

KEYWORD: Financial

DIGEST: Applicant has delinquent debts totaling more than \$27,000. He asserts he paid two of the debts totaling about \$1,300, but failed to produce any documents to corroborate this claim. Rather than resolve the remaining charged off accounts, Applicant intends to let them "dissolve" from his credit report. Applicant failed to mitigate security concerns raised by his financial situation. Clearance is denied.

CASENO: 03-13152.h1

DATE: 02/17/2005

DATE: February 17, 2005

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-13152

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has delinquent debts totaling more than \$27,000. He asserts he paid two of the debts totaling about \$1,300, but failed to produce any documents to corroborate this claim. Rather than resolve the remaining charged off accounts, Applicant intends to let them "dissolve" from his credit report. Applicant failed to mitigate security concerns raised by his financial situation. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On 27 May 2004, DOHA issued a Statement of Reasons⁽¹⁾ (SOR) detailing the basis for its decision-security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing on 29 June 2004 and elected to have the case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on 17 November 2004. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant received the FORM on 24 November 2004, but did not respond. The case was assigned to me on 19 January 2005.

FINDINGS OF FACT

Applicant is a 45-year-old systems engineer for defense contractor. Item 4 at 1, 2. He divorced his first wife in August 1996. *Id.* at 4. He has since remarried. *Id.* at 3.

Applicant had two medical accounts placed for collection totaling more than \$1,300. Applicant admitted these

delinquent debts and claims he paid them. Item 3 at 1. He provided no evidence to corroborate that claim despite notification in the FORM that his failure to provide such documentation was a concern. FORM at 4.

Applicant had four other accounts totaling more than \$26,000 that were charged off as bad debts. The SOR incorrectly identified the holder of the bad debt in ¶ 1.f. Applicant admitted he had delinquent accounts with the other four creditors, but he contests their current status. Most of the debts appear to have become delinquent around the time of his divorce. Applicant's intent was to "let the accounts dissolve from [his] credit report over time." Item 5 at 2. On 15 August 2002, Applicant provided a Defense Security Service agent with a personal financial statement that showed he had \$812 a month after paying his monthly bills. *Id.* at 6. Applicant has no plans to resolve these debts, but claim he will pay if a court of law orders him to do so. *Id.* at 2; Item 3 at 1-2.

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. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. § 2. Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

CONCLUSIONS

In the SOR, DOHA alleged Applicant had six delinquent debts, two had been placed for collection (¶¶ 1.a, 1.b) totaling more than \$1,300, and four that were charged off as bad debts (¶¶ 1.c-1f) totaling more than \$26,000. An applicant who

is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1.

The Government established each of the allegations in the SOR, except ¶ 1.f. The Applicant's credit report upon which the Government based the allegation in ¶ 1.f shows the debt of \$5,110 is to a different creditor. From Applicant's answer, it appears he was misled about the nature of the debt. As Applicant was not properly notified of the allegation against which he had to defend, I find for him on ¶ 1.f.

Applicant has a history of not meeting his financial obligations (DC E2.A6.1.2.1) and is unable or unwilling to satisfy his debts (DC E2.A6.1.2.3). Most of these delinquent debts may have arisen, in large measure from conditions beyond his control-his 1996 divorce (*see* MC E2.A6.1.3.3), but he has made no good faith effort since then to resolve these debts despite having the financial assets to establish a payment plan. Instead, he intends to wait until the debts "dissolve" from his credit report. Under all the circumstances of this case, I find against Applicant on ¶¶ 1.a-1.e.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the SOR:

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: For Applicant

DECISION

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

James A. Young

Administrative Judge

1. Required by Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified (Directive).