

DATE: November 19, 2003

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-23582

DECISION OF ADMINISTRATIVE JUDGE

KATHRYN MOEN BRAEMAN

APPEARANCES

FOR GOVERNMENT

Catherine M. Engstrom, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

While Applicant's financial problems raised security concerns because of his delay in resolving approximately \$10,000 in debts to six creditors, he sought financial counseling through a debt consolidation company and has been making a good-faith effort for more than one year to resolve his debts through monthly payments; he has reduced his debts substantially and intends to become debt free. He has demonstrated his continuing commitment to being financial responsible. Clearance is granted.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant on October 8, 2002. The SOR detailed reasons why the Government could not make the preliminary positive finding that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. ⁽¹⁾ The SOR alleges specific concerns over finances (Guideline F). Applicant responded to these SOR allegations in an Answer notarized on October 25, 2002, and requested a decision without a hearing.

The case was assigned to Department Counsel who on June 2, 2003, prepared a File of Relevant Material (FORM) for the Applicant's review and advised Applicant that he had 30 days to submit objections and/or information before the FORM was submitted to an administrative judge and that he had the right to be represented by counsel. A Personnel Security Specialist (PSS) sent the FORM to Applicant on June 3, 2003, and again notified the Applicant that he had 30 days from receipt of the letter to submit objections and/or information before the FORM was submitted to an administrative judge. Applicant received the FORM on May 7, 2003, with a response due on July 13, 2003.

The Applicant submitted a response on June 30, 2003, with attachments (Exhibit A). On July 9, 2003, Department Counsel indicated she had no objection to Applicant's exhibit. Subsequently, on July 30, 2003, the DOHA Director assigned the case to another judge; on August 5, 2003 the case was reassigned to me for a decision on the record.

FINDINGS OF FACT

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following Findings of Fact:

Applicant, 35 years old, is employed by a defense contractor in State #1.

Applicant has a certificate from a vocational school that he received in 1999 from State #2. In 1996 he studied at an art institute in State #3, and in 1995 he studied at a community college in State #4. He has never married. He served in the military from 1988 to 1994.

Finances

Applicant's financial problems developed in the 1995-96 period when he had a number of different jobs and also had a period of unemployment. He admits he was not very good at handling money and is still trying to recover from the debts incurred during that period.

In July 2002 his income was \$2,000 per month; he had monthly expenses of \$1,080 and monthly debts for his car and a personal loan of \$465; thus he had a remainder of approximately \$455 per month. He sought counseling from a company who helped him to consolidate his debts and signed up for a debt consolidation plan for four creditors where he owed a total of \$9,716. He was to make his first payment of \$79 per month in July 2002. After Creditor #4 withdrew from the plan, he owed \$3,000 through the plan that he has reduced by consistent payments to \$1,800. He anticipates these debts being fully paid by arch 2005.

In November 2002 his debt to Creditor #1, a gasoline credit card, of \$492 was added to his debt consolidation; and he has made monthly payments to them.

In October 2002 his debt to Creditor #2, a bank, for \$423 was added to his debt consolidation plan; and he has made monthly payments to them.

In July 2002 his debt to Creditor #3 of \$542 was added to his debt consolidation plan; and he has made monthly payments to them.

When Creditor #4, who held his delinquent student loan of \$8,259, refused to participate in the debt consolidation, he made a separate arrangement to pay them directly in July 2002. Subsequently, he has consistently made monthly payments to them to resolve this debt. As of June 2003 he had reduced the debt to \$1,500 for one student loan, \$2,442 for another student loan, \$1,500 for a third student loan, and \$1,711 for a fourth student loan. As of June 2003 he had only four car payments remaining and intends to expedite his student loan payment when he completes that \$365 monthly car payment in November 2003.

In July 2002 his debt to Creditor #5 of \$1,568 for a delinquent credit card was added to his debt consolidation plan; and he has made monthly payments to them.

In October 2002 he tried to add his debt to Creditor #6 of \$384 to his debt consolidation plan; but when Creditor #6 refused to participate, he made \$100 monthly payments directly to them.

Applicant stated in October 2002 that "the sleeping giant has awakened." He has the ability and has demonstrated he is willing to resolve these debts.

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility. They are divided into conditions that could raise a security concern and may be disqualifying and conditions that could mitigate security concerns in deciding whether to grant or continue an individual's access to classified information. But the mere presence or absence of any given adjudication policy condition is not decisive.

Based on a consideration of the evidence as a whole in evaluating this case, I weighed relevant Adjudication Guidelines as set forth below:

Guideline F - Financial Considerations

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.

Conditions that could raise a security concern and may be disqualifying include:

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

Conditions that could mitigate security concerns include:

4. The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;
6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

The responsibility for producing evidence initially falls on the Government to demonstrate that it is not clearly consistent with the national interest to grant or continue Applicant's access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance. Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

CONCLUSIONS

Financial Considerations

During the 1995-96 period Applicant developed (1) a history of financial problems and showed initially (3) an inability or unwillingness to satisfy all of his debts. At the time of the back-ground investigation he had six debts that totaled over \$10,000. Applicant has now mitigated⁽²⁾ these concerns as he has made it a priority to resolve these dated debts. Applicant sought counseling and chose to resolve these debts through a debt consolidation plan or through arrangements directly with these creditors. While he still owes money to these creditors, he has consistently made payments for over a year to resolve them. He has enough income with sufficient reserves to handle his financial obligations. Thus, Applicant has sufficiently demonstrated he is now financially responsible as he has followed through on his plan to resolve these debts and so has effectively mitigated security concerns over his debts alleged in SOR 1.a. through 1.f. . After considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant under SOR Paragraph 1; I conclude that he has mitigated the allegations in SOR subparagraphs 1.a. through 1.g.

FORMAL FINDINGS

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

Paragraph 1. Guideline F: FOR APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: For Applicant

Subparagraph 1.c.: For Applicant

Subparagraph 1.d.: For Applicant

Subparagraph 1.e.: For Applicant

Subparagraph 1.f.: For Applicant

Subparagraph 1.g.: For 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 the Applicant.

Kathryn Moen Braeman

Administrative Judge

1. This procedure is required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated January 2, 1992 (Directive), as amended by Change 4, April 20, 1999.
2. **Conditions that could mitigate security concerns include:** 1. The behavior was not recent; 2. It was an isolated incident; 3. The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation); 4. The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control; 5. The affluence resulted from a legal source; and 6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.