

DATE: December 10, 2002

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-20403

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Marc Curry, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

In view of applicant's continuing financial problems and past dishonest conduct, I cannot conclude that she currently possesses the good judgment, reliability and trustworthiness required of individuals with access to classified information. Clearance is denied.

STATEMENT OF THE CASE

On September 12, 2002, 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 September 30, 2002. The case was assigned to the undersigned on October 30, 2002. Notices of Hearing were issued on November 4 and November 8, 2002. The hearing was held on November 13, 2002. Following the hearing, applicant submitted a two page document. Department Counsel had no objection to this post-hearing submission. Applicant's submission, and Department Counsel's one page memorandum indicating he has no objection to it, were marked as Exhibit C and admitted into evidence. The transcript was received on November 21, 2002.

FINDINGS OF FACT

Applicant is a thirty-seven year old truck driver.

SOR Allegation 1a: In 1995, applicant worked in the accounting department of a company. Part of her duties included using a computer modem to post credits and debits to the credit card accounts of customers. Applicant used her position

of trust to fraudulently post \$500.00 to \$800.00 in credits to her own personal credit card account. She did so because "she needed the money" (Exhibit 2). When confronted by the company, applicant admitted her wrongdoing, and was fired. Applicant testified that at the time she was committing the fraud she didn't realize what she was doing was wrong. She testified, in essence, that since the company was cheating customers, she did not see anything wrong with her cheating the company. In her words, "I'm a poor little girl. Why can't I do it?" (TR at 71). Applicant was thirty years old at the time.

SOR Allegation 1b: Applicant is indebted to this cellular phone company in the amount of \$550.00. The delinquent debt has been turned over to a collection company.

SOR Allegation 1c: Applicant is indebted to this cellular phone company. Exhibit 3 indicates the debts stands at \$1,867.00. Applicant admits that she is indebted to this creditor, but disputes the amount of the debt because she believes that she was double-billed. She testified that until the creditor can give her an accurate statement, the account is at a "standstill" (TR at 35). The account has been delinquent since 1995.

SOR Allegation 1d: Applicant is not indebted to this creditor.

SOR Allegation 1e: Applicant became indebted to this creditor in the amount of \$1,097.11 following the voluntary repossession of her car. Applicant was not aware of this debt until it appeared on her credit card. She satisfied the debt shortly before the hearing (Exhibits A and C).

SOR Allegations 1f and 1g: Applicant was indebted to this creditor, but has since satisfied the debt(s). [\(1\)](#)

SOR Allegation 1h: Applicant is indebted to this health care provider in the amount of \$180.00. This debt was referred to a collection agency in 2000.

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. E2.A6.1.2.1: A history of not meeting financial obligations.
2. E2.A6.1.2.2: Illegal financial practices.
3. E2.A6.1.2.3: Inability or unwillingness to satisfy debts.

Mitigating Factors

None.

CONCLUSIONS

The evidence establishes that applicant has a history of not meeting her financial obligations. Although she has recently made progress in reducing her overall delinquent indebtedness, as evidenced by her satisfaction of the debts alleged in SOR Paragraphs 1e, 1f and 1g, she remains indebted to two cellular phone companies and a health care provider. Applicant's inability or unwillingness to satisfy these long-standing, past-due debts raises doubts about her judgment, reliability and trustworthiness, and reasonably suggests that she cannot be relied upon to safeguard classified information.

In addition to her failure to satisfy her financial obligations, applicant has a history of dishonest conduct. Specifically, in 1995, when she was thirty years old, applicant was placed in a position of trust by her employer, and applicant violated that trust by fraudulently posting hundreds of dollars in credits to her personal credit card account. This dishonest conduct raises additional doubts about applicant's judgment, reliability and trustworthiness, as does her testimony that at the time she committed the fraud, she didn't realize her conduct was improper.

In view of applicant's continuing financial problems, her dishonest conduct, and her testimony that at the time she engaged in the fraudulent conduct she didn't realize what she was doing was wrong, I cannot conclude that she possesses the good judgment, reliability and trustworthiness required of individuals with access to classified information. For this reason, Guideline F is found against applicant.

FORMAL FINDINGS

PARAGRAPH 1: 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.

Joseph Testan

Administrative Judge

1. There is a lot of confusion regarding this creditor. At the hearing Department Counsel could not definitively state whether there was one or two debts involved (TR at 47-61).