

KEYWORD: Financial

DIGEST: Applicant incurred financial problems after being laid off from her employment in 1998. She was unable to find employment with the same pay and benefits and she ended up liable for payments on two vehicles for which she co-signed loans-one for her daughter and one for her son's girlfriend. Although she has made some effort to pay off her debts, she still owes more than she will be able to repay in the near future and has no plan in place to do so. Clearance is denied.

CASENO: 04-01670.h1

DATE: 10/31/2005

DATE: October 31, 2005

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-01670

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant incurred financial problems after being laid off from her employment in 1998. She was unable to find employment with the same pay and benefits and she ended up liable for payments on two vehicles for which she co-signed loans—one for her daughter and one for her son's girlfriend. Although she has made some effort to pay off her debts, she still owes more than she will be able to repay in the near future and has no plan in place to do so. 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. On 4 January 2005, DOHA issued a Statement of Reasons⁽¹⁾ (SOR) detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing on 18 January 2005 and elected to have a hearing before an administrative judge. The case was assigned to me on 27 June 2005. On 16 August 2005, 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 23 August 2005. I kept the record open and Applicant submitted Exs. D, E, and F. As Department Counsel had no objection, the exhibits were admitted into evidence.

FINDINGS OF FACT

Applicant is a 55-year-old security and protective services officer for a defense contractor. She is separated from her second husband. She has three children by her first husband. They are 34, 32 and 22 years old.

Applicant formerly worked for an electronics firm. After working there for more than 16 years, she was laid off in 1998. Her inability to get a job paying the same amount caused her some financial difficulties. She worked at several different jobs before finding her current position. Recently she has been unable to work a second job because she had to take care of her father who was dying. He passed away a week before the hearing. Tr. 9-10.

Her two largest debts were the result of co-signing automobile loans for her daughter and her son's girlfriend. Her daughter's car was repossessed for non-payment and Applicant incurred a debt of more than \$3,700 that has not been paid. After her son's girlfriend got her car, she dumped the son. Applicant has not been able to find her. Applicant owes more than \$17,000 on the car. Although there is evidence someone else may be using her Social Security Account Number (Tr.12; Ex. C), Applicant admits the debts alleged in the SOR are hers. Tr. 16.

The following chart summarizes the debts alleged in the SOR and their current status:

¶	Debt	Status	Reference
1.a	Collection acct for wireless \$1,025	Unpaid	Ans
1.b	Charged off bank card \$904	Unpaid	Ans
1.c	Daughter's car repossession-\$3,782	Unpaid	Ans
1.d	Collection acct-\$383	Paid March 2005	Ex. E
1.e	Mortgage past due \$1,495	Paid July 2005	Ex. F
1.f	Charged off debt on son's ex-girlfriend's car-\$17,140	Paid \$1,500	Tr. 19
1.g	Collection acct \$62	Paid	Tr. 19
1.h	Collection acct \$909	Unpaid	Ans

Applicant's Ex. D is a letter from a creditor acknowledging Applicant paid \$960 in March 2005. Applicant has not specified if this payment applies to any of the debts alleged in the SOR.

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 had four debts in collection status totaling more than \$2,300 (¶¶ 1.a, 1.d, 1.g, 1.h), three charged off accounts totaling more than \$21,000 (¶¶ 1.b, 1.c, 1.f); and was past due on her mortgage (¶ 1.e). She admitted each of the allegations contained in the SOR. 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 each of the allegations in the SOR and potentially disqualifying conditions under Guideline F. Applicant has a history of not meeting her financial obligations (DC E2.A6.1.2.1.) and is unable to satisfy her debts (DC E2.A6.1.2.3.). As the evidence established potentially disqualifying conditions, the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15.

The evidence established Applicant is making a concerted effort to pay off her debts. MC E2.A6.1.3.6. She has received counseling and is trying to resolve her financial problems. MC E2.A6.1.3.4. The debts were in large measure beyond her control—they started when she was laid off from her job in 1998. MC E2.A6.1.3.3. Nevertheless, despite her attempts to pay off these debts, there is no likelihood she will be able to do so in the near future. Although she lives frugally, her debts are overwhelming when compared to her meager income and she has no definite plans in place to pay the remaining delinquent debts. Under the circumstances, I find against Applicant on ¶ 1, except for those debts she has paid.

FORMAL FINDINGS

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

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Subparagraph 1.b: Against Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: For Applicant

Subparagraph 1.e: For Applicant

Subparagraph 1.f: For Applicant

Subparagraph 1.g: For Applicant

Subparagraph 1.h: 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

1. As required by Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified (Directive).

