunately, when he returned to the trucking company a few months later, he was refused employment because he lacked "on the road" experience.

Applicant ended up taking a job with a construction company the following week that paid \$9.00 an hour, substantially less than he earned at his previous employer. In October 1996 he was hired by another company, which like the construction company, did not pay well. He stayed with that company until October 2000, at which time he was hired by his current employer's predecessor.

Applicant began experiencing financial difficulties in 1996. He testified credibly that his financial difficulties were caused by two main factors: the reduction in income he experienced following the lay off in January 1996, and his mother's mounting medical bills (TR at 45). When consumer counseling services did not help, he contacted an attorney, and in June 2002, he filed a Chapter 7 bankruptcy petition. His petition included all of the debts listed in the SOR except the Sears debt. In October 2002, all of his listed debts were discharged (Exhibit C). Applicant testified that he did not include his Sears debt in his bankruptcy because "it was \$284 and they were willing to work with me" (TR at 31). He satisfied the Sears debt in July 2003 (Exhibit D).

Applicant has not experienced any financial difficulties since he filed for bankruptcy. He and his wife have had a monthly surplus of a few hundred dollars since then, and by recently selling their home, they have managed to bank approximately \$18,000.00 (TR at 33-35).<sup>(2)</sup> At the present time, applicant is current on all of his bill payments (TR at 36).

## **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

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

#### Mitigating Factors

1. The behavior was not recent.
3. The conditions that resulted in the behavior were largely beyond the person's control.

## **CONCLUSIONS**

Between early 1996 and June 2002, applicant experienced severe financial problems, which left him with the large amount of unsecured debt alleged in the SOR. The evidence establishes that applicant's financial difficulties were caused by two factors largely beyond his control: the reduction in income he experienced following the lay off in January 1996, and his mother's medical bills. In June 2002, following years of mounting debts, applicant filed bankruptcy. By doing so, he legally relieved himself of all his past-due indebtedness, except for the Sears debt, which he subsequently satisfied.

Since he filed for bankruptcy a little over a year ago, applicant's financial condition has stabilized. He and his wife have a positive monthly cash flow of a few hundred dollars, they have accumulated approximately \$18,000.00 in savings, and they are current on all of their debt payments. Given these facts, and the fact that the conditions which combined to cause applicant's financial difficulties are unlikely to recur, I conclude that applicant is now financial stable and likely to remain that way. Accordingly, it is now clearly consistent with the national interest to grant him access to classified information.

### **FORMAL FINDINGS**

PARAGRAPH 1: 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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Joseph Testan

Administrative Judge

1. Applicant's mother passed away in 2002.
2. Applicant testified credibly that he tried selling his home in 1996 (when his financial difficulties began), but was unsuccessful (TR at 33).