

KEYWORD: Financial

DIGEST: Applicant is a security guard for a defense contractor. She had delinquent debt resulting from low paying jobs and unemployment before working for the defense contractor. She satisfied most of these delinquent debts. She has contacted her other debtors but they have no record of her indebtedness and Applicant has not been able to arrange payment plans with them. She is willing to pay these delinquent debts if arrangements can be made with the creditors. She has either satisfied her delinquent debts or made a good-faith effort to repay overdue creditors. Applicant mitigated security concerns for financial considerations. Clearance is granted.

CASENO: 03-17318.h1

DATE: 03/29/2005

DATE: March 29, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-17318

DECISION OF ADMINISTRATIVE JUDGE

THOMAS M. CREAN

APPEARANCES

FOR GOVERNMENT

Nichole Noel, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a security guard for a defense contractor. She had delinquent debt resulting from low paying jobs and unemployment before working for the defense contractor. She satisfied most of these delinquent debts. She has contacted her other debtors but they have no record of her indebtedness and Applicant has not been able to arrange payment plans with them. She is willing to pay these delinquent debts if arrangements can be made with the creditors. She has either satisfied her delinquent debts or made a good-faith effort to repay overdue creditors. Applicant mitigated security concerns for financial considerations. Clearance is granted.

STATEMENT OF THE CASE

On August 19, 2004, the Defense Office of Hearing and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its decision to not grant a security clearance to Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive). Applicant acknowledged receipt of the SOR on September 16, 2004. The SOR alleges security concerns under Guideline F (Financial Considerations) of the Directive.

Applicant answered the SOR in writing on October 4, 2004. She admitted all of the allegations under Guidelines F but provided an explanation for many of the delinquent debts and requested a hearing before an administrative judge. The request for a hearing was received by DOHA on October 7, 2004. Department Counsel was prepared to proceed with the case on November 17, 2004, and the case was assigned to me on November 19, 2004. A notice of hearing was issued on January 13, 2005, and the hearing was held on March 3, 2005. Five government exhibits, four Applicant exhibits, and the testimony of the Applicant were received during the hearing. The transcript was received on March 11, 2005. The record was held open until March 18, 2005, for Applicant to submit additional information. Applicant submitted five

additional documents with no objection from department counsel as Applicant Exhibits.

FINDINGS OF FACT

Applicant is a 32-year-old single mother working as a security guard for a government contractor providing security services to government agencies.⁽¹⁾ Applicant accumulated debt when she was employed in low paying jobs and had periods of unemployment between jobs. She lived with her mother during this time but did help her mother with household expenses. She now lives on her own with her child.⁽²⁾

There are 14 delinquent debts and one allegation of not having sufficient monthly income to meet monthly expenses listed under Guideline F in the SOR. Debts 1.a., 1.e., and 1.j. in the SOR are medical bills Applicant has now satisfied.⁽³⁾ Debts 1.b. and 1.f. in the SOR are duplicates of debt 1.a.⁽⁴⁾ Debt 1.m. in the SOR is a duplicate of debt 1.j.⁽⁵⁾

Debt 1.c in the SOR is a cable company bill. Applicant satisfied this debt.⁽⁶⁾ Debt 1.d. in the SOR is a telephone bill that Applicant has now satisfied.⁽⁷⁾ Debt 1.g in the SOR is a delinquent debt to a collection agency on a store account that has been satisfied. Debt 1.h. in the SOR is a duplicate debt to debt 1.g.⁽⁸⁾

Debt 1.i. in the SOR is a bill to a physical fitness company. Applicant contacted the company four times to work out a payment plan for the bill. The company has not responded so Applicant has not been able to satisfy this debt.⁽⁹⁾

Debt 1.k. in the SOR is a delinquent credit card debt. Applicant contacted the credit card company before her hearing and was informed the debt is old and the company now has no record of the debt and cannot make payment arrangements. Applicant contacted the company twice after the hearing and received the same response from the credit card company. Applicant is willing to make arrangements and pay the debt.⁽¹⁰⁾

Debt 1.l. in the SOR is a delinquent debt to a department store. Applicant contacted the company before her hearing but the company was unable to locate a delinquent debt since it was an old debt. She contacted them twice after the hearing and received the same response. Applicant is willing to make arrangements with the department store to satisfy the debt.⁽¹¹⁾

Debt 1.n. in the SOR is a medical bill. Applicant contacted the medical company but they have no record of this bill. Applicant is willing to pay the

bill if the medical company acknowledges the debt. [\(12\)](#)

Applicant has now been working for her present employer for approximately one year with a higher salary than received in the past. Her monthly pay now is sufficient to meet her monthly expenses. She has little discretionary funds available after paying her expenses. [\(13\)](#)

POLICIES

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." [\(14\)](#) Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive. [\(15\)](#)

The Directive sets out the adjudicative guidelines for making decisions on security clearances. Enclosure 2 of the Directive sets forth adjudicative guidelines for determining eligibility for access to classified information, and it lists the disqualifying conditions (DC) and mitigating conditions (MC) for each guideline. Each clearance decision must be fair, impartial, and a commonsense decision based on the relevant and material facts and circumstances, the whole person concept, and the factors listed in the Directive ¶ 6.3.1 through ¶ 6.3.6.

