

DATE: July 14, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 05-05463

DECISION OF ADMINISTRATIVE JUDGE

LEROY F. FOREMAN

APPEARANCES

FOR GOVERNMENT

Fahryn Hoffman, Esq., Department Counsel

Kathryn D. MacKinnon, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant accumulated numerous debts, including delinquent federal taxes, after he lost his government job but did not adjust his lifestyle. Federal tax liens totaling more than \$27,000 were filed against him in 1995 and 1996. He did not file timely federal income tax returns for 1998-2003. In 2004, after applying for a clearance, he filed all his late tax returns, negotiated a settlement of his delinquent taxes, and hired a credit counseling agency to resolve his debts. He intentionally failed to disclose two car repossessions on his security clearance application. He has not mitigated the security concerns based on financial considerations and personal conduct. Clearance is denied.

STATEMENT OF THE CASE

On November 3, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its preliminary decision to deny Applicant a security clearance. The SOR alleges security concerns under Guidelines F (Financial Considerations) and E (Personal Conduct). Under Guideline F, it alleges Applicant had 13 delinquent debts, including an unpaid judgement and two federal tax liens. Under Guideline E, it alleges Applicant falsified his SF 86 by intentionally failing to disclose the two federal tax liens.

Applicant answered the SOR in writing on December 16, 2005, admitted the debts, denied falsifying his SF 86, and requested a hearing. The case was assigned to me on March 20, 2006, and the hearing was conducted on April 26, 2006, as scheduled. At the hearing, Department Counsel moved to amend the SOR by adding allegations of one additional unpaid judgment and eight additional federal tax liens under Guideline F, and two additional allegations of falsification under Guideline E. Applicant did not object to the amendments, and I granted the motion.⁽¹⁾ He admitted the additional unpaid judgment, denied the additional federal tax liens, and denied the additional allegations of falsification.⁽²⁾

At the hearing, Applicant presented documentary evidence marked as Applicant's Exhibits (AX) A through J. I kept the

record open until May 12, 2006, to enable Applicant to submit additional documentary evidence. He timely submitted additional documents, which are incorporated in the record as AX K through LLL. DOHA received the transcript (Tr.) on May 5, 2006.

FINDINGS OF FACT

Applicant's admissions in his answer to the SOR and at the hearing are incorporated into my findings of fact. I make the following findings:

Applicant is a 56-year-old security officer employed by a federal contractor. He has worked for his current employer since January 2000. He recently received a merit-based pay raise.⁽³⁾ In his current position, he has completed numerous courses to enhance his professional skills.⁽⁴⁾

Applicant was married in February 1973 and divorced in January 2000. He has three adult children from that marriage. He married his current spouse, a federal government employee, in June 2000.⁽⁵⁾

Applicant was first granted a security clearance in June 1980, while he was a government employee.⁽⁶⁾ His clearance was administratively withdrawn when he left government employment in 1996 after more than 15 years of service. While in government service, he received numerous awards and letters of appreciation and commendation.⁽⁷⁾ Seeking to renew his clearance, Applicant executed a Standard Form 86 (SF 86), Security Clearance Application, on April 12, 2004,⁽⁸⁾ and he executed a Standard Form 85 (SF 85), Questionnaire for Non-Sensitive Positions, on July 12, 2004.⁽⁹⁾

Applicant was raised by uncles who were financially irresponsible and regularly ignored overdue bills.⁽¹⁰⁾ After working for the federal government for more than 15 years, he lost his job in a reduction in force, and he began working as a security officer at significantly lower pay.⁽¹¹⁾ His adult children lived with him but did not contribute to family expenses.⁽¹²⁾ He became financially overextended due in part to overspending.⁽¹³⁾ He owed federal income taxes for 1995 and 1996, and he was notified in writing that tax liens totaling more than \$27,000 had been imposed. He did not file his federal income tax returns for 1998-2003 until the summer of 2004.⁽¹⁴⁾ He testified he "hoped" he did not owe taxes for those years but was not sure until after he filed the returns.⁽¹⁵⁾ His returns reflect that he was entitled to refunds for each of the tax years starting in 1998. According to Applicant, he was in a "bad marriage," and he "just gave up on things" and neglected his financial obligations.⁽¹⁶⁾ After he and his current spouse were married in June 2000, she took over the family finances.⁽¹⁷⁾

