

DATE: December 28, 2006

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In re:

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SSN: -----

Applicant for Security Clearance

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CR Case No. 05-04897

## DECISION OF ADMINISTRATIVE JUDGE

JACQUELINE T. WILLIAMS

### APPEARANCES

#### FOR GOVERNMENT

Daniel F. Crowley, Esq., Department Counsel

#### FOR APPLICANT

*Pro Se*

### SYNOPSIS

Applicant is a 29-year-old analyst employed by a defense contractor since December 2003. She has a history of not meeting her financial obligations. She has 13 outstanding debts totaling approximately \$12,565. She denies responsibility for these debts and states that they are either paid off or do not belong to her. Applicant is married and her combined family net monthly income is about \$7,558. Her family's net remainder each month after expenses is about \$2,875. Applicant has the means to pay off her accumulated delinquent debts. Applicant has not mitigated the financial considerations security concerns. Clearance is denied.

### STATEMENT OF THE CASE

On January 29, 2004, Applicant applied for a security clearance and completed a Security Clearance Application (SF 86).<sup>(1)</sup> On March 31, 2006, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. The SOR detailed reasons under Guideline F (Financial Considerations) 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 a clearance should be granted or revoked.

Applicant responded to the SOR allegations in a three-page document, dated April 26, 2006 and elected to have her case decided on the written record in lieu of a hearing.<sup>(2)</sup> Department Counsel submitted the Government's written case on June 30, 2006. A complete copy of the file of relevant material (FORM)<sup>(3)</sup> was provided to Applicant, and she was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. She had 30 days to respond to the FORM and chose not to respond. The case was assigned to me on December 1, 2006.

## FINDINGS OF FACT

Applicant denied all the factual allegations pertaining to financial considerations under Guideline F cited in the SOR, subparagraphs 1.a through 1.m. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact:

Applicant is a 29-year-old analyst who has worked for a defense contractor since December 2003. She attended a well-known state university from January through December 1996. She was a petty officer third class (E4) in the U.S. Coast Guard from May 1998 through June 2002. She married in June 2002 and has no children.

A January 26, 2006, credit bureau report, which serves as a basis for allegations in the SOR, indicated that Applicant has 13 delinquent debts, totaling approximately \$12,565. The debts at issue are these:

¶ **1.a/Rent debt (\$567)** There is a judgment on this account. As of January 26, 2006, this debt has not been satisfied. Applicant admitted living at the apartment complex from October 2000 through April 2001. She indicated that her lease was a setup through the Navy Housing Office on a Military Set Aside Program, which required her to have rent payments made through payroll deductions. As far as she knows, rent was always paid timely. She does not know what this debt, or the other rent debts, represent. <sup>(4)</sup> See 1.b and 1.h.

¶ **1.b/Rent debt (\$565)** There is a judgment on this account. As of January 26, 2006, this debt has not been satisfied. See 1.a.

¶ **1.c/Fitness center debt (\$915)** There is a judgment on this account. As of January 26, 2006, this debt had not been satisfied. Applicant indicated she has never attended this fitness center.

¶ **1.d/Takeout restaurant debt (\$62)** This account was placed for collection in November 2004. As of March 22, 2006, this debt has not been satisfied. She does not know what this debt represents.

<sup>(5)</sup>

¶ **1.e/Cable TV (\$94)** This account is in collection. As of January 26, 2006, this debt has not been satisfied. She does not know what these various cable debts represent. See 1.f and 1.g.

¶ **1.f/Cable TV (\$405)** This account is in collection. As of January 26, 2006, this debt has not been satisfied. See 1.e.

¶ **1.g/Cable TV (\$289)** This account is in collection. As of January 26, 2006, this debt has not been satisfied. See 1.e.

¶ **1.h/DBA Eastwind UD (\$1,171)** This account is in collection. As of January 26, 2006, this debt has not been satisfied. See 1.a.

¶ **1.i/ Telephone bill (\$405)** This account is in collection. As of January 26, 2006, this debt has not been satisfied. She questioned this debt with the creditor and it was not resolved. She will not pay it until she knows what it represents.

¶ **1.j/ Citi Gov't (\$658)** This is a bad debt. As of January 26, 2006, this debt has not been satisfied. She admits that she had debts with this creditor but stated that these debts were paid off. Her parents assisted in paying them off. She was "in the process of obtaining letters regarding these items." <sup>(6)</sup>

¶ **1.k/Citi Gov't (\$2,753)** This is a bad debt. As of January 26, 2006, this debt had not been satisfied. See 1.j.

¶ **1.l/Telephone bill (\$49)** This account is in collection. As of January 26, 2006, this debt had not been satisfied. Applicant denies owing this money.

¶ **1.m/Regaccept (\$4,632)** This debt is for repossession of a car. This account is a bad debt. As of January 26, 2006, this debt had not been satisfied. Applicant indicated her vehicle was repossessed due to nonpayment of her car loan. The company contacted her and explained that her car was auctioned off and that \$4,632 represents the difference between

what was owed and what the car sold for. She stated that she never received notice regarding sale of the car.

