

KEYWORD: Financial

DIGEST: Applicant is indebted to six creditors in the approximate total amount of \$15,000.00. These debts are all past-due. He is, and will most likely remain, under severe financial duress. This fact precludes a finding that it is now clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

CASENO: 03-20759.h1

DATE: 10/28/2005

DATE: October 28, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-20759

**DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

**APPEARANCES**

**FOR GOVERNMENT**

Jennifer Campbell, Department Counsel

## **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant is indebted to six creditors in the approximate total amount of \$15,000.00. These debts are all past-due. He is, and will most likely remain, under severe financial duress. This fact precludes a finding that it is now clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

### **STATEMENT OF THE CASE**

On October 7, 2004, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

Applicant responded to the SOR in writing on November 19, 2004. The case was assigned to the undersigned on March 17, 2005. A Notice of Hearing was issued on April 6, 2005, and the hearing was held on May 10, 2005. The transcript was received on May 18, 2005.

## FINDINGS OF FACT

Applicant is a 32 year old employee of a defense contractor.

**SOR Allegation 1a:** Applicant admits that he is indebted to this creditor in the amount of \$475.00, and that the debt when delinquent in 1996 or 1997. He testified that he has not contacted this creditor about this debt (TR at 21-22). His testimony that he didn't know AT&T was the main carrier for the wireless service he purchased from A Plus Wireless (the creditor discussed in SOR Allegation 1d), and thus he didn't know until recently that he was indebted to AT&T, was not credible.

**SOR Allegation 1b:** Applicant had a checking account with this creditor. He had "overdrawn" the account before he moved out of State, and the debt "just kept building up" (TR at 23). The \$880.00 debt dates back to the early 1990s. In his response to the SOR, applicant stated that he had contacted the creditor "and set up a monthly payment plan. \$100 deposit + \$25.00 a month." He testified, however, that he has no payment plan with the creditor, but since November 2004, has "just [been] sending a hundred dollars every month" (TR at 21). This testimony was not credible, particularly in light of Exhibit B and his later testimony that he is "not positive" about what's happening with the account (TR at 43-45).

**SOR Allegation 1c:** Applicant incurred this debt five or six years ago, and finally satisfied it in November 2004 (TR at 24-25; Exhibit C).

**SOR Allegation 1d:** Applicant purchased two cellular telephones from this creditor in 1996 or 1997. When he didn't pay the bill, it was placed for collection. In his response to the SOR, applicant stated this debt was "paid in full by mail." He testified at the hearing, however, that the debt has not been paid. He further testified that the check sent to the creditor was returned to him, and no forwarding address for the creditor was provided. He offered into evidence a copy of a November 14, 2004 check in the amount of \$205.00 made out to the creditor with the word "void" written on it. Neither this check nor the copy of a return receipt form indicating that in February 2004, the creditor accepted something sent by mail to it (Exhibit A), is credible proof of anything meaningful. Based on the evidence presented, I find that applicant is still indebted as alleged.

**SOR Allegation 1e:** Applicant admits that he owed Home Depot \$580.00. He testified that in 1998 or 1999, he went to a Home Depot store and paid the debt in full. He further testified that he has no receipt showing payment, and that Home Depot has no record of him owing anything. He further testified that he plans on taking the matter up with the credit bureaus (TR at 29-30). Although he testified that he paid off the debt in the 1990s, he stated, in a signed, sworn statement that he gave to the Defense Security Service (DSS) in 2003 (Exhibit 6), that this debt was "for a store charge account that I fully intend to pay." Given his inconsistent statements, I find that applicant is still indebted to this creditor.

**SOR Allegation 1f:** Applicant was indebted to this creditor in the past-due amount of at least \$328.00. He satisfied the debt in February 2005 (Exhibit D).

**SOR Allegation 1g:** This debt arose when applicant took out a personal loan in 1998. He stopped making the required payments, and as of May 2005, the debt stood at \$3,612.74 and was being handled by a law firm. Applicant began making payments on the debt a few months ago. At present, he is trying to decide whether to keep making the monthly payments or to accept the creditor's offer to settle the matter for a one-time payment of \$2,500.00 (TR at 33-34; Exhibit E).

**SOR Allegation 1h:** Applicant admits that he owed Citibank approximately \$9,352.00 for five or six student loans that he defaulted on in 2000. In March 2002 his debt was transferred to EDFUND. In December 2004, applicant began making monthly payments. He missed his April payment because he had "been broke" (TR at 47). As of March 2005, the balance stood at \$9,737.36.

Applicant testified that he "made some mistakes in the past as far as [his] finances and [he has] learned, you know, they catch up with you and [he doesn't] want to fall in the same situation again" (TR at 42). He further testified that he has been working with his stepmother for over a year trying to work through his debts (TR at 52).

One of applicant's coworkers appeared at the hearing and testified that applicant is reliable and trustworthy, and a great coworker.

## CONCLUSIONS

The evidence establishes that applicant is indebted to six different creditors in the total amount of approximately \$15,000.00. All of these debts are past-due. Applicant's failure to honor his financial obligations reflects adversely on his judgment, reliability and trustworthiness, and suggests he cannot be relied upon to safeguard classified information. With respect to the Financial Considerations guideline, Disqualifying Conditions E2.A6.1.2.1 (*a history of not meeting financial obligations*) and E2.A6.1.2.3 (*inability or unwillingness to satisfy debts*) are applicable.

The evidence further establishes that applicant has taken some action on his delinquent debts. He satisfied two of them (as well as a few that were not alleged in the SOR), and he has made one or more payments on three of them. For this, he deserves credit. However, given the remaining debts and his lack of any real effort to clear them up, his efforts are insufficient to qualify for Mitigating Condition E2.A6.1.3.6 (*the individual has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). And, he clearly does not qualify for Mitigating Condition E2.A6.1.3.3 (*the conditions that resulted in the behavior were largely beyond the person's control*).

At present, applicant is under severe financial duress. This conclusion is inescapable given his stated reason for missing his April 2005 payment to EDFUND (i.e., he was "broke.") Because there is no reason to believe his financial condition will significantly improve anytime soon, Guideline F is found against applicant.

### **FORMAL FINDINGS**

PARAGRAPH 1: 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.

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Joseph Testan

Administrative Judge