

KEYWORD: Financial

DIGEST: Applicant's financial irresponsibility makes him unsuitable for a security clearance. Clearance denied.

CASENO: 02-19141.h1

DATE: 08/03/2004

DATE: August 3, 2004

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-19141

DECISION OF ADMINISTRATIVE JUDGE

JOHN GRATTAN METZ, JR

APPEARANCES

FOR GOVERNMENT

Braden M. Murphy, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's financial irresponsibility makes him unsuitable for a security clearance. Clearance denied.

STATEMENT OF THE CASE

Applicant challenges the 4 December 2003 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of his clearance because of financial considerations. ⁽¹⁾ Applicant answered the SOR on 19 January and 25 March 2004 and requested a decision without hearing. He did not respond to DOHA's 17 May 2004 File of Relevant Material (FORM). The record closed 25 June 2004, the day the response was due. DOHA assigned the case to me 19 July 2004.

FINDINGS OF FACT

Applicant admitted being unwilling or unable to pay the three debts alleged in the SOR. He is unable to pay the \$7,200.00 debt at 1.a. He is unwilling to pay the smaller debts at 1.b. and 1.c. because of their age. ⁽²⁾ He is a nearly 51-year-old truck driver for a defense contractor. He has never applied for a clearance before.

Applicant has a history of financial difficulties and irresponsibility. An August 2001 credit report reflected three bad debt/charge off accounts, three slow pay accounts, and one 30-day past due account. ⁽³⁾ The report also showed that he previously had eight past due accounts, varying from 30-days past due to 120-days past due. A May 2003 credit report showed the same three bad debt/ charge off accounts (one now settled), plus a new bad debt/charge off account. ⁽⁴⁾ One of the earlier slow pay accounts was back to being 120-days past due. An April 2004 credit report showed the new bad debt/charge off account plus a new collection account for \$2,700.00.

Applicant says little about how his finances came to be in such disarray, except to state that the \$7,200.00 debt alleged in the SOR is for a car note he co-signed for his daughter. The car was repossessed when she could not make the payments. In September 2001, he was briefly in a debt repayment program to address three past due accounts (including one to the IRS) totaling almost \$11,500.00. He quit the program when he concluded that he could better address those three debts on his own, and the credit reports suggest he eventually resolved those debts. (S) Applicant has not otherwise documented his financial misadventures.

POLICIES

The Directive, Enclosure 2 sets forth adjudicative guidelines to be considered in evaluating an Applicant's suitability for access to classified information. The Administrative Judge must take into account both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each adjudicative decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, I conclude the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

BURDENS

A clearance decision resolves whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

A person with access to classified information enters into a fiduciary relationship with the government based on trust and confidence. The government, therefore, has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly

consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government. [\(6\)](#)

CONCLUSIONS

The Government established a Guideline F case and Applicant did not mitigate the security concerns. Although his total debt is not large, it forms part of an ongoing pattern of slow pay/no pay that appears to have plagued him for some time. He either cannot or will not pay the three debts alleged, and while he claims that two of the debts are old, he does not claim that he paid these accounts or was otherwise relieved of his obligation to pay. As he is taking no action to resolve these debts, he cannot be considered a suitable candidate for a clearance. 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

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 and Department of Defense Directive 5220.6, as amended (Directive).
2. Both accounts were opened in 1996. As I read the credit bureau reports, the balance on 1.b. is \$60.00. The \$200.00 figure alleged is the high credit balance.
3. Two of the bad debt/charge off accounts were 1.b. and 1.c. The 30-day past due account became 1.a. The three slow pay accounts were annotated "paid, was 60-days past due," "current, was 150-days past due," and "current, was 60-days past due." The third bad debt/charge off account was later paid in full for less than the full account value.
4. Debt 1.a., that Applicant lacks the means to pay.
5. Applicant's response to interrogatories shows he entered into repayment plans with the IRS and one other creditor.
6. *See Department of the Navy v. Egan*, 484 U.S. 518 (1988).