

KEYWORD: Financial

DIGEST: Applicant is 31 years old and has been employed as a security receptionist by a federal contractor for seven years. Prior to her current employment, Applicant held temporary jobs, and admittedly was financially irresponsible, causing her to become delinquent on her debts. Applicant has failed to pay her debts or set up a payment plan for resolving her financial problems. Clearance is denied.

CASENO: 03-16230.h1

DATE: 02/10/2005

DATE: February 10, 2005

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In re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-16230

**DECISION OF ADMINISTRATIVE JUDGE**

**CAROL G. RICCIARDELLO**

**APPEARANCES**

**FOR GOVERNMENT**

Melvin A. Howry, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

## **SYNOPSIS**

Applicant is 31 years old and has been employed as a security receptionist by a federal contractor for seven years. Prior to her current employment, Applicant held temporary jobs, and admittedly was financially irresponsible, causing her to become delinquent on her debts. Applicant has failed to pay her debts or set up a payment plan for resolving her financial problems. Clearance is denied.

## **STATEMENT OF THE CASE**

On August 31, 2004, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) stating they were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance. [\(1\)](#) The SOR, which is in essence the administrative complaint, alleges security concerns under Guideline F for financial considerations.

In a sworn statement, dated October 12, 2004, Applicant responded to the SOR allegations, and elected to have her case decided on the written record in lieu of a hearing. In her SOR response, Applicant admitted some of the allegations and denied some of the allegations, contained in the SOR. Department Counsel submitted the government's case on November 4, 2004. A complete copy of the file of relevant material (FORM) was received by Applicant on December 6, 2004. Applicant was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not object to the FORM, and did not provide any additional material. The case was assigned to me on January 21, 2004.

## **FINDINGS OF FACT**

Applicant's admissions to the allegations in the SOR are incorporated herein. In addition, after a thorough review of the pleadings, exhibits, and statements, I make the following findings of fact:

Applicant is 31 years old and has been employed by defense contractor as a security receptionist since 1998. Prior to her current employment she worked in temporary jobs and was occasionally unemployed. During that period, Applicant used her credit cards and got behind in her payments. Applicant admitted to being financially irresponsible during that period.

Applicant admitted the allegations in subparagraphs 1.a., 1.e., 1.f., 1.g., 1.k., 1.l., 1.m., 1.n., 1.o., 1.q., 1.r., and 1.t., and denies or disputes the amounts owed in the allegations in subparagraphs 1.b., 1.c., 1.d., 1.h., 1.i., 1.j., 1.p., 1.s., and 1.u. Applicant admittedly owes approximately \$9,400.00 that she is delinquent in paying. Many of these debts are in collection or charged off as a loss. Applicant also has approximately \$7,260.00 in debts that she disagrees with, regarding the amount due, accounts she claims are not hers, and accounts she claims her insurance should have paid. Applicant states she has taken action to remove disputed items from her credit report or to resolve disputed claims, but has provided no documentation to substantiate her assertions.

Applicant claims she made some payments toward her debts, but did not keep track of how much she paid, and which debt she paid. In Applicant's statement of ay 20, 2003, she stated she planned on clearing up her debts within the next year. She also claimed in the same statement that she was unable to pay her creditors because she had no money.

In Applicant's statement of June 2, 2004, she claimed she had set up payment plans on four accounts, and would satisfy two of the debts by August 2004. In her answer to the SOR of October 12, 2004, Applicant admits these debts are still owed. Applicant did not provide any documentation to substantiate that she made any payments or set up any payment plans. Many of Applicant's delinquent debts have been charged off and are more than seven years old and have been dropped from her credit report, however Applicant admits she has not been paid these debts. Applicant stated she has considered participating in credit counseling, but provided no information that she actually took that initiative.

