

KEYWORD: Financial

DIGEST: Applicant's financial irresponsibility makes him unsuitable for a security clearance. Clearance denied.

CASENO: 04-06074.h1

DATE: 03/09/2005

DATE: March 9, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-06074

**DECISION OF ADMINISTRATIVE JUDGE**

**JOHN GRATTAN METZ, JR.**

**APPEARANCES**

**FOR GOVERNMENT**

Eric H. Borgstrom, Esquire, Department Counsel

## **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant's financial irresponsibility makes him unsuitable for a security clearance. Clearance denied.

### **STATEMENT OF THE CASE**

Applicant challenges the 10 May 2004 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of his clearance because of financial considerations.<sup>(1)</sup> Applicant answered the SOR on 27 and 28 May 2004 and requested a hearing. DOHA assigned the case to me 19 July 2004 and I heard it 9 August 2004. DOHA received the transcript 24 August 2004.

### **FINDINGS OF FACT**

Applicant admitted eight debts and denied eleven others; he also denied having negative monthly cash flow. He is a 29-year-old employee of a defense contractor who briefly held a clearance while in the Army from 1998 to 1999.

Applicant has a history of financial difficulties and irresponsibility dating back to 1996. Applicant states his financial problems were originally due to his poor spending habits and financial irresponsibility. He also had some brief periods of unemployment and underemployment, and some unpaid medical bills as a result of an automobile accident. He claims without corroboration to have had medical insurance as well as a liability claim against the driver of the other car. He also claims to have retained an attorney to represent him, but did not follow up on his case. His credit reports document 19 delinquent accounts totaling over \$21,000.00, falling delinquent between November 1996 and August 2003.

Applicant admits eight debts totaling nearly \$3,000.00. On the eve of his answer, Applicant had entered into repayment plans on three accounts totaling just over \$2,100.00. However, he made only one month's payments of \$277.00 before he was placed in a leave-without-pay status by his employer.

Of the 11 accounts Applicant denies, three (totaling \$2,232.00) were paid on the eve of his answer<sup>(2)</sup> and a fourth was shown to be a duplicate of one of the three paid accounts. Two more accounts (\$467.00) fell delinquent in August 2003, and while Applicant denies these accounts, he has produced no evidence showing that the accounts are not his. The remaining five accounts (nearly \$16,000.00) were acknowledged by Applicant in his June 2003 sworn statement. The bulk of this debt (over \$15,000.00) stems from a deficiency amount on a car Applicant admits buying but which was totaled in an accident (1.m.), a loan he co-signed (1.r)<sup>(3)</sup>, and a judgment for another car loan from a private seller (1.b). Although Applicant feels these debts are unfair or possibly unenforceable, he never pursued his potential defenses on any of these debts.

Applicant's financial irresponsibility is exemplified by his handling of the largest and smallest of the debts he paid off before submitting his answer. The smallest (\$18.00) was for an unpaid utility bill that Applicant was unaware of until his June 2003 subject interview, but remained unpaid until late May 2004. The largest (\$2,033) was for a personal loan applicant took out in 1996 to help a friend buy a stereo system. The account was substantially delinquent when Applicant entered the Army in April 1998 and although he claimed he made payments on the account while in the Army, the delinquent amount on a loan that was originally \$2,100.00 eventually grew to over \$2,500.00. The final payment of \$263.00 was made a few days before he answered the SOR. Except as noted above, none of the accounts have been paid off, and no account has had any payments since June 2004. His June 2003 Personal Financial Statement documents his negative cash flow, and he has not corroborated his claim that he had positive cash flow then. Additionally, in summer 2003, he spent about \$1,600.00 on a trip to the Carribean with his girlfriend.

Applicant's character witnesses and exhibits extol his work ethic and his integrity. His other exhibits reveal that he consulted a credit counseling service but did not enter into a plan, tried to obtain a credit line to consolidate his bills but was turned down, entered into a repayment plan on one of the accounts discussed above, paid off a lien for a debt not alleged in the SOR, and retained a tax attorney to assist him with some tax returns (for which he expected refunds, but refunds that would not cover his outstanding debt) and educate him about recovering from his financial difficulties and making better choices in the future. However, he consulted this attorney 5 August 2004. There is no recovery plan in place.

## **POLICIES**

The Directive, Enclosure 2 lists adjudicative guidelines to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under

each adjudicative issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

## BURDEN OF PROOF

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government. [\(4\)](#)

## CONCLUSIONS

The Government established a Guideline F case. Applicant's substantial indebtedness was acquired largely through his own irresponsibility (or poor responses when the initial loss was caused by circumstances beyond his control). Although Applicant lacked the means to address his debts at various times in the past, and currently lacks the means to do so, he has not made much progress on his debts when his income was higher. He acknowledged his lack of financial insight in the past, but while he has obviously matured, his current level of financial insight seems only slightly higher than in the past. He does not currently have a grip on his finances nor does it appear he will any time soon. Disqualifying Factors 1 and 3 apply.

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and not isolated; indeed they are ongoing. They do not appear to be due to circumstances beyond his control. It does not

appear that Applicant has stopped digging himself into a financial hole, much less started to pull himself out of it. I conclude Guideline F against Applicant.

## **FORMAL FINDINGS**

### Paragraph 1. Guideline F: AGAINST THE APPLICANT

Subparagraph a: Against the Applicant

Subparagraph b: Against the Applicant

Subparagraph c: Against the Applicant

Subparagraph d: Against the Applicant

Subparagraph e: Against the Applicant

Subparagraph f: Against the Applicant

Subparagraph g: Against the Applicant

Subparagraph h: Against the Applicant

Subparagraph i: Against the Applicant

Subparagraph j: Against the Applicant

Subparagraph k: Against the Applicant

Subparagraph l: Against the Applicant

Subparagraph m: Against the Applicant

Subparagraph n: Against the Applicant

Subparagraph o: Against the Applicant

Subparagraph p: Against the Applicant

Subparagraph q: Against the Applicant

Subparagraph r: Against the Applicant

Subparagraph s: Against the 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 or continue a security clearance for Applicant.

**John G. Metz, Jr.**

**Administrative Judge**

1. Required by Executive Order 10865 and Department of Defense Directive 5220.6, as amended (Directive).
2. Although the largest of these (\$2,033.00) was paid in installments, only the last of which was paid just before his answer.
3. Applicant co-signed this loan so a friend could buy a pool table.
4. *See, Department of the Navy v. Egan*, 484 U.S. 518 (1988).