In August 2004, Applicant engaged the services of a debt counseling agency.⁽¹⁸⁾ He made payments on a debt resolution plan for several months until he learned that some creditors were not being paid on time. He was advised by an attorney to stop making payments and to file for bankruptcy.⁽¹⁹⁾ After considering the matter, he decided not to file for bankruptcy. He attempted to resume payments through the debt counseling agency, but the agency was not interested in dealing further with him.⁽²⁰⁾ He made no additional payments to creditors until he retained the services of his current debt counseling agency in December 2005.⁽²¹⁾

Applicant contacted the Internal Revenue Service (IRS) in 2004 in an effort to resolve his delinquent taxes. He was advised his delinquent taxes were in a "non-collectable file" because he had inadequate income to resolve them.⁽²²⁾ In the summer of 2004, Applicant filed his federal income tax returns for 1998 through 2003.⁽²³⁾ He filed his returns for tax years 2004 and 2005 on time.⁽²⁴⁾ His returns for 1998 through 2005 reflect refunds for each tax year, which were applied to his delinquent taxes.⁽²⁵⁾ In January 2006, he negotiated a settlement with the IRS providing for installment payments of \$300 per month.⁽²⁶⁾ His installment payments have been made on time,⁽²⁷⁾ and he has reduced his federal tax indebtedness to from more than \$23,000 to \$4,903.55 as of April 27, 2006.⁽²⁸⁾

On February 7, 2005, Applicant was interviewed by a security investigator and admitted the federal tax liens alleged in SOR ¶¶ 1.b and 1.c. He also stated he had federal tax liens for tax years 1997 through 2004. His statement was the basis

for the amendment to the SOR adding subparagraphs 1.k through 1.r. He admitted the delinquent debts in SOR ¶¶ 1.a, 1.d, 1.e, 1.g, and 1.j, the two car repossessions in SOR ¶¶ 1.h and 1.i, and a judgment entered against him in November 2003 for a credit card debt. (29) On February 10, 2005, Applicant executed a personal financial statement in connection with his security investigation. He indicated a net monthly family income of \$4,266, expenses of \$3,412, and a remainder of \$854. (30)

The evidence regarding the debts alleged in the SOR is summarized in the following table.

SOR	Debt	Amount	Status	Record
1.a	Judgment	\$1,390	Settled	GX 7 at 1; Answer at 21
1.b, 1.c	Tax Liens 1995-1996	\$23,699	Paying \$300 per month	AX G, H, BB, CC
1.d	Credit Card	\$317	Disputed; deleted from credit report	AX EE
1.e	Credit Card	\$314	Settled	Tr. 168; Answer at 9
1.f	Credit Card	\$3,991	Debt consolidation	AX J
1.g	Credit Card	\$1,254	Paid in full	AX J
1.h.	Car repossession	\$1,833	Debt consolidation	AX J
1.i	Car repossession	\$4,297	Debt consolidation	AX J, FF; Tr. 181-82.
1.j	Judgment	\$1,366	Debt Consolidation	GX 7 at 1; AX II
1.k-1.r	Tax Liens 1997-2003	Not alleged	Refuted	GX 3 at 1; Tr. 201-02, 231

On his SF 86, executed in April 2004, Applicant answered "no" to question 35, asking if he had any property repossessed in the last seven years. He also answered "no" to question 36, asking if he had any liens placed against his property in the last seven years for failure to pay taxes or other debts. He answered "yes" to question 40, asking if he had been a party to any public record civil court actions in the last seven years. He disclosed a civil action initiated by the creditor in SOR ¶ 1.a and stated the case was dismissed. (31) Court records reflect that a case initiated by that creditor was dismissed on October 15, 2003. (32) On his SF 85, executed in July 2004, he disclosed he was indebted to the United States for federal income taxes. (33)

Applicant denied falsifying his answer to question 36 on his SF 86, pertaining to tax liens in the last seven years. He admitted that tax liens were imposed for 1995 and 1996, outside the seven-year time frame. Although his written statement indicates that liens were imposed for 1997 through 2004, (34) he testified the statement was erroneous. The statement was written by the investigator, and Applicant testified he did not read it carefully before signing it. (35)

Applicant also denied falsifying his answer to question 35, asking if he had any property repossessed during the last seven years. He admitted having two cars repossessed during the last seven years, but explained that he "wasn't thinking about cars or whatever" when he answered the question. He testified he "probably wasn't thinking" and simply did not associate his repossessed cars with the term "property." (36)

