

KEYWORD: Financial

DIGEST: Applicant is an aircraft structural mechanic for a defense contractor. In the same year he retired after 20 years of active military duty, he was divorced from his wife, required to pay some of their bills, and give her half of his retired pay. He has delinquent debts from credit cards used to pay for tools, appliances, and necessities both before and after the retirement and divorce. He made no effort to pay the delinquent debts and has not mitigated security concerns under Guideline F. Clearance is denied.

CASENO: 03-19063.h1

DATE: 05/25/2005

DATE: May 25, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-19063

**DECISION OF ADMINISTRATIVE JUDGE**

**THOMAS M. CREAN**

**APPEARANCES**

**FOR GOVERNMENT**

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant is an aircraft structural mechanic for a defense contractor. In the same year he retired after 20 years of active military duty, he was divorced from his wife, required to pay some of their bills, and give her half of his retired pay. He has delinquent debts from credit cards used to pay for tools, appliances, and necessities both before and after the retirement and divorce. He made no effort to pay the delinquent debts and has not mitigated security concerns under Guideline F. Clearance is denied.

**STATEMENT OF THE CASE**

On August 17, 2004, the Defense Office of Hearing and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its decision to deny a security clearance for Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive). Applicant acknowledged receipt of the SOR on September 9, 2004. The SOR alleges security concerns under Guideline F (Financial Considerations) of the Directive.

Applicant answered the SOR in writing on September 20, 2004. He admitted the allegations under Guideline F, but denied the alleged financial issues raised a security concern. He elected to have the matter decided on the written record in lieu of a hearing.

Department Counsel submitted the Government's written case on February 22, 2005. Applicant received a complete file of relevant material (FORM) on arch 7, 2005, and was provided the opportunity to file objections and submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant's response to the FORM was received on March 18, 2005. On April 28, 2005, Department Counsel noted no objection to the consideration of Applicant's response to the FORM. The case was assigned to me on May 10, 2005.

### **FINDINGS OF FACT**

Applicant is a 48-year-old aircraft structural mechanic for a defense contractor. He retired from active military duty in 1998 after 20 years of service. That same year, he was divorced and required to pay credit card debts he and his wife incurred, pay the loans on both their cars, and to provide half of his retirement to his wife. He has two grown children.

Applicant's adult son, who lives with him, has a significant medical problem. After his retirement and divorce, Applicant helped his son with his living expenses and medical bills. Applicant no longer provides such support for the son since the son is now employed, has health insurance, and an agreement with drug companies to pay for some of his medications. Applicant's daughter married after the divorce, and he helped her with wedding expenses. Applicant was working for a defense contractor in September 2001, but worked less and his pay was reduced after the events of September 11, 2001. Applicant only listed on his security clearance application two months of unemployment after retiring from active military service. [\(1\)](#)

There are nine allegations of delinquent debts in the SOR totaling over \$62,000. Debt 1.a. in the SOR is a personal loan for \$4,000 from a finance company. Applicant received this loan after his divorce to purchase necessities to live. There have been no payments on this loan and the loan amount from penalties and interest is now over \$8,000. Debt 1.b. in the SOR is a delinquent credit card debt for \$23,869 that Applicant and his former wife used before their divorce. Debt 1.c. in the SOR is a credit card debt for \$641 that Applicant used after his divorce to buy tools and food. Debt 1.d. in the SOR is a credit card debt for \$7,500 that Applicant used for living expense after separating from his wife but before their divorce. Debt 1.e. in the SOR is a department store credit card debt for \$7,975 that Applicant used to buy tools for his job and appliances after his divorce. Debt 1.f. in the SOR is a credit card debt for \$8,602 placed in collection. Applicant provided no information on the use of the card. Debt 1.g. in the SOR alleges debt to a discount store for \$2,571 used to purchase food for himself and gifts for his daughter. Debt 1.h. in the SOR is a credit card debt for \$2,794 that Applicant used to purchase tools and furniture after his divorce. Debt 1.i. in the SOR is a credit card debt for \$359 that Applicant used to buy tires for his car. [\(2\)](#)

Applicant intended to file a petition for discharge in bankruptcy but was unable to accumulate enough funds to pay the attorney and processing fees. Applicant tried to have his debts managed by a credit counseling agency but their arrangements would not help Applicant to rapidly satisfy his debts. There was no information presented by Applicant about any payments made for any of the above delinquent debts.

