

KEYWORD: Financial

DIGEST: Applicant is an engineer for a defense contractor. He admits to delinquent debts established by credit bureau reports. He stated he paid some of the debts, and had agreements to pay others. However, he presented no information concerning the agreements or payment. Applicant has not met his burden to mitigate financial consideration security concerns. Clearance is denied.

CASENO: 03-25293.h1

DATE: 01/31/2006

DATE: January 31, 2006

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-25293

DECISION OF ADMINISTRATIVE JUDGE

THOMAS M. CREAN

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is an engineer for a defense contractor. He admits to delinquent debts established by credit bureau reports. He stated he paid some of the debts, and had agreements to pay others. However, he presented no information concerning the agreements or payment. Applicant has not met his burden to mitigate financial consideration security concerns. Clearance is denied.

STATEMENT OF THE CASE

On February 3, 2005, the Defense Office of Hearing and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its decision to deny a security clearance for 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 February 11, 2005. The SOR alleges security concerns under Guideline F (Financial Considerations) of the Directive.

Applicant answered the SOR in writing on February 16, 2005. He admitted the allegations under Guideline F, but provided an explanation that he was repaying one of the debts and repaid another under a settlement agreement. He elected to have the matter decided on the written record in lieu of a hearing.

Department Counsel submitted the Government's written case on August 22, 2005. Applicant received a complete file of relevant material (FORM) on September 26, 2005, and was provided the opportunity to file objections and submit material to refute, extenuate, or mitigate the disqualifying conditions. His response was due October 27, 2005. As of November 14, 2005, he had not responded. The case was assigned to me on November 28, 2005.

FINDINGS OF FACT

Appellant is 35 years old, a college graduate, and has worked as an engineer for a defense contractor for over eight years. He is married with two young children. He submitted a security clearance application in 2002.⁽¹⁾ Credit bureau reports show Applicant has 13 delinquent debts.⁽²⁾

Applicant admitted he owed the delinquent debts. His personal financial statement provided to security investigators shows he has sufficient income to pay some of his debts. He stated to investigators he was making payments on most of the debts. However, he presented no information to verify his payments.⁽³⁾

He later stated he was planning to consult a credit counselor and make arrangements to pay his delinquent debts. He presented no information he consulted with a credit counselor. He stated he had a settlement agreement and paid off an account with a creditor on a debt for \$3,082.00, and also a settlement agreement and paid off an account with a bank for a debt of \$4,328.00. He presented no information to verify his statement and that he paid off these accounts. He stated he lost or misplaced the pay-off settlement documents when he moved. He also noted he is making payment of \$200.00 per month on a student loan and plans to consolidate another student loan with this student loan. He presented no information to verify any agreement, payment, or consolidation effort.⁽⁴⁾ Applicant has admitted the debts but presented no documentary or verifying information he has paid or is paying on any of the debts. His statements are contradictory, and without supporting information, I can only conclude he is not making payments on his debts.

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."⁽⁵⁾ Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.⁽⁶⁾

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 and mitigating conditions 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.⁽⁷⁾ 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.⁽⁸⁾

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.⁽⁹⁾ 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.⁽¹⁰⁾ Thereafter, Applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts.⁽¹¹⁾ An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance."⁽¹²⁾ "[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."⁽¹³⁾ "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security."⁽¹⁴⁾

Based upon a consideration of the evidence, I find the following adjudicative guideline 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 financially irresponsible 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 are 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 within Financial Considerations Disqualifying Conditions E2.A6.1.2.1 (*a history of not meeting financial obligations*), and E2.A6.1.2.3 (*an inability or unwillingness to satisfy debts*). The credit bureau reports and Applicant's admissions establish the delinquent debts. Applicant's Personal Financial Statement shows he has sufficient income to make payments on delinquent debts. His ability to pay on the debts and his failure to present documentation that he has made payments establishes an unwillingness to satisfy his debts. I conclude the above disqualifying conditions have been established.

I have considered Financial Consideration Mitigating Conditions E2.A6.1.3.1 (*The behavior was not recent*), and E2.A6.1.3.2 (*It was an isolated incident*), and determine they do not apply. Since the debts have not been paid, they are recent debts. There is a variety of debts from banks, credit cards, department stores, car loans, and student loans, so they are not isolated. Financial Consideration Mitigating Condition E2.A6.1.3.4 (*The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*) does not apply since Applicant has not presented information he has consulted a counselor like he said he would. I have considered Financial Consideration Mitigating Condition E2.A6.1.3.6 (*the individual initiated a good faith effort to repay overdue creditors or otherwise resolve debts*), and also find it does not apply. Applicant stated he would pay his overdue debts, indicating he paid two, and would be making or had made arrangements to consolidate another with a debt he was paying. He presented no documents to establish his payment of the two debts, or his agreements and plans to pay the other debts. Applicant's statements alone are not sufficient to meet his burden to establish he initiated good-faith efforts to pay his debts. His income is sufficient to enable him to pay on his debts, but he has not provided proof of payment. He has failed to mitigate the security concerns for financial considerations.

I carefully considered all of the circumstances in light of the "whole person" concept. I conclude Applicant is not 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: 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 presented by the record in this case, it is not clearly consistent with the national security to grant or continue a security clearance for Applicant. Clearance is denied.

Thomas M. Crean

Administrative Judge

1. Government Exhibit 4 (Security Clearance Application, dated Jul. 3, 2002).
2. Government Exhibit 3 (Credit Bureau Report, dated Dec. 3, 2004); Government Exhibit 7 (Credit Bureau Report, dated Jul. 17, 2002).
3. Government Exhibit 8 (Applicant's Statement, dated Sep. 18, 2002).
4. Government Exhibit 6 (Answer to Interrogatories, dated Feb. 6, 2005).
5. *Department of the Navy v. Egan*, 484 U.S. 518 (1988).
6. Directive ¶ E2.2.1.
7. *Id.*
8. Directive ¶¶ E2.2.1.1 through E2.2.1.9.
9. *See* Exec. Or. 10865 § 7.
10. Directive ¶ E3.1.14.
11. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15.
12. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
13. ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993))
14. *Egan*, 484 U.S. at 531; *see* Directive ¶ E2.2.2.