KEY WORD: Financial; Personal Conduct
DIGEST: Applicant owed four creditors \$4,386.00 and provided false information regarding past financial delinquencies on his security clearance application. Applicant provided evidence he subsequently paid or resolved three of his debts totaling \$2,191.00, but provided no evidence of paying or resolving the remaining debt of \$2,195.00. His failure to satisfy his past debts and lack of truthfulness in providing required information on his security clearance application raises questions and doubts about his security eligibility and suitability. Clearance is denied.
CASENO: 02-21098.h1
DATE: 08/30/2004
DATE: August 30, 2004
In Re:
<del></del>
SSN:
Applicant for Security Clearance
ISCR Case No. 02-21098
DECISION OF ADMINISTRATIVE JUDGE
ROBERT J. TUIDER
<u>APPEARANCES</u>
FOR GOVERNMENT

Juan J. Rivera, Department Counsel

## FOR APPLICANT

Pro Se

## **SYNOPSIS**

Applicant owed four creditors \$4,386.00 and provided false information regarding past financial delinquencies on his security clearance application. Applicant provided evidence he subsequently paid or resolved three of his debts totaling \$2,191.00, but provided no evidence of paying or resolving the remaining debt of \$2,195.00. His failure to satisfy his past debts and lack of truthfulness in providing required information on his security clearance application raises questions and doubts about his security eligibility and suitability. Clearance is denied.

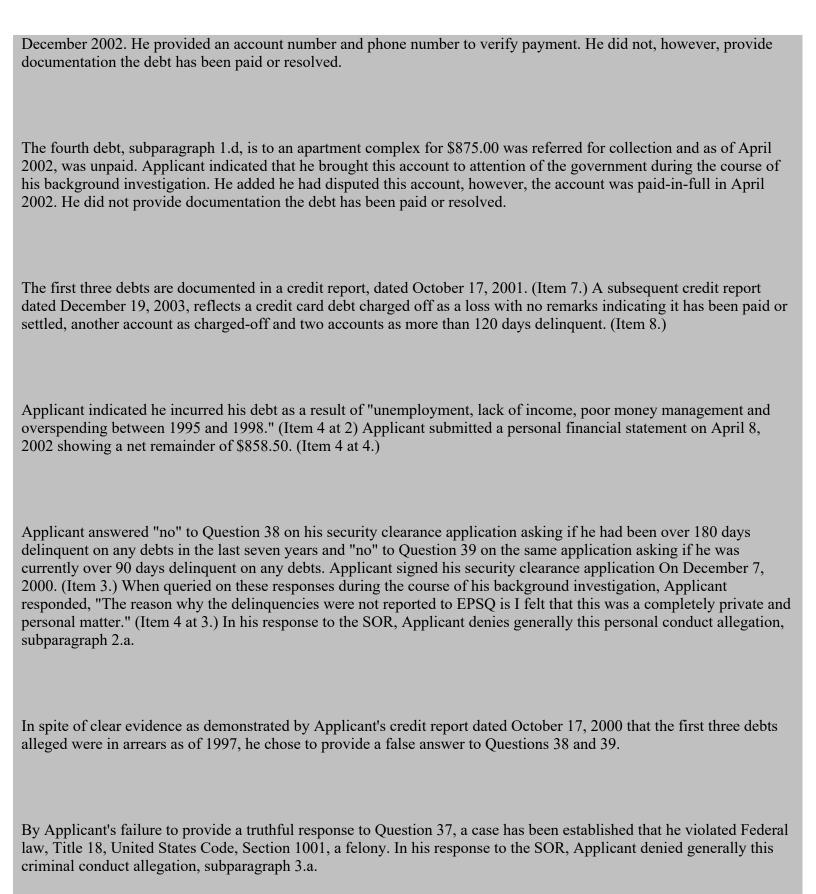
## STATEMENT OF THE CASE

On April 30, 2003, the Defense Office of Hearings and Appeals (DOHA), under 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. The SOR detailed reasons under Guideline F (Financial Considerations), Guideline E (Personal Conduct), and Guideline J (Criminal Conduct) 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 conduct proceedings and determine whether clearance should be granted, continued, denied, or revoked.

In a signed and sworn statement, dated May 19, 2003, Applicant responded to the SOR allegations. He requested his case be decided on the written record in lieu of a hearing.

