

DATE: May 25, 2004

In Re:

SSN: -----

Applicant for Security Clearance

CR Case No. 02-33627

DECISION OF ADMINISTRATIVE JUDGE

ROGER E. WILLMETH

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Department Counsel

FOR APPLICANT

Pro se

SYNOPSIS

A 37-year-old applicant has failed to explain why she incurred 12 bad debts, amounting to approximately \$15,622.00, and had two automobiles repossessed for her failure to make payments. She contends that she has paid three of the bad debts in full, as well as the deficiency resulting from one of the repossessions. Applicant also asserts that she has made partial payments of five other bad debts. However, she has failed to provide corroboration of any payments. Moreover, Applicant has taken no action to resolve three student loans, totaling \$8,041.00, and a gasoline credit account in the amount of \$1,040.00. Based on the written record, Applicant has failed to satisfactorily address and mitigate her history of not meeting financial obligations. Clearance is denied.

STATEMENT OF THE CASE

On July 30, 2003, the Defense Office of Hearings and Appeals (DOHA), pursuant to the applicable Executive Order⁽¹⁾ and Department of Defense Directive,⁽²⁾ issued a Statement Reasons (SOR) to Applicant. The SOR details security concerns under Guideline F (Financial Considerations). The SOR states that DOHA was unable to find that it is clearly consistent with the national interest to grant her access to classified information and recommends that his case be submitted to an Administrative Judge.

Applicant submitted a response to the SOR, dated August 18, 2003, in which she requested a decision on the written record, in lieu of a hearing. The Applicant received the File of Relevant Material (FORM), containing nine documents, on October 24, 2003 and has not submitted any additional information or objections to the material contained therein. This case was assigned to me on December 3, 2003.

PROCEDURAL ISSUE

On April 12, 2004, I held a conference call with Applicant and Department Counsel. Because of a statement in Applicant's response to the SOR, I informed her that a decision on the written record did not enable me to contact her to

resolve any doubts. Applicant reiterated her request to have a decision on the written record. Accordingly, I undertook a review of the written record.

FINDINGS OF FACT

Having thoroughly considered the evidence in the record, including Applicant's admission of all the debts addressed by the SOR, I make the following findings of fact:

Applicant is a 37-year-old internet specialist employed by a defense contractor.

Applicant incurred a \$320.00 debt to a telecommunications company that became delinquent and was placed for collection in August 1996 (SOR ¶ 1.e).

She incurred a \$708.00 debt on nine accounts with a supermarket that became delinquent were placed for collection in February 1997 (SOR ¶ 1.k).

Applicant incurred a \$1,040.00 debt on a gasoline credit card account that became delinquent and was placed for collection in January 1998 (SOR ¶ 1.a).

She incurred a \$691.00 debt to a telephone company that became delinquent and was placed for collection in August 1999 (SOR ¶ 1.h).

Applicant incurred a \$349.00 debt for utility services that became delinquent and was placed for collection in September 1999 (SOR ¶ 1.j).

She obtained three student loans, totaling \$8,041.00, that became delinquent and were placed for collection in December 1999 (SOR ¶ 1.b through SOR ¶ 1.d).

Applicant incurred a \$822.00 debt to a cable service provider that became delinquent and was placed for collection in December 1999 (SOR ¶ 1.I).

She incurred a credit card debt in the amount of \$575.00 that became delinquent and was placed for collection in April 2000 (SOR ¶ 1.f).

Applicant incurred a \$2,560.00 debt to a furniture store that became delinquent and was placed for collection in February 2001 (SOR ¶ 1.g).

She incurred a \$516.00 debt for cellular phone service that became delinquent and was placed for collection in April 2001 (SOR ¶ 1.l).

Applicant's automobile was repossessed in May 2001, after she became delinquent on the loan. She owes a deficiency of \$2,000.00 on the account (SOR ¶ 1.m).

She had another automobile repossessed in July 2001, after she became delinquent on the loan. Applicant owes a deficiency of \$4,000.00 on the account (SOR ¶ 1.n).

On August 22, 2002, Applicant provided a sworn statement to a Defense security Service (DSS) investigator. She said that she received no assistance with the debts from a person with whom she had a relationship from February 1997 until the relationship ended in May 1999.

POLICIES

Department Counsel is responsible for presenting witnesses and other evidence to establish facts alleged in the SOR that have been controverted. Directive E3.1.14. The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision. Directive E3.1.15.

