

DATE: July 13, 2004

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-00920

**ECISION OF ADMINISTRATIVE JUDGE**

**JOHN G. METZ, JR.**

**APPEARANCES**

**FOR GOVERNMENT**

Jason Perry, Esquire, Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant's pattern of financial irresponsibility renders him an unsuitable candidate for a security clearance. Clearance denied.

**STATEMENT OF THE CASE**

Applicant challenges the 1 October 2003 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of his clearance because of financial considerations. <sup>(1)</sup> He answered the SOR on 20 October 2003 and requested a decision without a hearing. He did not respond to the Government's File of Relevant Material (FORM), issued 12 May 2004. The record in this case closed 19 June 2004, the day the response was due. The case was assigned to me 9 July 2004.

**FINDINGS OF FACT**

Applicant admitted the SOR allegations, except for the debt at 1.f., which he neither admitted nor denied, and the allegations at 1.i. and 1.j., which he denied as accounts he did not recognize. Accordingly, I incorporate his admissions as findings of fact.

Applicant--a 28-year-old employee of a defense contractor--seeks access to classified information. He previously had a clearance in 1998.

Applicant has a history of financial difficulties and irresponsibility dating back to 1997. He has 10 delinquent credit accounts totaling over \$5,000.00, that fell past due between May 1997 and and May 2003. None of these debts were caused by circumstances beyond his control. In a January 2002 interview, he admitted falling into debt because of his irresponsible use of credit, but also stated that he intended to resolve the debts, and was expecting to pay off one of the accounts (1.h.) by March 2002. Yet, those accounts remained unpaid according to a July 2003 credit bureau report.

Applicant's July 2003 response to interrogatories stated his intent to pay the debts at 1a. and 1.g. by October 2003, but those debts remained unpaid according to a May 2004 credit bureau report--which also showed additional accounts falling delinquent since the SOR was issued.

Applicant has previously stated his intention to resolve his debts and to seek credit counseling, yet he has not documented any credit counseling, just as he has not documented any of his claimed payments or his claimed contacts with creditors.

## **POLICIES**

The Directive, Enclosure 2 sets forth adjudicative guidelines to be considered in evaluating an Applicant's suitability for access to classified information. The Administrative Judge must take into account both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each adjudicative decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, I conclude the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

## **BURDENS**

A security clearance decision is intended to resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove--by something less than a preponderance of the evidence--controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate or mitigate the Government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. The Government, therefore, has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the Government. <sup>(2)</sup>

## **CONCLUSIONS**

The Government has established its case under Guideline F and Applicant has not mitigated the security concerns. The record demonstrates Applicant's substantial indebtedness, acquired through his own irresponsibility, and largely ignored since before his January 2002 subject interview. Indeed, five of the delinquent accounts alleged in the SOR fell delinquent after the interview. His most recent credit report suggests his financial situation has not improved, but has instead deteriorated. He has made no arrangements to satisfy any of the outstanding debts. His response to his delinquent accounts bespeaks a financial irresponsibility inconsistent with access to classified information <sup>(3)</sup>

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and not isolated; indeed they are ongoing. They are not due to circumstances beyond his control. He has not stopped digging himself into a financial hole, much less started to pull himself out of it. I conclude Guideline F against Applicant.

## **FORMAL FINDINGS**

Paragraph 1. Guideline F: AGAINST THE APPLICANT

Subparagraph a: Against the Applicant

Subparagraph b: Against the Applicant

Subparagraph c: Against the Applicant

Subparagraph d: Against the Applicant

Subparagraph e: Against the Applicant

Subparagraph f: Against the Applicant

Subparagraph g: Against the Applicant

Subparagraph h: Against the Applicant

Subparagraph i: Against the Applicant

Subparagraph j: 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.

**John G. Metz, Jr.**

**Administrative Judge**

1. Required by Executive Order 10865, as amended and Department of Defense Directive 5220.6, as amended (Directive).
2. *See Department of the Navy v. Egan*, 484 U.S. 518 (1988).
3. E2.A6.1.2.1. A history of not meeting financial obligations; E2.A6.1.2.3. Inability or unwillingness to satisfy debts;