

KEYWORD: Financial

DIGEST: Applicant is a senior engineering analyst for a defense contractor. Applicant has four delinquent debts outstanding for a number of years. He has not made any efforts to pay the debts or make arrangements with creditors to satisfy them. Applicant has sufficient financial resources to pay the delinquent debts. Clearance is denied.

CASENO: 03-19585.h1

DATE: 04/07/2005

DATE: April 7, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-19585

**DECISION OF ADMINISTRATIVE JUDGE**

**THOMAS M. CREAN**

**APPEARANCES**

**FOR GOVERNMENT**

Marc E. Curry, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant is a senior engineering analyst for a defense contractor. Applicant has four delinquent debts outstanding for a number of years. He has not made any efforts to pay the debts or make arrangements with creditors to satisfy them. Applicant has sufficient financial resources to pay the delinquent debts. Clearance is denied.

### **STATEMENT OF THE CASE**

On June 9, 2004, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its decision to not grant a security clearance to 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 June 21, 2004. The SOR alleges security concerns under Guideline F (Financial Considerations) of the Directive.

Applicant answered the SOR in writing on August 2, 2004. He admitted three of the allegations, but disputed the amount owed, and denied two of the allegations under Guidelines F. He requested a hearing before an administrative judge and the request was received by DOHA on August 4, 2004. Department Counsel was prepared to proceed with the case on January 11, 2005, and the case was assigned to me on January 13, 2005. A notice of hearing was issued on February 16, 2005, and the hearing convened on March 9, 2005. Four government exhibits, two Applicant exhibits, and the testimony of the Applicant were received during the hearing. The record was left open for Applicant to submit additional documentary information. Applicant did not submit additional documents. The transcript was received on March 18, 2005.

## FINDINGS OF FACT

Applicant is a 36 year old college graduate working for the last four years for a defense contractor as a senior engineer analyst. He held a security clearance while serving on active military duty for eight years. After leaving active military duty, Applicant was employed in a series of positions in the private sector. He was laid off from a position and did not work for over two years, from 1994 to 1996. Applicant was able to again secure employment and worked for two more companies before finding employment with the defense contractor. He was granted an interim security clearance pending the outcome of this application. He is married with no children and his wife is also employed full time. [\(1\)](#)

Applicant has five delinquent debts totaling over \$15,000. Debt 1.a. in the SOR is a credit card debt for \$5,844. While Applicant was unemployed for two years, he and his wife received a credit card. They used the card in 1995 to finance a ten-day pleasure trip. Applicant made no payments on the debt, so the credit card company turned the debt over to a collection company. The collection company in 2004 offered to settle the account with Applicant for a third of the value, paid in two installments. Applicant attempted to obtain a loan from a bank to pay the settlement offer but the bank refused to grant Applicant a loan. Applicant has not finalized any arrangements with the collection agency, has made no payments on the account, and taken no action to seek resources to pay the debts after not receiving the bank loan. [\(2\)](#)

Debt 1.b. in the SOR is the remainder on a 1994 car lease after Applicant turned the car back to the manufacturer for repossession for failure to make lease payments. Applicant did not understand the calculations for the amount of this debt and why he would not receive a car if the debt is paid. The automobile manufacturer agreed to negotiate a settlement in June 2004, but Applicant made no effort to make arrangements with the manufacturer. In January 2005, Applicant employed an attorney to contest the amount Applicant owed on the lease. No action has yet been taken to contest the debt. [\(3\)](#)

Debt 1.c. and debt 1.d. in the SOR are for telephone bills. Applicant testified the bills had been paid but he did not have receipts for the payments. He was provided sufficient time at the close of the hearing to provide receipts for the payments. Within the specified time, Applicant has not provided any documentary information that the telephone debts have been satisfied. [\(4\)](#)

Debt 1.d in the SOR is a bill for medical treatment for Applicant's wife. The bill has been satisfied. [\(5\)](#)

The combined monthly income of Applicant and his wife after deductions is approximately \$7,700 per month. Their combined monthly expenses are approximately \$3,952 per month leaving approximately \$3,800 in discretionary income. The couple own two car which are paid for and they are paying on a loan for a third car.

## 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>(6)</sup> Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.<sup>(7)</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>(8)</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>(9)</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>(10)</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>(11)</sup> Thereafter, Applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts.<sup>(12)</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>(13)</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>(14)</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>(15)</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 financial 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 Directive ¶ E2.A6.1.2.1 (*a history of not meeting financial obligations*); and Directive ¶ E2.A6.1.2.3 (*inability or unwillingness to satisfy debts*). Applicant has four delinquent debts that are long standing and that he has not resolved. The debts were incurred not for the necessities of life but for personal convenience or pleasure. Applicant had opportunities to make payment plans with the creditors but he has not taken steps to resolve the debts. Applicant has sufficient financial resources to pay the debts. I conclude the aforementioned Financial Considerations Disqualifying Conditions have been established.

Applicant has not mitigated the security concerns for Financial Considerations. I have considered Financial Considerations Mitigating Conditions Directive ¶ E2.A6.1.3.1 (*the behavior was not recent*); Directive ¶ E2.A6.1.3.2 (*it was an isolated incident*); Directive ¶ E2.A6.1.3.3 (*the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment)*); and Directive ¶ E2.A6.1.3.6 (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). The delinquent debts, ranging from credit card debt to telephone bills, have been outstanding since as early as 1995. Applicant may have been unemployed for two years, but that was almost ten years ago. He took a pleasure trip during this time incurring credit card debt. The unemployment did not affect his ability to pay his delinquent debts, but it added to his delinquent debt. Applicant now has sufficient monthly financial resources to make substantial payments on his delinquent debts, but he made no payments on the delinquent debts. The creditors offered Applicant opportunities to settle the debts but he made no attempts to take advantage of these offers. Applicant has not mitigated the security concerns under Guideline F.

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 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.: For Applicant

### **DECISION**

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

Thomas M. Crean  
Administrative Judge

1. Tr. 14-18.
2. Tr. 17-22; Tr. 38-39; Applicant exhibit A (Letter from collection agency, dated Jun. 25, 2004).
3. Tr. 23-31; Tr. 41-44; Applicant exhibit B (Letter from automobile manufacturer, dated Jun. 22, 2004).
4. Tr. 33-35.
5. Tr. 36-38; Government exhibit 4 (Applicant's answer to interrogatories, dated Jan. 10, 2004).
6. *Department of the Navy v. Egan*, 484 U.S. 518 (1988).
7. Directive ¶ E2.2.1.
8. *Id.*
9. Directive ¶¶ E2.2.1.1 through E2.2.1.9.
10. *See* Exec. Or. 10865 § 7.
11. Directive ¶ E3.1.14.
12. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15.
13. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
14. ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993))
15. *Egan*, 484 U.S. at 531; *see* Directive ¶ E2.2.2.