Eligibility for access to classified information is predicated upon an individual meeting adjudicative guidelines discussed in Enclosure 2 of the Directive. An evaluation of whether an applicant meets these guidelines includes the consideration of a number of variables known as the "whole person concept." Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a decision. This assessment should include the following factors: (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 individual'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 or recurrence. Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of national security. Directive E2.2.2.

Enclosure 2 provides conditions for each guideline that could raise a concern and may be disqualifying, as well as further conditions that could mitigate a concern and support granting a clearance. The following guidelines are applicable to this case.

Guideline F: Financial Considerations

The concern is that an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Conditions that could raise a security concern and may be disqualifying include E2.A6.1.2.1, a history of not meeting financial obligations (Disqualifying Condition 1). They also include E2.A6.1.2.3, inability or unwillingness to satisfy debts (Disqualifying Condition 3). Conditions that could mitigate security concerns include E2.A6.1.3.6, the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts (Mitigating Condition 6).

CONCLUSIONS

Applicant owes approximately \$15,622.00 on 12 bad debts. The smallest of these unpaid debts became delinquent nearly eight years ago. In addition, she has had two automobiles repossessed due to her failure to make payments. Such a history of not meeting financial obligations raises Disqualifying Condition 1. In addition, her demonstrated inability or unwillingness to satisfy debts raises Disqualifying Condition 2.

Applicant has not presented evidence that her indebtedness resulted from conditions that were beyond her control. Her only explanation for the indebtedness is found in her statement to a DSS investigator. Applicant states she received no assistance with the debts from a person with whom she had a relationship from February 1997 until the relationship ended in May 1999. However, she did not provide any further explanation of that person's obligation for the debts or her inability to resolve them.

Applicant contends she has paid in full four of the delinquent debts addressed by the SOR. She claims to have paid off: the \$320.00 debt to a telecommunications company (SOR ¶ 1.e); the \$349.00 debt for utility services (SOR ¶ 1.j); the \$516.00 debt for cellular service (SOR ¶ 1.i); and the \$4,000.00 deficiency incurred when her automobile was repossessed (SOR ¶ 1.n).⁽³⁾

Applicant also claims to have made partial payments of five other debts addressed by the SOR. She states she has paid: \$640.00 of the \$2,560.00 debt to a furniture store (SOR ¶ 1.g); \$173.00 of the \$691.00 debt to a telephone company (SOR ¶ 1.h); \$205.00 of the \$822.00 debt to a cable service provider (SOR ¶ 1.i); \$205.00 of the \$708.00 debt to a supermarket (SOR ¶ 1.k); and unspecified payments on the \$2,000.00 deficiency following an automobile repossession (SOR ¶ 1.m).

Although Applicant has alleged to have made these payments, she has not provided any corroboration for them, even after Department Counsel called attention to this in the FORM. Failure to present documentation in support of an applicant's claims about financial matters is a factor to be considered in evaluating such claims. ISCR Case No. 98-0419 (April 30, 1999) at p. 4. Applicant's failure to furnish proof of any payments leaves doubt as to whether any of the obligations have been satisfied. Under the Directive, such doubt must be resolved in favor of national security. E2.2.2.

Even if Applicant has made the payments she alleges, she has failed to satisfactorily address the resolution of her remaining indebtedness, amounting to more than \$9,000.00. Although her three student loans, totaling \$8,041.00, have been in arrears for more than four years, Applicant asserts that she will begin paying them off in three months. She has not explained the reason for the delay or why or how she will commence payments in three months. Applicant's assertion does not satisfactorily address these obligations. The possibility that an applicant might achieve resolution of outstanding debts at some future date is not evidence of financial reform or rehabilitation in the present. ISCR Case No. 99-0012 (December 1, 1999) at p. 2.

Applicant did not specifically address her \$1,040.00 debt on a gasoline credit card account or any attempt on her part to resolve it. In her response to the SOR, she mistakenly refers to it as if it were another student loan. Based on her answer, Applicant has not made a payment on the \$575.00 delinquent debt on a credit card since December 2002.

Based on the evidence in the FORM, I find against Applicant on each of the allegations addressed by the SOR.

FORMAL FINDINGS

Formal findings, as required by section E3.1.25 of Enclosure 3 of the Directive, are as follows:

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

Subparagraph 1.j: Against Applicant

Subparagraph 1.k: Against Applicant

Subparagraph 1.l: Against Applicant

Subparagraph 1.m: Against Applicant

Subparagraph 1.n: Against Applicant

DECISION

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

Signed

Roger E. Willmeth

Administrative Judge

1. Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended.
2. Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified.
3. Applicant acknowledges that she paid the latter by borrowing against her 401K account.