Finally, Applicant denied falsifying his answer to question 40, asking if he had been a party to any civil court actions in the last seven years. In response to question 40, he answered "yes" and disclosed a "request for judgment" in November

2003 and stated the case was dismissed. In an interview with a security investigator and in his answer to the SOR he asserted the judgment had been settled. (37) In his post-hearing submission, he presented documentation that a civil action involving the same creditor was dismissed in October 2003. (38) His credit report shows the debt was settled. (39) The judgment alleged in SOR ¶ 1.j was not entered until July 2004, after Applicant executed his SF 86. (40)

Applicant's pastor, who has known him for about six years, attested to his good character. Applicant is a deacon in the church and tithes regularly. (41) He has been active in his community, completing a "citizens' police academy" and completing training as a reserve police officer. (42) He has received recognition for working as a volunteer in local elementary schools. (43)

Applicant and current his spouse now live frugally. They have no credit cards. (44) Applicant drives an older car that is paid for, and his spouse's car payment is \$599 per month. (45) They have incurred no new installment debt. (46) They buy their clothes at second-hand stores and thrift shops. (47)

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), as amended and modified. 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 (App. Bd. Dec. 19, 2002).

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 a fair, impartial, and 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.

In evaluating an applicant's conduct, 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 or recurrence. Directive ¶¶ E2.2.1.1. through E2.2.1.9.

A person granted access to classified information enters into a special relationship with the government. The government must be able to have a high degree of trust and confidence in persons with access to classified information. However, 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 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 establish, by substantial evidence, conditions in the personal or professional history of the applicant which disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. "[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." ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993)).

Once the government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. ISCR Case No. 01-20700 at 3; *see* Directive ¶ E3.1.15. 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 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; *see* Directive ¶ E2.2.2.

CONCLUSIONS

Guideline F (Financial Considerations)

Under this guideline, "[a]n individual who is financially overextended is at risk of having to engage in illegal acts to generate funds." Directive ¶ E2.A6.1.1. A person who fails or refuses to pay long-standing debts or is financially irresponsible may also be irresponsible or careless in his or her duty to protect classified information. Three disqualifying conditions (DC) under Guideline F could raise a security concern and may be disqualifying in this case. DC 1 applies where an applicant has a history of not meeting his or her financial obligations. Directive ¶ E2.A6.1.2.1. DC 2 applies where there is evidence of "[d]eceptive or illegal financial practices such as . . . income tax evasion." Directive ¶ E2.A6.1.2.2. DC 3 applies where an applicant has exhibited inability or unwillingness to satisfy debts. Directive ¶ E2.A6.1.2.3.

Other than Applicant's mention of liens for 1997 through 2004 in his statement, there is no independent evidence of tax liens for those years. His credit reports reflect only two tax liens, for tax years 1995 and 1996. (48) Applicant was entitled to refunds for tax years 1998 through 2004. I conclude he has refuted the allegations of tax liens for 1997 through 2004, and I resolve SOR ¶¶ 1.k-1.r in his favor.

The evidence establishes that the debts alleged in SOR ¶¶ 1.a, 1.e, and 1.g. have been fully resolved. The debt alleged in SOR ¶ 1.d was disputed and deleted from Applicant's credit report. I resolve the allegations regarding these debts in Applicant's favor.

Applicant's admissions regarding his remaining delinquent debts and the documentation regarding those debts establish DC 1 and DC 3. In addition, his failure to file timely tax returns for 1998 through 2003 raises a question whether he engaged in income tax evasion under DC 2. The evidence establishes that Applicant knew he owed more than \$27,000 for 1995 and 1996. He did not know whether he owed taxes for 1998 through 2003. He was financially overextended and unable to pay off the tax liens. He did not determine until 2004 that he was entitled to refunds. The evidence strongly indicates he did not file his tax returns because he feared additional tax liens. However, no taxes were evaded because Applicant was entitled to refunds for those years. I conclude DC 2 is not established.

The SOR does not allege tax evasion, nor does it allege wrongful failure to file tax returns. Accordingly, I have not considered Applicant's failure to file returns as an independent basis for denying a clearance. I have considered the evidence only insofar as it is relevant under the whole person concept.

