

KEYWORD: Financial

DIGEST: Applicant incurred more than \$50,000 in delinquent debt. Although some of the debt was incurred as a result of circumstances beyond his control, he has made no effort to pay off his creditors. Clearance is denied.

CASE NO: 05-06567.h1

DATE: 04/19/2006

DATE: April 19, 2006

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In re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 05-06567

**DECISION OF ADMINISTRATIVE JUDGE**

**JAMES A. YOUNG**

**APPEARANCES**

**FOR GOVERNMENT**

Francisco J. Mendez Jr., Esq., Department Counsel

## **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant incurred more than \$50,000 in delinquent debt. Although some of the debt was incurred as a result of circumstances beyond his control, he has made no effort to pay off his creditors. 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. In accordance with Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan 2, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on 31 October 2005 detailing the basis for its decision-security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing on 12 November 2005 and elected to have a hearing before an administrative judge. The case was originally assigned to another administrative judge, but was reassigned to me on 14 February 2006 because of caseload considerations. On 14 March 2006, I convened a hearing to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. DOHA received the hearing transcript (Tr.) on 24 March 2006.

### **FINDINGS OF FACT**

Applicant is 41 years old. He has been hired by a government contractor for service overseas, contingent upon him getting a security clearance. He expects the job will pay approximately \$80,000 a year.

In his answer, Applicant admitted having more than \$10,500 in charged off debts, accounts for more than \$38,000 in collection status, and a delinquent debt of more than \$2,600. Applicant has not paid those debts. His most recent credit report shows delinquent debts that were not listed in the SOR: an additional collection account for \$75 and a debt of

\$6,258 that was charged off.

Applicant claims his financial problems started in the late 1990s. He obtained a job that paid up to \$46,000 a year. He was living with his fiancée and their total income was approximately \$70,000. He was inundated with credit card offers, which he accepted. He used the cards to live well and usually paid only the minimum required. In 2001, he was laid off from his job. Four to six weeks later, his fiancée asked him to move out. He ran up additional credit card debt while he was unemployed, and was unable to pay these debts. Over the next couple of years he worked sporadically and moved several times. A friend advised him that if he let his debts go to collection status, the creditors would make settlement offers that would reduce his debts significantly. That is what happened, but Applicant was not making sufficient money to pay on the offers.

In 2003, Applicant felt depressed and tired. He stopped eating and drinking. He ended up in a hospital for five days after bleeding ulcers caused him to lose a lot of blood. He has since recovered. He is now living with his mother and earns no more than \$12 an hour for 15 hours a week. He believes the most he has made in any of the last three months is between \$300 and \$400. He has \$76 in savings. He has not tried any credit counseling.

## 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 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 the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

## CONCLUSIONS

In the SOR, DOHA alleged Applicant has debts totaling more than \$10,500 that were charged off as bad debts (§§ 1.a, 1.f), debts totaling more than \$38,000 in collection status (§§ 1.b, 1.c, 1.e, 1.g-1.i), and a delinquent debt of more than \$2,680, the balance owed after resale of an automobile that had been repossessed (§ 1.d). In his answer, Applicant admitted each of the allegations. 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 substantial evidence each of the allegations in the SOR. Applicant has a history of not meeting his financial obligations (DC E2.A6.1.2.1) and is unable or unwilling to satisfy his debts (DC E2.A6.1.2.3). Applicant claims he has mitigated these disqualifying conditions because his debts are not recent (MC E2.A6.1.3.1); the behavior was an isolated incident (MC E2.A6.1.3.2), and the conditions that resulted in the debts were largely beyond his control (MC E2.A6.1.3.3). After reviewing all of the evidence, I conclude Applicant did not mitigate the financial conditions security concern. Although he incurred most of these debts several years ago, they are still outstanding. Therefore, his debts are still recent. The number of delinquent debts over several years negates a finding this was an isolated incident. Therefore, MC E2.A6.1.3.1 and MC E2.A6.1.3.2 do not apply. Applicant was ill in 2003 and unable to work. Therefore, I have given some weight to MC E2.A6.1.3.3. But Applicant has been able to work for the past almost three years and has not made any significant effort to pay off his debts. Instead of trying to find full-time employment, he put all of his efforts into obtaining the job for which he seeks the security clearance. He has not consulted a credit counseling service or other agencies that could help him get a handle on his debt problem. I conclude none of the other mitigating conditions listed under the guideline 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-1.i: Against Applicant

**DECISION**

In light of all of the circumstances 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