

KEYWORD: Financial; Personal Conduct

DIGEST: Applicant accumulated nine delinquent debts totaling more than \$5,000. Although she has paid off two of the debts totaling approximately \$1,300, her salary is insufficient to pay off the others. Applicant deliberately omitted mention of those debts on her security clearance application. Applicant failed to mitigate the security concerns raised by her financial condition and her personal conduct. Clearance is denied.

CASENO: 03-14641.h1

DATE: 02/14/2005

DATE: February 14, 2005

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-14641

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant accumulated nine delinquent debts totaling more than \$5,000. Although she has paid off two of the debts totaling approximately \$1,300, her salary is insufficient to pay off the others. Applicant deliberately omitted mention of those debts on her security clearance application. Applicant failed to mitigate the security concerns raised by her financial condition and her personal conduct. 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 8 June 2004, DOHA issued a Statement of Reasons⁽¹⁾ (SOR) detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of the Directive. Applicant answered the SOR in writing on 2 July 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 23 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 6 December 2004, but did not respond within 30 days. The case was assigned to me on 14 January 2005.

FINDINGS OF FACT

Applicant is a 40-year-old employee of a defense contractor. She accumulated nine debts totaling over \$5,000 that she failed to pay in a timely manner. The debts alleged in ¶¶ 1.a-1.d, 1.f, 1.h, and 1.i were delinquent more than 180 days. On 15 February 2004, Applicant resolved two of the debts totaling approximately \$1,300. Applicant makes a gross salary of less than \$2,000 a month. After payment of her current bills, she has approximately \$25 left with which to pay off her debts.

On 19 June 2001, ⁽²⁾ Applicant signed her security clearance application (SCA) certifying that the statements contained therein were "true, complete, and correct" to the best of her knowledge and belief, and acknowledging that "a knowing and willful false statement" on the form could subject her to criminal penalties under 18 U.S.C. § 1001. Question 38 asked if, in the previous seven years, Applicant had been delinquent more than 180 days on any debt. Question 39 asked if she was then delinquent more than 90 days on any debt. Applicant answered "no" to both questions.

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. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). 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

Guideline F--Financial Considerations

In the SOR, DOHA alleged Applicant had nine delinquent debts totaling more than \$5,000 (¶¶ 1.a-1.i). 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 by Applicant's admissions each of the allegations. Applicant has a history of not meeting her financial obligations (DC E2.A6.1.2.1.) and is unable or unwilling to satisfy her debts (DC E2.A6.1.2.3.). It is clear that Applicant wants to pay off her debts, but is not making sufficient money to do so. Applicant made a good-faith effort and paid two of her debts (¶¶ 1.b, 1.d) before the SOR was issued. *See* MC E2.A6.1.3.6. Nevertheless, she is not in a financial position to resolve the other debts. I find for her on ¶¶ 1.b and 1.d. I find against her on the remaining allegations.

Guideline E--Personal Conduct

In the SOR, DOHA alleged Applicant falsified material facts on her SCA by denying that, in the previous seven years, she had any debts that were delinquent more than 180 days (¶ 2.a). An individual 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 the allegation. Applicant claims she failed to disclose her debts on the SCA because she misunderstood the question. The question appears straight forward on its face and Applicant did not specify what was confusing about the question or what she understood the question to mean. I conclude Applicant deliberately omitted this information from her SCA.

The deliberate omission or falsification of relevant and material facts from an SCA is a condition that could raise a security concern and may be disqualifying. DC E2.A5.1.2.2. An applicant's debts are relevant and material facts in the determination of an applicant's security worthiness. None of the mitigating conditions apply. I find against Applicant.

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: For Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: For 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

Paragraph 2. Guideline E: AGAINST APPLICANT

Subparagraph 2.a: Against Applicant

DECISION

In light of all of 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. Clearance is denied.

James A. Young

Administrative Judge

1. Pursuant to 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).

2. The SOR alleges the SCA was signed on 14 June 2001.