

KEYWORD: Financial

DIGEST: While Applicant's past financial problems raised security concerns because of his delay in resolving his debts to three creditors, he has now demonstrated he has made a good-faith effort to resolve all his debts and has reformed his financial practices. In addition, Applicant has a stable job where he is highly regarded. He has matured substantially and demonstrated he has now reformed his financial practices. Clearance is granted.

CASENO: 03-20461.h1

DATE: 08/15/2005

DATE: August 15, 2005

---

In Re:

-----

SSN: -----

Applicant for Security Clearance

---

ISCR Case No. 03-20461

**DECISION OF ADMINISTRATIVE JUDGE**

**KATHRYN MOEN BRAEMAN**

**APPEARANCES**

**FOR GOVERNMENT**

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

While Applicant's past financial problems raised security concerns because of his delay in resolving his debts to three creditors, he has now demonstrated he has made a good-faith effort to resolve all his debts and has reformed his financial practices. In addition, Applicant has a stable job where he is highly regarded. He has matured substantially and demonstrated he has now reformed his financial practices. 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 November 30, 2004. 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. <sup>(1)</sup> The SOR alleges specific concerns over finances (Guideline F). Applicant responded to these SOR allegations in a notarized Answer dated December 23, 2004, where he admitted all the allegations and requested a hearing.

After Department Counsel stated the case was ready to proceed on February 15, 2005, the case was assigned to me on February 17, 2005. On February 28, 2005, DOHA issued a Notice of Hearing and set this case to be heard on March 16, 2005, in a city near where Applicant lives and works.

At the hearing the government offered six exhibits (Exhibits 1-6). Exhibits 1-6 were admitted into evidence without

objection. Applicant testified, offered four exhibits (Exhibits A-D) which were admitted into evidence without objection, and called one witness. I allowed Applicant an additional 37 days after the hearing until April 22, 2005, to submit additional evidence. (TR 42-44)

On March 30, 2005, Applicant submitted Exhibit E. On April 4, 2005, Government's counsel indicated he had no objection to the documents, so Exhibit E was admitted into evidence. On April 8, 2005, he submitted Exhibit F. On April 26, 2005, Government's counsel indicated he had no objection to the documents, so Exhibit F was admitted into evidence, and the record closed. The transcript (TR) was received on March 24, 2005.

### **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, 32 years old, has been employed by Defense Contractor #1 in State #1 since May 1999. He completed a Security Clearance Application (SF 86) on January 24, 2002. He worked for Employer #2 from April to May 1999 and worked for Employer #3 from April 1995 to March 1999.

(Exhibit 1; TR 25) He initially was granted an interim security clearance in 2002 and has never had any security violations. (TR 30-31)

Applicant has not married but has a child born in October 1995 whom he sees on weekends and supports financially. He graduated from high school in 1991. (Exhibits 1, 2; TR 24-25)

### **Finances**

In his SF 86 Applicant disclosed his debts to his creditors. (Exhibit 1; TR 31) During his security interview he stated he had no intent to resolve these debts. (Exhibit 2; TR 31-32) Applicant is now better compensated so is in a better position to resolve these dated debts. He did not go to credit counseling; but because the debts were small, he went directly to each creditor to resolve the debts. (TR 33)

SOR 1.a. Applicant owed \$3,691 to a Federal Credit Union (FCU), Creditor #1, because a vehicle was repossessed. In 1996 he purchased a 1992 car with a loan of \$8,000 and monthly payments of \$188 per month. In 1999 he got behind and the FCU wanted the total delinquent amount due which he was unable to pay. Consequently FCU repossessed his vehicle in June 2000. He initially believed that the debt was satisfied with the repossession of the vehicle. Now he has made arrangements to repay the loan without any fees or interest. He has made one payment of \$100 and subsequent payments of \$50 monthly on this loan. (Exhibits 2, 3, 4; Exhibits C, D, E; TR 17-18; 26-27; 29-30) Applicant paid cash for his current car. (TR 26)

