

DATE: November 16, 2004

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-02324

DECISION OF ADMINISTRATIVE JUDGE

PHILIP S. HOWE

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant incurred 11 delinquent debts over a nine-year period. She was unable to repay them, and has made no effort to repay any of them. She also has taken no action on three settlement offers made to her by creditors. Applicant did not disclose on her security clearance application her delinquent debts in answer to Questions 38 and 39 of that application. Applicant has not mitigated the financial consideration and personal conduct security concerns. Clearance is denied.

STATEMENT OF THE CASE

On February 23, 2004, the Defense Office of Hearings and Appeals (DOHA), under Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, 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. The SOR detailed reasons under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) 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 conduct proceedings and determine whether clearance should be granted, continued, denied, or revoked.

In a signed and sworn Answer, dated May 6, 2004, Applicant responded to the SOR allegations. She did not request a hearing. On July 8, 2004, Department Counsel submitted the Department's written case. A complete copy of the file of relevant material (FORM) [\(U\)](#) was provided to the Applicant. She was given the opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not file a response to the FORM within the scheduled due date of August 15, 2004. The case was assigned to me on September 16, 2004.

FINDINGS OF FACT

Applicant admitted the SOR allegations. Those admissions are incorporated herein as findings of fact. After a complete

and thorough review of the evidence in the record, and upon due consideration of the same, I make the following additional findings of fact:

Applicant is a 48-year-old technical support employee of a defense contractor. She is married. Applicant has delinquent debts totaling \$24,296, some of which have been due for nine years.

Applicant's debts and their disposition are as follows:

SOR ALLEGATION	NATURE OF DEBT AND CURRENT AMOUNT	CURRENT STATUS
1.a.	Loan company for car, \$8049	Car repossessed, unpaid. Items 5 to 9.
1.b.	Loan company for car, \$6355	Car repossessed, unpaid. Items 5 to 9
1.c.	Radio and electronics store purchases, \$2233	Unpaid; Items 5 to 9
1.d.	U.S. Department of Education, \$5473	Unpaid. Items 5 to 9
1.e.	Physician's bill, \$52	Unpaid. Items 5 to 9
1.f.	Cable television service, \$68	Unpaid. Items 5 to 9
1.g.	Telephone company, \$898	Unpaid. Items 5 to 9
1.h.	Investment company, \$9857	Unpaid. Items 5 to 9
1.i.	Wireless telephone, \$1005	Unpaid. Items 5 to 9
1.j.	Food store, \$108	Unpaid. Items 5 to 9
1.k.	Photography store, \$65	Unpaid. Items 5 to 9

Applicant admits she cannot pay her bills. Applicant's statement of June 2002 says she will contact a bankruptcy attorney, but Applicant submitted no further documentation that she did contact such an attorney. Applicant's Answer states she will file bankruptcy. Applicant attributes part of her financial problem to paying for her child's college education, but her security clearance application (SCA) does not list the names of any children. The two repossessed automobiles were purchased for the use of her children, but Applicant could not keep up the payments. Applicant states in her Answer that her husband left her in November 2003 and she has been home since December 2003 for cancer treatments. Applicant received settlement offers for the debts listed in subparagraphs 1.b., 1.c., and 1.i. of the SOR, but did not accept them. (Item 3 at 4, Item 5, and Item 7 at 5, 9 and 12)

Applicant answered Question 38 (financial delinquencies in the previous seven years that were more than 180 days past due) and Question 39 (financial delinquencies then over 90 days past due) in the negative, failing thereby to disclose the debts alleged in the SOR, all of which were at least 90 days delinquent. Applicant falsified her answers to these questions because she did not want her company's security officer to see her personal financial information. (Item 4 at 6, Item 5 at 3)

POLICIES

The adjudication process is based on the whole person concept. All available, reliable information about the person, past and present, is to be taken into account in reaching a decision as to whether a person is an acceptable security risk. Enclosure 2 to the Directive sets forth adjudicative guidelines that must be carefully considered according to the pertinent Guideline in making the overall common sense determination required.

Each adjudicative decision must also include an assessment of: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, and the extent of knowledgeable participation; (3) how recent and frequent the behavior was; (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 (See Directive, Section E2.2.1. of Enclosure 2). Because each security case presents its own unique facts and circumstances, it should not be assumed that the factors exhaust the realm of human experience or that the factors apply equally in every case. Moreover, although adverse information concerning a single condition may not be sufficient for an

unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility, or other behavior specified in the Guidelines.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guidelines most pertinent to an evaluation of the facts of this case:

Guideline F: Financial Considerations

The Concern: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

Conditions that could raise a security concern and may be disqualifying include:

- (1) A history of not meeting financial obligations. E2.A6.1.2.1.
- (3) Inability or unwillingness to satisfy debts. E2.A6.1.2.3.

Conditions that could mitigate security concerns include:

None

Guideline E - Personal Conduct:

The Concern: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information. The following will normally result in an unfavorable clearance action or administrative termination of further processing for clearance eligibility:

Refusal to provide full, frank and truthful answers to lawful questions of investigators, security officials or other official representatives in connection with a personal security or trustworthiness determination.

Conditions that could raise a security concern and may be disqualifying also include:

- (2) The deliberate omission, concealment, falsification or misrepresentation of relevant and material facts from any personnel security questionnaire, personal history statement or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; E2.A5.1.2.2.

- (4) Personal conduct or concealment of information that increases an individual's vulnerability to coercion, exploitation or duress, such as engaging in activities which,

if known, may affect the person's personal, professional, or community standing

or render the person susceptible to blackmail. E2.A5.1.2.4.

- (5) A pattern of dishonesty. E2.A5.1.2.5.

Conditions that could mitigate security concerns include:

None

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 each allegation set forth in the SOR:

Considering Guideline F (Financial Considerations), I conclude Disqualifying Conditions (DC) 1 (history of not meeting financial obligations) and 3 (an inability to satisfy debts) apply here. Applicant has not paid her delinquent bills for a period of nine years in some cases.

There are no Mitigating Conditions (MC) applicable here. Applicant has made no efforts to file bankruptcy, accept settlement offers, or arrange installment payment plans with her creditors. I conclude Guideline F against Applicant.

With respect to Guideline E, I conclude the Government proved its case. Applicant did not reveal all of her outstanding debts. She knew they were there. She should have listed them on the security clearance application. DC 2 (the deliberate omission or concealment of relevant and material facts from any personal security questionnaire) applies. Also, DC 4 (conduct that increase vulnerability to coercion, duress or exploitation) applies. She has a pattern of dishonesty by not repaying her debts, so DC 5 applies likewise. Applicant's conduct of incurring debts and not repaying them could open her to coercion by persons who could offer to relieve her financial burden in return for classified information.

There are no MC applicable here. Applicant, by not disclosing her delinquent debts on her SCA because she did not want her employer's security officer to see them, also did not disclose them to the Government as requested on the SCA. Applicant presented no credible or persuasive reason to mitigate her falsification of this information. I conclude Guideline E against Applicant.

FORMAL FINDINGS

Formal Findings as required by Section E3.1.25 of Enclosure 3 of the Directive are hereby rendered 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

Paragraph 2 Guideline J: Against Applicant

Subparagraph 2.a.: Against Applicant

DECISION

In light of all the circumstances and facts 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. Clearance is denied.

Philip S. Howe

Administrative Judge

1. The Government submitted nine items in support of the SOR.