## **POLICIES**

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in evaluating a person's eligibility to hold a security clearance. Included in the guidelines are disqualifying conditions (DC) and mitigating conditions (MC) applicable to each specific guideline. Considering the evidence as a whole, Guideline F, pertaining to financial considerations, with its respective DC and MC, apply in this case. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the factors listed in the Directive. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken

with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.<sup>(2)</sup> The government has the burden of proving controverted facts.<sup>(3)</sup> The burden of proof is something less than a preponderance of evidence.<sup>(4)</sup> Once the government has met its burden, the burden shifts to an applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him.<sup>(5)</sup> Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.<sup>(6)</sup>

No one has a right to a security clearance<sup>(7)</sup> and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."<sup>(8)</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.<sup>(9)</sup> The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.<sup>(10)</sup> 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.

## CONCLUSION

Applicant admits more than \$9,390.00 in delinquent debts and disputes more than \$7,260.00 in delinquent debts. Applicant has provided no substantiation to show she has paid any of the debts or resolved the disputes. Applicant had periods of unemployment prior to 1998, when her current employment commenced. However, she has been steadily employed for almost seven years and has made no effort to pay her delinquent debts or set up a plan to resolve them prior to applying for a security clearance, and has provided no proof that she has made much effort since then. Applicant has expressed that she will pay her debts and has claimed to set up a plan for certain debts, but no documents were provided to show this has actually happened.

Under Guideline F, a security concern exists when a person has significant delinquent debts. An individual who is financially overextended is at risk of having to engage in illegal or unethical acts to generate funds to meet financial obligations. Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in their obligation to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

Based on all the evidence, Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1 (*A history of not meeting financial obligations*), and FC DC E2.A6.1.2.3. (*Inability or unwillingness to satisfy debts*), apply in this case. I have considered all the Financial Considerations Mitigating Conditions (FC MC), and specifically considered FC MC E2.A6.1.3.3 (*The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)*), and conclude it does not apply. Applicant's financial difficulties started when she was working temporary jobs. She has been employed in a permanent job for approximately seven years and during that time she has made little, if any, effort to pay her delinquent debts.

I have considered FC MC 4 E2.A6.1.3.4. (*The person has or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*), and conclude it does not apply. Applicant merely mentioned that she considered attending credit counseling, but has not provided any information that she followed through on doing so.

I have also considered FC MC E2.A6.1.3.6, (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*), and conclude it does not apply. Applicant stated her willingness to pay her delinquent debts. A good-faith effort must include not only the desire to repay a debt, but also the ability to repay a debt and a systematic, concrete plan for resolving the financial problems. Applicant has not provided any documented verification that she has made consistent payments on her debts or set up any plan to resolve them.

In all adjudications the protection of our national security is the paramount concern. The objective of the security-clearance process is the fair-minded, commonsense assessment of a person's life to make an affirmative determination that the person is eligible for a security clearance. Indeed the adjudicative process is a careful weighing of a number of variables in considering the "whole person" concept. It recognizes that we should view a person by the totality of their acts, omissions, motivations and various other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I have considered all the evidence in this case. I have also considered the "whole person" concept in evaluating Applicant's risk and vulnerability in protecting our national interests. I am persuaded by the totality of the evidence in this case that it is not clearly consistent with the national interest to grant Applicant a security clearance. Applicant has failed to mitigate the security concerns caused by her financial delinquencies. Accordingly, Guideline F is decided against Applicant.

## **FORMAL FINDINGS**

Formal Findings for or against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1 Financial Considerations (Guideline F) AGAINST THE APPLICANT

Subparagraphs 1.a.-1.u. Against the Applicant

**DECISION**

In light of all the circumstances 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 denied.

Carol G. Ricciardello

Administrative Judge

1. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended and modified (Directive).
2. ISCR Case No. 96-0277 (July 11, 1997) at p. 2.
3. ISCR Case No. 97-0016 (December 31, 1997) at p. 3; Directive, Enclosure 3, ¶ E3.1.14.
4. *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).
5. ISCR Case No. 94-1075 (August 10, 1995) at pp.3-4; Directive, Enclosure 3, ¶ E3.1.15.
6. ISCR Case No. 93-1390 (January 27, 1995) at pp. 7-8; Directive, Enclosure 3, ¶ E3.1.15
7. *Egan*, 484 U.S. at 531.
8. *Id.*
9. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.
10. Executive Order 10865 § 7.