

KEYWORD: Financial

DIGEST: Applicant has two judgments against her totaling more than \$9,000, a state tax lien for more than \$2,800, accounts placed for collection in the amount of \$2,692, and charged off accounts totaling more than \$17,600. Although some of the delinquent debts may be attributable to conditions that were largely beyond her control, she failed to demonstrate that she is making good-faith efforts to resolve the debts. Clearance is denied.

CASENO: 04-03907.h1

DATE: 03/31/2006

DATE: March 31, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-03907

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has two judgments against her totaling more than \$9,000, a state tax lien for more than \$2,800, accounts placed for collection in the amount of \$2,692, and charged off accounts totaling more than \$17,600. Although some of the delinquent debts may be attributable to conditions that were largely beyond her control, she failed to demonstrate that she is making good-faith efforts to resolve the debts. 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 27 September 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 1 November 2005 and elected to have a hearing before an administrative judge. The case was assigned to me on 29 November 2005. On 23 February 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 6 March 2006. I kept the record open until 9 March 2006 so Applicant could photocopy her pay stubs (Ex. C) for the record.

FINDINGS OF FACT

Applicant is a 42-year-old self-employed subcontractor for defense contractors. She has been in the military environment all her life. Her father retired from the military and became a government contractor. Her mother is a federal civil servant and her brother is a member of the U.S. Air Force Reserve. Applicant has been involved with the

government contracting process since 1980 and has held a secret security clearance since 1994.

Applicant admits being in a bad financial situation for the past 10-15 years. She is married and has two special needs children. Her husband is a recovering alcoholic who has been sober for two years. Before his recovery, he took money from his wife's account and spent it without notifying her. In 2002, she established her own business. He has degenerative arthritis and has not worked in almost three years.

She was awarded a subcontract from a defense contractor in November 2004. Her monthly gross is now \$12-18,000. She pays herself about \$5,000 a month to pay her living expenses.

Applicant has two judgments against her totaling more than \$9,000 (§ 1.a-1.b), a state tax lien for more than \$2,800 (§ 1.c), accounts placed for collection in the amount of \$2,692 (§§ 1.d-1.f), and charged off accounts totaling more than \$17,600 (§§ 1.g-1.i, 1.k-1.m). Her monthly income now exceeds her monthly expenses. Applicant has consulted with a certified public accountant for more than two years. He is going to help her set up a payment plan to resolve her debts. No payments have been made on any of her delinquent debts. She does not want to make settlement arrangements on her delinquent accounts because she believes it could affect her security clearance and her future credit status. At the present time, she does not have any credit cards. If she loses her security clearance, it will greatly affect her family's financial health and her ability to pay her delinquent debts.

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 two judgments totaling more than \$9,000 (¶ 1.a-1.b), a state tax lien for more than \$2,800 (¶ 1.c), accounts placed for collection in the amount of \$2,692 (¶¶ 1.d-1.f), charged off accounts totaling more than \$17,600 (¶¶ 1.g-1.i, 1.k-1.m), and her monthly expenses exceed her monthly income by more than \$3,500 (¶ 1.n). In her 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, except ¶ 1.n. Applicant has a history of not meeting her financial obligations (DC E2.A6.1.2.1.) and is unable or unwilling to satisfy her debts (DC E2.A6.1.2.3.). An applicant may mitigate financial considerations security concerns by establishing that her financial situation resulted from conditions that were largely beyond her control (MC E2.A6.1.3.3); she received counseling and the problem is being resolved or is under control (MC E2.A6.1.3.4); or she initiated a good-faith effort to repay overdue creditors or otherwise resolve her debts (MC E2.A6.1.3.6).

Some of Applicant's financial problems are directly attributable to her husband's alcoholism and his withdrawing money from her account without notifying her. And, although she did not establish any direct correlation to her debts, I have considered the special costs often associated with raising special needs children. At the same time, Applicant must bear some responsibility for not closing out those accounts her husband was abusing. Some of her delinquent debts are as low as \$40, \$52, and \$56, but Applicant has neither paid them nor contacted the creditors. Although her CPA acknowledges he is in the process of making payment plans with the creditors on her personal accounts, no payments have been made and no plans established. After considering all of the evidence, the disqualifying and mitigating conditions, as well as the adjudicative process factors, I find against Applicant. She has not demonstrated she is on the road to satisfying her delinquent debts. Applicant did establish that she is now making considerably more each month than she spends. I find for Applicant on ¶ 1.n.

FORMAL FINDINGS

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

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a-1.m: Against Applicant

Subparagraph 1.n: For 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