

DATE: December 27, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-04367

## **DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Nygina T. Mills, Department Counsel

#### **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant's long-standing financial difficulties preclude a finding that it is clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

### **STATEMENT OF THE CASE**

On October 3, 2003, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to applicant which detailed reasons 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 determine whether clearance should be denied or revoked.

Applicant subsequently responded to the SOR in writing and elected to have his case determined on a written record in lieu of a hearing. Department Counsel (DC) submitted the Government's written case (FORM) on or about June 8, 2004. Applicant did not file a response to the FORM. The case was assigned to me on May 27, 2005.

### **FINDINGS OF FACT**

Applicant is a 41 year old employee of a defense contractor.

#### **Guideline J**

Applicant admits SOR Allegations 1a and 1b. These allegations are therefore incorporated by reference as Findings of Fact.

#### **Guideline E**

Although applicant admits SOR Allegations 2a and 2b, I find that, based on the evidence in the record, the incidents referenced in SOR Allegations 1a and 1b did not require applicant to answer "yes" to either Question 21 or 24.

### **Guideline F**

Applicant admits SOR Allegations 3a, 3b, 3c, 3f, 3g and 3h. These allegations are therefore incorporated by reference as Findings of Fact.

**SOR Allegation 3d:** The evidence is insufficient to prove applicant is indebted as alleged.

**SOR Allegation 3e:** Applicant is indebted to this creditor in the approximate amount of \$612.00 (Exhibit 6).

### **CONCLUSIONS**

With respect to Guideline J, the conduct for which applicant received non-judicial-punishment in 1993 and 1997 raises concerns about his judgment, reliability and trustworthiness. Disqualifying Condition E2.A10.1.2.2 (*a single serious crime or multiple lesser offenses*) is applicable. However, Mitigating Conditions E2.A10.1.3.1 (*the criminal behavior was not recent*) and E2.A10.1.3.4 (*the factors leading to the violation are not likely to recur*) are also applicable. Because I conclude applicant's criminal conduct is unlikely to recur, Guideline J is found for him.

With respect to Guideline F, the evidence establishes that applicant is indebted to at least five creditors for past-due debts in a total amount in excess of \$7,700.00. Applicant's failure to honor his financial obligations reflects adversely on his judgment and reliability, and suggests he cannot be relied upon to safeguard classified information. With respect to the Financial Considerations guideline, 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*) are applicable.

Once the Government established a *prima facie* case under Guideline F, the burden shifted to applicant to show he has reformed. Applicant failed to meet his burden. He offered no credible evidence that he (1) is in a position to significantly reduce this past-due indebtedness anytime soon, or (2) is unlikely to experience additional financial difficulties. Applicant does not qualify for any Mitigating Condition under Guideline F.

### **FORMAL FINDINGS**

PARAGRAPH 1: FOR THE APPLICANT

PARAGRAPH 2: FOR THE APPLICANT

PARAGRAPH 3: 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.

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Joseph Testan

Administrative Judge