## POLICIES

The President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information."<sup>(3)</sup> Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.<sup>(4)</sup>

The Directive sets out the adjudicative guidelines for making decisions on security clearances. Enclosure 2 of the Directive sets forth adjudicative guidelines for determining eligibility for access to classified information, and it lists the disqualifying conditions and mitigating conditions for each guideline. Each clearance decision must be fair, impartial, and a commonsense decision based on the relevant and material facts and circumstances, the whole person concept, and the factors listed in the Directive ¶ 6.3.1 through ¶ 6.3.6.

"The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance." An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person.<sup>(5)</sup> An administrative judge should consider: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the applicant'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 of recurrence.<sup>(6)</sup>

A person granted access to classified information enters into a special relationship with the government. The government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant.<sup>(7)</sup> It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may disqualify the Applicant from being eligible for access to classified information.<sup>(8)</sup> Thereafter, Applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts.<sup>(9)</sup> An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance."<sup>(10)</sup> "[T]he Directive presumes there is a nexus or rational connection between proven conduct under any of the Criteria listed therein and an applicant's security suitability."<sup>(11)</sup> "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security."<sup>(12)</sup>

Based upon a consideration of the evidence, I find the following adjudicative guideline most pertinent to the evaluation of the facts in this case:

Guideline F - Financial Considerations: A security concern exists for an individual who is financially irresponsible. An individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in their obligations to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guideline are set forth and discussed in the conclusions section below.

## CONCLUSIONS

I carefully considered all of the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

The government has established its case under Guideline F. Applicant's delinquent debts brings the matter within Financial Considerations Disqualifying Conditions E2.A6.1.2.2 (*a history of not meeting financial obligations*); and E2.A6.1.2.3 (*inability or unwillingness to satisfy debts*). Applicant's delinquent debts arose before and after his divorce and retirement from active military duty. Applicant and his wife incurred debts before their divorce and Applicant was assigned responsibility for the debts by the divorce decree. The rest of the debts arose after the divorce from credit cards used by Applicant to buy items he needed for work and to live. There is no information to suggest there have been any payments on these debts. I conclude the above disqualifying conditions have been established.

The Financial Considerations Mitigating Conditions to consider for Applicant are E2.A6.1.3.3 (*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)*); and E2.A6.1.3.6 (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). Applicant claims the debts rose because of conditions beyond his control, namely, his divorce, retirement from active military duty, expenses from his son's illness, and reduction of salary from the after effects of the events of September 11, 2001. Applicant's debts did not arise because of any of these conditions but because he chose to incur debts when he did not have the financial resources to cover the debts. He used credit cards and personal loans to purchase things he thought he needed or wanted. There is no information Applicant changed his spending habits because of less income from his job, his divorce, and his retirement. The use of credit cards and personal loans was within Applicant's control. Applicant presented no information about paying any overdue creditors or otherwise resolving debts. He tried a credit counseling agency to help resolve his indebtedness problems but did not follow through with them. He mentioned that he would file bankruptcy, but presented no documentary information he has filed a petition in bankruptcy. Applicant has not initiated a good-faith effort to pay his delinquent debts. I conclude Applicant has not mitigated the security concerns based on financial considerations.

I carefully considered all of the circumstances in light of the "whole person" concept. I conclude Applicant is not eligible for access to classified information.

### **FORMAL FINDINGS**

Formal Findings for or against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraph 1.a.: Against Applicant

Subparagraph 1.b.: Against Applicant

Subparagraph 1.c.: Against Applicant

Subparagraph 1.d.: Against Applicant

Subparagraph 1.e.: Against Applicant

Subparagraph 1.f.: Against Applicant

Subparagraph 1.g.: Against Applicant

Subparagraph 1.h.: Against Applicant

Subparagraph 1.i.: Against Applicant

### **DECISION**

In light of all of the circumstances presented in the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Thomas M. Crean  
Administrative Judge

1. RM, dated Feb. 22, 2005, Item 4 (Security clearance application, dated May 3, 2004), question 43.
2. FORM, dated Feb. 22, 2005, Item 5 (Applicant's statement, dated May 3, 2004).
3. *Department of the Navy v. Egan*, 484 U.S. 518 (1988).
4. Directive ¶ E2.2.1.
5. *Id.*
6. Directive ¶¶ E2.2.1.1 through E2.2.1.9.
7. *See* Exec. Or. 10865 § 7.
8. Directive ¶ E3.1.14.
9. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15.
10. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
11. ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993))
12. *Egan*, 484 U.S. at 531; *see* Directive ¶ E2.2.2.