SOR 1.b. Applicant explained his debt to Creditor #2 for \$225 was for a dentist's bill that had been referred to a collection agency in May 2001 after his insurance only paid 80 per cent of the costs; he believed the dentist had overcharged him. He made several small payments until he could no longer afford to do so. Now he has made arrangements to pay \$50 a month to resolve this debt. (Answer; Exhibits 2, 3, 4; Exhibit D; TR 18-19; 21; 27-28)

SOR 1.c. Applicant explained his debt to Creditor #3 for \$351 was for a pre-tax loan of \$3,000 but his tax refund was \$351 less than anticipated when he got the loan. He now has made arrangements to repay this amount at \$25 per month. (Answer; Exhibit 2, 3, 4; Exhibit B; TR 16-17; 27-28)

SOR 1.d. Applicant in March 2004 reported he had a net monthly remainder of only \$30 to resolve his debts. He had net monthly income of \$1,128 and monthly expenses of \$1,098. In 2004 he was paying a fine with \$150 monthly payments but that fine was paid off in April 2005. (Exhibit 3) In 2005 he has had a promotion, so his financial situation has improved. His gross pay for 80 hours was \$744; his net was \$479 for two weeks. (Answer; TR 20) He pays child support of \$212 per month which is taken out of his salary as a garnishment. His rent is \$150 per month and his utilities and other expenses are \$100 per month. (TR 22-23)

## References

Applicant's friend from work who has known him for five years and who has worked with Applicant attested he is one of the best employee in following security procedures. He does his job well. She recommended Applicant for a security clearance. He had no security violations or disciplinary actions at work. (TR 36)

Applicant's supervisor reported that he had an interim Secret clearance for over two years. He has followed government regulations and is very trusted throughout the company. He has been a "model employee." (Exhibit A)

## 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**

***The Concern: 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.***

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**

The Government established disqualifying conditions that could raise a security concern and may be disqualifying including Applicant's (1) history of financial problems and his (3) inability or unwillingness to satisfy all of three debts that total approximately \$4,000.

Now Applicant's financial circumstances have improved and he has made arrangements to resolve each of these debts with manageable monthly payments. As Applicant has now developed a plan to resolve all his debts, he now has mitigated<sup>(2)</sup> these financial concerns. He provided evidence that he is resolving each of these debts. Applicant has now demonstrated that he is financially responsible. While Applicant did not show that he has received or is receiving counseling for the problem, he has developed a plan himself; under MC 4 there are now clear indications that the problem is being resolved or is under control. Also, under C 6 Applicant initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Also, the record evidence as a whole must be considered to determine whether Applicant's overall conduct can be mitigated. Thus, I have evaluated his conduct and considered the following factors:

E.2.21.1. The nature, extent, and seriousness of the conduct; E2.2.1.2. The circumstances surrounding the conduct, to include knowledgeable participation; E2.2.1.3. The frequency and recency of the conduct; E2.2.1.4. The individual's age and maturity at the time of the conduct; E2.2.1.5. The voluntariness of the participation; E2.2.1.6. The presence or absence of rehabilitation and other pertinent behavioral changes; E.2.2.1.7. The motivation for the conduct; E.2.2.1.8. The potential for pressure, coercion, exploitation, or duress; and E.2.2.1.9. The likelihood of continuation or recurrence. (E.2.2. Adjudication Process)

Applicant has clearly matured. Once he realized the seriousness of the need to resolve his dated debts and understood the security implications of his debts, he took action. Applicant developed a plan and has demonstrated he is implementing it to settle three debts. Thus, after considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant under SOR Paragraph 1 as he mitigated the allegations in SOR subparagraphs 1.a. through 1.d..

### **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

### **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. Clearance is granted

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:** E2.A6.1.3. 4. . . . there are clear indications that the problem is being resolved or is under control; and E2.A6.1.3. 6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.