

KEYWORD: Financial

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

CASENO: 02-21773.h1

DATE: 03/28/2005

DATE: March 28, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 02-21773

**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 her unsuitable for a security clearance. Clearance denied.

## **STATEMENT OF THE CASE**

Applicant challenges the 18 August 2003 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of her clearance because of financial considerations.<sup>(1)</sup> Applicant answered the SOR in September 2003 and initially requested a decision on the record. However, in June 2004 she changed her mind and requested a hearing. DOHA assigned the case to me 7 July 2004 and I heard it 16 August 2004. DOHA received the transcript 24 August 2004.

## **FINDINGS OF FACT**

Applicant admitted six debts totaling nearly \$9,000.00<sup>(2)</sup> and having insufficient cash flow to address those debts. She is a 32-year-old employee of a defense contractor who has not previously held a clearance.

Applicant has a history of financial difficulties and irresponsibility dating back to at least 1996. She attributes her financial problems to her irresponsible handling of money, not asking for help when she got in over her head financially, and not seeking credit counseling to address her debts. Applicant's November 2001 sworn statement acknowledged the debts alleged at 1.a., 1.b., 1.d., 1.e., and 1.f., and described payment options offered to her by creditors 1.e. and 1.f.<sup>(3)</sup> that she was unable to accept because of the state of her finances then.

Nevertheless, by the time she answered DOHA interrogatories in June 2003, she had addressed only the debt at 1.a.

When she answered the SOR in September 2003, she claimed to have paid the debt at 1.e. but has provided no proof. She also reported paying on the debt at 1.b. by garnishment with an expected payoff in October 2003. (4) She reported being unable to contact or locate the other three creditors, including the creditor for debt 1.f. that she had previously been in contact with. (5) In addition to the debts alleged in the SOR, Applicant had two educational loans that were referred to collection and ultimately paid by Applicant by garnishment.

Applicant's employment reference considers her an honest and competent employee who presents no security risk. However, the reference does not indicate any knowledge of Applicant's financial issues.

### **POLICIES**

The Directive, Enclosure 2 lists adjudicative guidelines to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each 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, the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

### **BURDEN OF PROOF**

Security clearance decisions resolve 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.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government 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. <sup>(6)</sup>

## CONCLUSIONS

The Government established a Guideline F case. Applicant's substantial indebtedness was acquired largely through her own irresponsibility. While Applicant has documented payment on three of the debts, only one was paid before the SOR was issued and another was paid in May 2004, just before Applicant requested a hearing in this case. The third was paid by garnishment. Applicant claims payment on a fourth debt, but is unable to provide proof of that payment--even though that debt is to a creditor (1.e.) that offered her a repayment schedule in November 2001 that she could not accept. The debts at 1.d. and 1.f. remain unpaid. Applicant has not corroborated her claim of being unable to locate the creditor at 1.f (even though she was in contact with the creditor in November 2001. The fact that the creditor at 1.d. is now defunct does not completely diminish the security significance of Applicant's failure to pay this debt since 1996. Disqualifying Factors 1 and 3 apply.

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and not isolated; indeed they may be ongoing. They were not due to circumstances beyond her control. While Applicant has paid some of her delinquent debt, she has not presented evidence of financial counseling or other steps taken to ensure that her finances are stable and remain so. I conclude Guideline F against Applicant.

## FORMAL FINDINGS

Paragraph 1. Guideline F: AGAINST THE APPLICANT

Subparagraph a: For the Applicant

Subparagraph b: Against the Applicant

Subparagraph c: Against the Applicant

Subparagraph d: Against the Applicant

Subparagraph e: Against the Applicant

Subparagraph f: Against the Applicant

Subparagraph g: 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. The government acknowledged that Applicant had provided proof of payment of the debt at 1.a. in her June 2003 interrogatories, well before the SOR was issued, and asked that I find that allegation for her. I do so.
3. This creditor offered to discount her nearly-\$4,000.00 debt to \$3,500.00 if she could make two payments of \$1,750.00 within three weeks; alternatively, the creditor was willing to accept 10% down and monthly payments of \$200.00.
  4. A.E. E confirmed payment in full on this debt in November 2003.
5. However, she produced proof of payment on the debt at 1.c. (A.E. B) in May 2004. I take official notice that the creditor at 1.d. was a major retailer that went bankrupt in approximately 2000.
  6. *See, Department of the Navy v. Egan*, 484 U.S. 518 (1988).