Since the government produced substantial evidence to establish DC 1 and DC 3, the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. Applicant has the burden of proving a mitigating condition, and the burden of disproving it is never shifted to the government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

A security concern based on financial problems can be mitigated by showing the delinquent debts were not recent (MC 1) or an isolated incident (MC 2). Directive ¶ E2.A6.1.3.1., E2.A6.1.3.2. Applicant has multiple delinquent debts that are not yet fully resolved. I conclude MC 1 and MC 2 are not established.

Security concerns arising from financial problems can be mitigated by showing they are the result of conditions beyond the person's control (MC 3). Directive ¶ E2.A6.1.3.3. Even if Applicant's financial difficulties initially arose due to circumstances outside his control, it is appropriate to consider whether he acted in a reasonable manner when dealing with his financial difficulties. ISCR Case No. 02-02116 at 4 (App. Bd. Sep. 25, 2003). Applicant's loss of his federal job in 1996 was a circumstance beyond his control. However, by his own admission, he did not act reasonably. He continued to spend beyond his means and, when his marriage began to fail, he simply gave up and ignored his financial obligations. It was not until 2004, after he applied for renewal of his clearance, that he began to meaningfully address his dire financial situation. I conclude MC 3 is not established.

A mitigating condition (MC 4) applies when an applicant "has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control." Directive ¶ E2.A6.1.3.4. Applicant consulted with a bankruptcy lawyer and hired a debt counseling agency to assist him in 2004. He hired a new debt counseling agency in December 2005 because he was not satisfied with the previous agency's timeliness. All his unpaid debts are being resolved in accordance with negotiated payment plans. I conclude MC 4 is established.

A security concern arising from financial problems can be mitigated by showing a good-faith effort to resolve debts (MC 6). Directive ¶ E2.A6.1.3.6. The concept of good faith "requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation." ISCR Case No. 99-0201, 1999 WL 1442346 at *4 (App. Bd. Oct. 12, 1999).

Evidence of past irresponsibility is not mitigated by payment of debts only under pressure of qualifying for a security clearance. Applicant took no meaningful action to resolve his delinquent debts until after he applied for renewal of his clearance. I conclude MC 6 is not established.

Several considerations are relevant under the "whole person concept" and the general adjudicative guidelines. While some of Applicant's financial problems are understandable in light of his unexpected loss of a government job and income reduction in 1996, his failure to file federal income tax returns was inexcusable. It also was foolish in light of the fact that he was entitled to refunds during a time when he was financially overextended. Directive ¶¶ E2.2.1.1 (nature, extent and seriousness of conduct), E2.2.1.2 (circumstances surrounding the conduct). His debts were numerous, extended over a substantial time period, and are not yet fully resolved. Directive ¶ E2.2.1.3 (frequency and recency of conduct). He was a mature adult when his problems began in 1996, but financially naive, having been raised in an environment where financial irresponsibility was the norm. Directive ¶ E2.2.1.4 (age and maturity). He has recently adopted a frugal lifestyle, stopped using credit cards, and obtained professional help in resolving his debts. Directive ¶ E2.2.1.6 (behavioral changes). By changing his spending habits and resolving his debts, he has significantly reduced "[t]he potential for pressure, coercion, exploitation, or duress." Directive ¶ E2.2.1.8.

On the other hand, Applicant has only recently begun to put his financial house in order. He has set up debt consolidation plans in the past and then failed to follow through. He stopped making payments on his debt consolidation plan, considered bankruptcy, and procrastinated from the summer of 2004 until December 2005, when he established his current debt repayment plan. His installment plan with the IRS has been in effect for only a few months. After years of financial irresponsibility, it is too soon to determine whether he will revert to his former pattern of conduct. Directive ¶ E2.2.1.9 (likelihood of recurrence). "Only with the passage of time will there be a track record that shows whether a person, through actions and conduct, is willing and able to adhere to a stated intention to refrain from acting in a way that the person has acted in the past." ISCR Case No. 97-0727, 1998 DOHA LEXIS 302 at *7 (App. Bd. Aug. 3, 1998).

After weighing the disqualifying and mitigating conditions and evaluating the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concern based on financial considerations.

Guideline E (Personal Conduct)

Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the applicant may not properly safeguard classified information. Directive ¶ E2.A5.1.1. A disqualifying condition (DC 2) under this guideline may be established by "deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities." Directive ¶ E2.A5.1.2.2.

