

DATE: June 25, 2004

In Re:

SSN: -----

Applicant for Security Clearance

CR Case No. 03-01371

DECISION OF ADMINISTRATIVE JUDGE

CHARLES D. ABLARD

APPEARANCES

FOR GOVERNMENT

Catherine Engstrom, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 46-year-old employee of a defense contractor who incurred approximately \$25,000.00 in delinquent debts to six credit card companies. At the time of the filing of her answer to the SOR she showed evidence of payment or settlement of three of the debts totaling almost \$10,000.00 and subsequently submitted documentation as to the remaining debts to show that she had settled, or paid the other accounts. Clearance is granted.

STATEMENT OF THE CASE

On October 22, 2003, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified, issued a Statement of Reasons (SOR) to Applicant stating reasons why DOHA could not make the preliminary affirmative finding that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. DOHA recommended the case be referred to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In a sworn written statement, dated November 18, 2003, Applicant responded to the SOR allegations, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the government's written case on March 23, 2004. A complete copy of the File of Relevant Material (FORM), consisting of six documents, was provided to Applicant by letter dated March 24, 2004. Applicant was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. She did so on April 8, 2004. The case was assigned to me on April 28, 2004.

FINDINGS OF FACT

Applicant admitted three of the specific allegations of delinquent debt and denied three others in the SOR in her answer. After a complete and thorough review of the information in the record, and upon due consideration of same, I make the

following additional findings of fact.

Applicant is a 37-year-old employee of a defense contractor. She incurred approximately \$25,000.00 in delinquent debts to six credit card companies. At the time of the filing of her answer to the SOR she showed evidence from 2001 and 2003 of payment or settlement of three of the debts totaling almost \$10,000.00. (1d,e, and f) Subsequent to receipt of the FORM, Applicant submitted documentation as to the remaining three debts to show that in March 2003, she had settled one account for 80% of the debt (1a), in early April 2004, had paid a second account in full (1b) and was paying \$200.00 a month on a third account that was deemed current by the creditor (1c). (Attachment 1 to Supplemental Answer)

POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position that will give that person access to such information." *Id.* at 527.

An evaluation of whether the applicant meets the security guidelines includes consideration of the following factors: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct; (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 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. Directive, ¶ E2.2.1. Security clearances are granted only when "it is clearly consistent with the national interest to do so." Executive Order No. 10865 § 2. *See* Executive Order No. 12968 § 3.1(b).

Initially, the government must establish, by something less than a preponderance of the evidence, that conditions exist in the personal or professional history of the applicant which disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. The applicant then bears the burden of demonstrating that it is clearly consistent with the national interest to grant or continue the applicant's clearance. "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security." Directive, ¶ E2.2.2. "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531. *See* Executive Order No. 12968 § 3.1(b)

CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors and conditions above, I conclude the following with respect to all allegations set forth in the SOR.

Applicant's extensive delinquent debts prompted the allegation in the SOR of violation of Guideline F in that an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. (E2.A6.1.1.) Conditions that could raise a security concern and may be disqualifying include a history of not meeting financial obligations (E2.A6.1.2.1.) and evidence of inability or unwillingness to satisfy debts. (E2.A6.1.2.3.) Mitigating Conditions (MC) include the fact that the person has initiated a good faith effort to repay overdue creditors or otherwise resolve debts. (E2.A6.1.3.6.)

Applicant has shown through documentary evidence from her creditors that the debts have either been paid, settled, or deemed current by her creditors. I therefore conclude that the allegations have been mitigated.

After considering all the evidence as a whole, and focusing on the whole person of the Applicant, I conclude it is clearly consistent with the national interest to grant a security clearance to the Applicant.

FORMAL FINDINGS

Formal findings as required by the Directive (Par. E3.1.25) are as follows:

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

Subparagraph 1.e.: For Applicant

Subparagraph 1.f.: For Applicant

DECISION

After full consideration of all the facts and documents presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Charles D. Ablard

Administrative Judge