Financial interrogatories were completed on September 22, 2005.<sup>(7)</sup> In the interrogatories, on of her most frequent responses to a reported debt is "don't know" or that a debt was paid in full. The record is devoid of documentation of any sort to corroborate her position that any of the listed debts were in fact paid. In the final two pages of these interrogatory responses she explains how she had difficulty managing her money as a college student and when serving in the Coast Guard.

Applicant's personal financial statement reveals a monthly net salary of \$7,558, hers is \$2,358 and his is \$5,200.<sup>(8)</sup> The family's monthly net remainder after expenses is \$2,875.

When she was younger, Applicant stated she did not always make the best decisions regarding "finances or life in general."<sup>(9)</sup> She indicated that:

The importance of good credit and good financial decisions became blaringly obvious to me when I attempted to buy my first house with my husband. I have since made a conscious effort to improve my credit score, which I have, and ensure all debts are paid.<sup>(10)</sup>

Applicant indicated she has attended personal financial management courses at the Naval base to assist her with her finances. She explained that in the past, she overextended herself financially, living beyond her means.<sup>(11)</sup>

### 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. 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 the 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>(12)</sup> The Government has the burden of proving controverted facts.<sup>(13)</sup> The burden of proof is something less than a preponderance of evidence.<sup>(14)</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

her.<sup>(15)</sup> Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.<sup>(16)</sup>

No one has a right to a security clearance<sup>(17)</sup> and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."<sup>(18)</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>(19)</sup> The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.<sup>(20)</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.

Based upon consideration of the evidence, I find the following adjudicative guidelines most pertinent to the evaluation of the facts in the case:

**Guideline F (Financial Considerations):** *The Concern:* An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

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 are set forth and discussed in the conclusions below.

### CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards, and I reach the following conclusions.

Under Guideline F, a security concern exists for an individual who is financially overextended. The person 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 unconcerned, negligent, or careless in properly handling and safeguarding classified information. Applicant has a history of financial problems. The 13 delinquent debts listed on her credit report total approximately \$12,565. Thus, Financial Considerations Disqualifying Conditions (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.

Various conditions can mitigate security concerns arising from financial difficulties. Applicant denied responsibility for her delinquent debts. Applicant is married and her net combined monthly income is \$7,558. After expenses, the net remainder is about \$2,875. She and her husband have a decent monthly net remainder, which could be used to help pay off her delinquent debt. She is questioning the legitimacy of these debts, but has not submitted any evidence to corroborate her concerns. She is thwarting her financial responsibility for items she purchased but has now refused to pay for. Her behavior is not that of a responsible adult. Thus, I find that none of the available Financial Considerations Mitigating Conditions applies.

I have considered all the evidence in the case. I have also considered the "whole person" concept in evaluating Applicant's risk and vulnerability in protecting our national interests. Applicant is financially irresponsible when it comes to paying her delinquent debts. She could use a refresher of the personal finance management courses. In balancing all the information of record, I conclude Applicant has not mitigated the security concerns arising from his financial difficulties. Based on the evidence of record, it is not clearly consistent with the national interest to grant Applicant a security clearance. For the reasons stated, I conclude Applicant is not suitable for access to classified information.

### 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. Guideline F (Financial Considerations): 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: Against Applicant

Subparagraph 1.g: Against Applicant

Subparagraph 1.h: Against Applicant

Subparagraph 1.i: Against Applicant

Subparagraph 1.j: Against Applicant

Subparagraph 1.k: Against Applicant

Subparagraph 1.l: Against Applicant

Subparagraph 1.m Against Applicant

### **DECISION**

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

Jacqueline T. Williams

Administrative Judge

1. Item 4 (Security Clearance Application, signed January 29, 2004).
2. Item 2 (Applicant's Answer, dated April 26, 2006).
3. The Government submitted 10 items in support of the allegations in the SOR.
4. Item 2, *supra*, note 2.
5. *Id.*
6. *Id.*
7. Item 8 (Financial Interrogatory, dated September 22, 2005, with attachments including personal financial statement and credit bureau report).
8. Item 8, *supra*, note 4.
9. *Id.*
10. *Id.*
11. *Id.*
12. ISCR Case No. 96-0277 (July 11, 1997) at p. 2.
13. ISCR Case No. 97-0016 (December 31, 1997) at p. 3; Directive, Enclosure 3, ¶ E3.1.14.
14. *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).
15. ISCR Case No. 94-1075 (August 10, 1995) at pp. 3-4; Directive, Enclosure 3, ¶ E3.1.15.
16. ISCR Case No. 93-1390 (January 27, 1995) at pp. 7-8; Directive, Enclosure 3, ¶ E3.1.15.
17. *Egan*, 484 U.S. at 531.
18. *Id.*

19. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.

20. Executive Order 10865 § 7.