On December 19, 2003, Department Counsel submitted the government's case through a file of relevant material (FORM), (1) a copy of which was provided to the Applicant. He was given the opportunity to file objections and submit

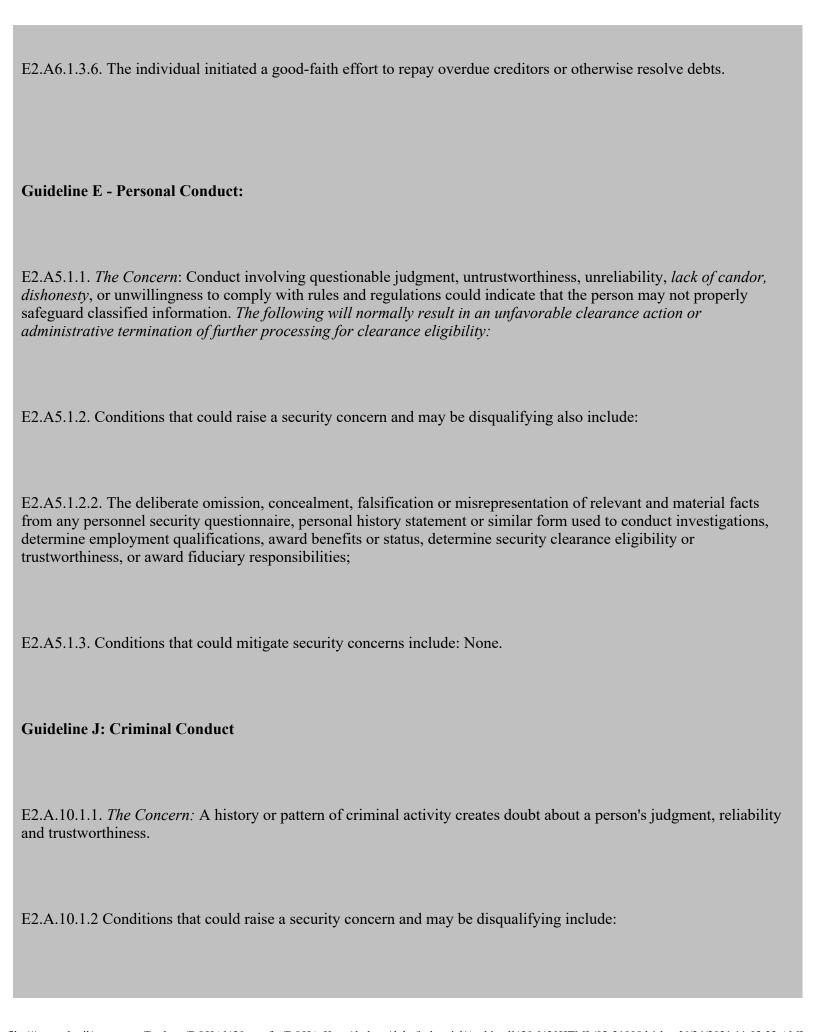
material in refutation, extenuation, or mitigation. Nothing in the record indicates that Applicant filed a response to the FORM. The case was assigned to me on March 8, 2004.
FINDINGS OF FACT
Applicant admitted subparagraphs 1.a and 1.c. He denied subparagraphs 1.b, 1.d., 2.a and 3.a. These admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of the same, I make the following additional findings of fact:
Applicant is a 41-year-old man employed by a defense contractor. He seeks a secret clearance, which is a requirement of his job. Applicant's security clearance application, dated December 7, 2000, indicates he has a 16-year-old daughter. (Item 3 at 5) A wage garnishment for child support was initiated in April 2000 at the rate of \$99.00 per week. (Item 3 at 8). No spouse is listed. (Item 3 at 4-5.)
Applicant served in the Air Force from May 1984 to March 1994 and was discharged as a Staff Sergeant, pay grade E-5. (Item 3 at 5.)
The SOR indicates as of April 8, 2002, Applicant was indebted to four creditors for \$4,386.00.
The first debt, subparagraph 1.a, is to a jeweler \$2,195.00 that was charged-off as a bad debt in June 1988. Although Applicant admits this debt was owed as alleged, he indicated it should not be listed on his credit report because the account was purchased by a different creditor. There is no evidence the debt has been paid or resolved.
The second debt, subparagraph 1.b, is to a bank for \$120.00 that was charged-off as a bad debt in June 1988. Applicant denied this debt. By letter dated April 12, 2002, the bank indicated the account was paid-in-full in May 2000 and was considered settled and closed. (Item 2 at 3.)
The third debt, subparagraph 1.c, is to a credit card company for \$1,196.00 that was charged-off as a bad debt in December 1998. Although Applicant admits this debt was owed as alleged, he indicated the account was paid-in-full in