When a falsification allegation is controverted, the government has the burden of proving it. Proof of an omission, standing alone, does not establish or prove an applicant's state of mind when the omission occurred. An administrative judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning an applicant's state of mind at the time the omission occurred. *See* ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004) (explaining holding in ISCR Case No. 02-23133 at 5 (App. Bd. Jun. 9, 2004)).

Three falsifications on Applicant's SF 86 are alleged in this case, and he has denied all three. With respect to Applicant's negative answer to question 36 regarding tax liens, his answer was correct. The evidence establishes only two tax liens, and both are outside the seven-year period covered by the question. Similarly, his disclosure in response to question 40 appears to have been accurate. He presented documentary evidence that the lawsuit was dismissed, as he indicated on the SF 86, and the debt subsequently resolved. I conclude Applicant has refuted the allegations in SOR ¶ 2.a and 2.c.

Applicant's negative answer to question 35 regarding repossessions and his explanation is more troubling. He impressed me as intelligent and articulate at the hearing, but his explanation that he did not realize "property" included his repossessed cars strikes me as implausible. Of the three questions at issue in this case, question 35 was the only question that, if answered truthfully, would have disclosed significant derogatory information. He was concerned about his security clearance when he answered the question, as evidenced by his contemporaneous revival of efforts to resolve his delinquent taxes and other debts. Based on all the evidence, I do not believe his answer was a careless oversight. I conclude DC 2 is established by his false answer to question 35.

Two mitigating conditions (MC) are relevant to Applicant's falsification. MC 2 applies when the falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily. Directive ¶ E2.A5.1.3.2. MC 3 applies when the individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts. Directive ¶ E2.A5.1.3.3. Neither condition is established. The falsification was recent, in connection with Applicant's current security clearance application, and he made no effort to correct it until he was questioned by a security investigator ten months later.

FORMAL FINDINGS

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

Paragraph 1. Guideline F (Financial): AGAINST APPLICANT

Subparagraph 1.a: For Applicant

Subparagraph 1.b: Against Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: For Applicant

Subparagraph 1.e: For Applicant

Subparagraph 1.f: Against Applicant

Subparagraph 1.g: For Applicant

Subparagraph 1.h: Against Applicant

Subparagraph 1.i: Against Applicant

Subparagraph 1.j: Against 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

Subparagraph 1.p: For Applicant

Subparagraph 1.q: For Applicant

Subparagraph 1.r: For Applicant

Paragraph 2. Guideline E (Personal Conduct): AGAINST APPLICANT

Subparagraph 2.a: For Applicant

Subparagraph 2.b: Against Applicant

Subparagraph 2.c: For Applicant

DECISION

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

LeRoy F. Foreman

Administrative Judge

1. Transcript (Tr.) at 24-25.
2. Tr. 26-30.
3. Applicant's Exhibit (AX) VV.
4. AX KKK, LLL.
5. Government Exhibit (GX) 1 at 1-3; Tr. 92.
6. *Id.* at 8.
7. AX LL through QQ, UU, BBB, GGG.
8. GX 1
9. GX 2.
10. Tr. 61.
11. Tr. 185.
12. *Id.*
13. GX 3 at 2-5.
14. AX K through P.
15. Tr. 214.
16. Tr. 183.

17. Tr. 64.
18. AX W, X.
19. Tr. 59, GX 3 at 2.
20. Tr. 191.
21. Tr. 128, 194, 200; AE E, J; Answer to SOR at 6-13.
22. GX 3 at 1.
23. AX K through P.
24. AX Q, R.
25. AX BB.
26. AX CC.
27. AX G, H, DD.
28. AX AA.
29. GX 3.
30. GX 4.
31. *Id.* at 8.
32. AX Z.
33. GX 2 at 5, 9-11.
34. GX 3 at 1.
35. Tr. 209.
36. Tr. 218-19.
37. Answer to SOR at 21; GX 3 at 5.
38. AX Z.
39. GX 7 at 1.
40. *Id.*
41. Tr. 99-100; 105-06.
42. AX JJ, KK, RR, SS, WW, XX, YY, ZZ, AAA,
43. AX HHH, III.
44. Tr. 87.
45. Tr. 75-76.

46. Tr. 91-92.

47. Tr. 72-73.

48. GX 6 at 2; GX 7 at 1.