"The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance." An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person. [\(16\)](#) An administrative judge should consider: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the applicant'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 of recurrence. [\(17\)](#)

A person granted access to classified information enters into a special relationship with the government. The government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. [\(18\)](#) 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.

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may disqualify the Applicant from being eligible for access to classified information.⁽¹⁹⁾ Thereafter, Applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts.⁽²⁰⁾ An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance."⁽²¹⁾ "[T]he Directive presumes there is a nexus or rational connection between proven conduct under any of the Criteria listed therein and an applicant's security suitability."⁽²²⁾ "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security."⁽²³⁾

Based upon a consideration of the evidence, I find the following adjudicative guideline(s) most pertinent to the evaluation of the facts in this case:

Guideline F - Financial Considerations: A security concern exists for an individual who is financially irresponsible. An individual who is financial irresponsibility may also be irresponsible, unconcerned, or careless in their obligations 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.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guideline is set forth and discussed in the conclusions section below.

CONCLUSIONS

I carefully considered all of the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR:

The government has established its case under Guideline F. Applicant's delinquent debts brings the matter under Financial Considerations Disqualifying Conditions Directive ¶ E2.A6.1.2.2 (*a history of not meeting financial obligations*); and Directive ¶ E2.A6.1.2.3 (*inability or unwillingness to satisfy debts*). Applicant has a history of delinquent debt established by her credit report. Four of the delinquent debts in the SOR (debts 1.b., 1.f., 1.h., and 1.m.) are duplicates with other delinquent debts and are not considered delinquent debts. Applicant credit history shows that in the past she has been unable to satisfied her debts or meet her financial obligations. I conclude the aforementioned Financial Consideration Disqualifying Conditions have been established except for the duplicate delinquent debts of

1.b., 1.f., 1.h., and 1.m.

The Financial Considerations Mitigating Condition that applies here is Directive ¶ E2.A6.1.3.6 (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). There are ten delinquent debts remaining in the SOR. Six of the delinquent debts (1.a., 1.c., 1.d., 1.e., 1.g., and 1.j.) have been satisfied. Applicant has shown she has made good-faith efforts to resolve the four other delinquent debts (1.i., 1.k., 1.l., and 1.n.). However, she has not received replies from these companies to her efforts to resolve the debts. Applicant has taken appropriate steps to resolve the debts with these creditors. Applicant has repaid overdue creditors or made good-faith efforts to otherwise resolve her debts. Applicant has changed jobs since the SOR was issued and now has demonstrated she has sufficient monthly income to meet her monthly expenses. I conclude Applicant has mitigated the security concerns under Guideline F.

I carefully considered all of the circumstances in light of the "whole person" concept. I conclude Applicant is eligible for access to classified information.

FORMAL FINDINGS

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

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: For Applicant

Subparagraph 1.c.: For Applicant

Subparagraph 1.d.: For Applicant

Subparagraph 1.e.: For Applicant

Subparagraph 1.f.: For Applicant

Subparagraph 1.g.: For Applicant

Subparagraph 1.h.: For Applicant

Subparagraph 1.i.: For Applicant

Subparagraph 1.j.: For Applicant

Subparagraph 1.k.: For Applicant

Subparagraph 1.l.: For Applicant

Subparagraph 1.m.: For Applicant

Subparagraph 1.n.: For Applicant

Subparagraph 1.o.: For Applicant

DECISION

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national security to grant or continue a security clearance for Applicant. Clearance is granted.

Thomas M. Crean
Administrative Judge

1. Tr. 40, 53.
2. Tr. 34-38.
3. Tr. 24; Applicant Exhibit B (Letter from credit company, dated Feb. 1, 2005).
4. Tr. 23.
5. Tr. 27.
6. Tr. 26; Applicant exhibit D (Receipt, dated Sep. 28, 2004).
7. Tr. 17; Applicant exhibit A (Receipt, dated Feb. 28, 2005).
8. Tr. 29; Applicant exhibit I (Letter from collection company, dated Mar. 17, 2005).
9. Tr. 29-30, Applicant exhibit H (letter from Applicant, dated Mar. 4, 2005).
10. Tr. 30; Applicant exhibit F (Letter from Applicant, dated Mar. 15, 2005).
11. Tr. 30; Applicant exhibit E (Letter from Applicant, dated Mar. 15, 2005).
12. Tr. 28; Applicant Exhibit G (Letter from Applicant, dated Mar. 14, 2005).
13. Tr. 51-55.
14. *Department of the Navy v. Egan*, 484 U.S. 518 (1988).
15. Directive ¶ E2.2.1.
16. *Id.*
17. Directive ¶¶ E2.2.1.1 through E2.2.1.9.
18. *See* Exec. Or. 10865 § 7.
19. Directive ¶ E3.1.14.
20. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15.
21. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
22. ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993))
23. *Egan*, 484 U.S. at 531; *see* Directive ¶ E2.2.2.