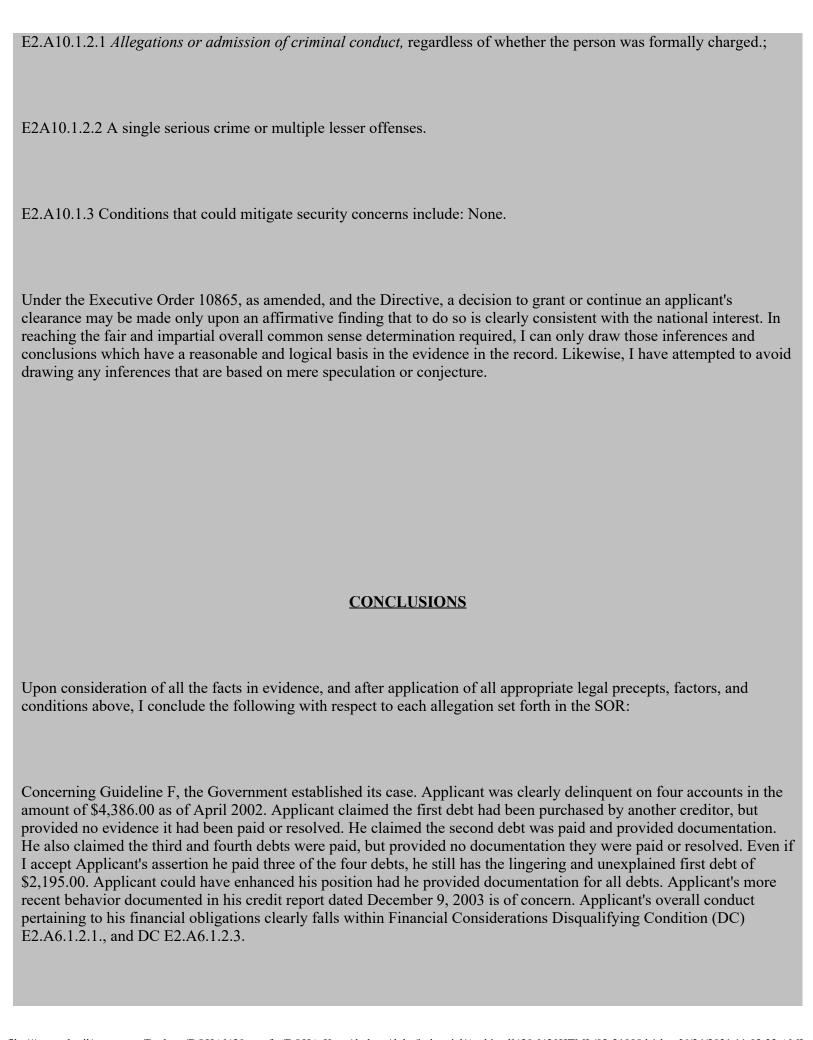


## **POLICIES**

The adjudication process is based on the whole person concept. All available, reliable information about the person, past

and present, is to be taken into account in reaching a decision as to whether a person is an acceptable security risk.
Enclosure (2) to the Directive sets forth adjudicative guidelines that must be carefully considered according to the pertinent Guideline in making the overall common sense determination required.
Each adjudicative decision must also include an assessment of: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, and the extent of knowledgeable participation; (3) how recent and frequent the behavior was; (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 (See Directive, Section E2.2.1. of Enclosure 2). Because each security case presents its own unique facts and circumstances, it should not be assumed that the factors exhaust the realm of human experience or that the factors apply equally in every case. Moreover, although adverse information concerning a single condition may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility, or other behavior specified in the Guidelines.
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:
E2.A6.1.1. <i>The Concern</i> : 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.
E2.A6.1.2. Conditions that could raise a security concern and may be disqualifying include:
E2.A6.1.2.1. A history of not meeting financial obligations.
E2.A6.1.2.3. Inability or unwillingness to satisfy debts.
E2.A6.1.3. Conditions that could mitigate security concerns include:





Applicant provided evidence that he subsequently paid one of the debts and represented he paid two of the debts. Viewing the evidence in the light most favorable to the Applicant, I find he had resolved three of the four debts alleged. Mitigating Condition E2.A6.1.3.6 is applicable as to subparagraphs 1.b through 1.d. Concerning Guideline E, the Government has established its case. Applicant deliberately did not include the information requested on his security clearance application concerning his financial delinquencies in reply to Questions 38 and 39. It is easy to count back the seven year or 90 day period for which he had the duty to disclose. Applicant's response that the reason he did not disclose past delinquencies is that he "felt that this was a completely private and personal matter" is hardly indicative of what would be expected from someone seeking a security clearance. Nor does this explanation satisfy Applicant's requirement to fully and accurately provide the information requested. These matters are of such magnitude and importance in a person's life that it is not credible to believe they could be overlooked and not listed on an application which is directly related to whether Applicant can renew his security clearance and retain his employment which is dependent upon the security clearance. Therefore, DC E2.A5.1.2.2. is applicable. Inasmuch as Applicant provided no evidence in mitigation, none of the Mitigating Conditions apply. Concerning Guideline J, the Government established its case. By Applicant's misrepresentation regarding his financial situation, he has violated Federal law, Title 18, United States Code, Section 1001, a felony. Therefore DC E2.A10.1.2.1 and DC E2.A10.1.2.2 are applicable. Inasmuch as Applicant provided no evidence in mitigation, none of the Mitigating Conditions apply. **FORMAL FINDINGS** Formal Findings as required by Section E3.1.25 of Enclosure 3 of the Directive are hereby rendered as follows: Paragraph 1 Guideline F: Against the Applicant Subparagraph 1.a.: Against the Applicant

