

DATE: April 21, 2006

In Re:

SSN: -----

Applicant for Trustworthiness Determination

ADP Case No. 03-21654

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Jennifer I. Campbell, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has been experiencing significant financial problems for many years. These problems continued after she received a Chapter 7 bankruptcy discharge in 1998. Determination of Trustworthiness is denied.

STATEMENT OF THE CASE

On April 9, 1993, the Composite Health Care System Program Office (CHCSPO), the Defense Office of Hearings and Appeals (DOHA), and the Assistant Secretary of Defense for Command, Control, Communications and Intelligence (ASDC3I), entered into a Memorandum of Agreement which gave DOHA the responsibility to provide trustworthiness determinations for contractor personnel employed in Information Systems Positions as defined in DoD Regulation 5200.2R, *Personnel Security Program*, dated January 1987.

On August 4, 2005, DOHA issued a Statement of Reasons (SOR) to applicant which detailed reasons why DOHA could not make the preliminary affirmative finding that it is clearly consistent with the national interest to make or continue a determination of trustworthiness, suitability, and eligibility for applicant to hold a sensitive Information Systems Position (ADP-I/II/III).

Applicant responded to the SOR and requested a hearing. The case was assigned to the undersigned on November 10, 2005. A Notice of Hearing was issued on November 15, 2005, and the hearing was held on December 6, 2005. The transcript was received on January 18, 2006.

FINDINGS OF FACT

Applicant is a 39 year old Benefits Service Representative.

SOR Allegation 1a: Applicant's financial difficulties began in the late 1990s when her husband was injured on the job and his employer refused to pay workers compensation benefits. In October 1997, she filed for Chapter 7 bankruptcy,

and in January 1998, a number of debts, totaling approximately \$18,174.00, were discharged by the Bankruptcy Court.

SOR Allegation 1b: This \$191.00 utility debt was paid in August 2005.

SOR Allegation 1c: Applicant admits that she is "indebted to an unknown creditor on four medical accounts placed for collection in the approximate amount of \$217.00." At the hearing applicant testified credibly that she hasn't paid these debts because she doesn't know "what accounts and what collection agency" are involved (TR at 15-16).

SOR Allegation 1d: This \$240.00 debt was paid in August 2005.

SOR Allegation 1e: This \$643.00 debt to a collection agency remains unpaid.

SOR Allegation 1f: This \$7,398.00 debt, which resulted from a vehicle repossession, and has been in collection since 2001, remains unpaid.

SOR Allegation 1g: This \$4,768.00 debt arose following a vehicle repossession in 2001, and remains unpaid.

SOR Allegation 1h: This \$738.00 debt was satisfied in August 2005.

SOR Allegation 1i: Applicant has about \$18,900.00 in student loan debts. Her payments were delinquent when the loans were held by the U.S. Department of Education. The debts were

recently transferred to a new lender and consolidated. Applicant's first payment under the new, consolidated loan is due later this month.

Documentary evidence offered by applicant indicates she performs well at her job and is considered responsible and trustworthy by her employer.

CONCLUSIONS

Despite receiving a Bankruptcy Discharge in 1998, applicant is still experiencing significant financial problems, as evidenced by her numerous delinquent debts. 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*) of the Financial Considerations guideline are applicable.

In view of how applicant's financial problems began, she qualifies for Mitigating Condition E2.A6.1.3.3 (*the conditions that resulted in the behavior were largely beyond the person's control*).

And, although her failure to address two of the more significant debts listed in the SOR (i.e., the \$7,398.00 and \$4,768.00 debts) precludes application of Mitigating Condition E2.A6.1.3.6, her payment of three of the past-due debts listed in the SOR is noted.

Applicant is a hardworking, valuable employee. However, as she testified, at the present time, she is "still in debt, living paycheck to paycheck . . ." (TR at 13). With over \$30,000.00 in unsecured debt remaining, and no evidence that she will be in a position to significantly reduce this debt anytime soon, applicant cannot be deemed to be financial stable. Rather, she must be deemed to be financially overextended. As such, her situation fits squarely within the Financial Guideline Concern expressed in the Directive (E2.A6.1.1.1 - *An individual who is financial overextended is at risk of having to engage in illegal acts to generate funds.*) Based on this fact, I have no choice but to conclude it is not now clearly consistent with the national interest for applicant to have access to sensitive medical information.

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 make or continue a determination of trustworthiness, suitability and eligibility for applicant to hold a sensitive Information Systems Position.

Joseph Testan

Administrative Judge