

KEYWORD: Financial

DIGEST: Applicant is a 51-year-old employee of a defense contractor. She worked for the United States government at a military installation until it was closed through a base realignment and closure. Applicant and her husband eventually found employment at another government installation, but had incurred delinquent debts as a result of the closure and move. Applicant employed a credit counseling organization, and has made constant payments on her debts in an effort to pay them off. Applicant has established her good-faith efforts to pay creditors or otherwise resolve indebtedness, and mitigated the security concerns for financial considerations. Clearance is granted.

CASENO: 04-06115.h1

DATE: 11/23/2005

DATE: November 23, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-06115

**DECISION OF ADMINISTRATIVE JUDGE**

**THOMAS M. CREAN**

**APPEARANCES**

**FOR GOVERNMENT**

Jeff Nagel, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant is a 51-year-old employee of a defense contractor. She worked for the United States government at a military installation until it was closed through a base realignment and closure. Applicant and her husband eventually found employment at another government installation, but had incurred delinquent debts as a result of the closure and move. Applicant employed a credit counseling organization, and has made constant payments on her debts in an effort to pay them off. Applicant has established her good-faith efforts to pay creditors or otherwise resolve indebtedness, and mitigated the security concerns for financial considerations. Clearance is granted.

**STATEMENT OF THE CASE**

On June 22, 2005, the Defense Office of Hearings 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 June 27, 2005. The SOR alleges security concerns under Guideline F (Financial Considerations) of the Directive.

Applicant answered the SOR in writing on July 10, 2005, admitting all of the allegations under Guideline F with explanations. She requested a hearing before an administrative judge, and the request was received by DOHA on July 13, 2005. Department Counsel was prepared to proceed with the case on August 9, 2005. The case was assigned to another administrative judge, and transferred to me on September 13, 2005. A notice of hearing was issued on October 5, 2005, and amended to a Notice of Video Teleconference Hearing on October 24, 2005. The hearing convened on October 26, 2005. Two government exhibits, five Applicant exhibits, and the testimony of the Applicant and two Applicant witnesses were received during the hearing. The transcript was received on November 9, 2005.

## **FINDINGS OF FACT**

Applicant is 51 years old and has been employed by a defense contractor for three years. As part of her employment, she submitted a security clearance application.<sup>(1)</sup> Applicant was employed by the United States government for over 20 years, and held a security clearance since 1990 while employed by the government. The military base where Applicant and her husband worked was closed by the Base Realignment and Closure process in 1997. Applicant's husband found employment at another government facility that year and moved to their present location. The family was not able to immediately sell their home, so Applicant's husband moved while Applicant stayed to sell the home. The family maintained two households for over 18 months before the house sold and Applicant moved to the new location. While maintaining two households, the family used credit cards to meet expenses. Applicant could not find government employment when she moved to the new location. She was able to find work with the defense contractor, but at a much reduced salary. She has been promoted and is now making approximately the same amount as a government employee at the old location. However, the family incurred delinquent debt because of the move, maintaining two households, and Applicant's reduced salary.<sup>(2)</sup>

There are three delinquent debts listed on the SOR as reflected from credit bureau reports. SOR allegation 1.a is a delinquent debt on a credit card for \$6,755.00. SOR allegation 1.b. is another credit card debt of \$2,984.00. SOR allegation 1.c is a credit card debt of \$4,830.00.<sup>(3)</sup> Applicant also acknowledged these debts in her statement to security investigators.<sup>(4)</sup>

Applicant and her husband hired a credit counseling agency in November 2003, to assist them in paying overdue creditors.<sup>(5)</sup> They have made every monthly payment on-time to the agency.<sup>(6)</sup> The agency in turn has made payments each month of \$108.00 on SOR debt 1.a, \$130.00 on SOR debt 1.b, and \$100.00 on SOR debt 1.c.<sup>(7)</sup> The latest credit bureau report still lists these debts, but with reduced amounts owed.<sup>(8)</sup>

The vice-president of the defense contractor employing Applicant testified she is the glue that holds his organization together. She is a worker he can trust. He has held a security clearance for almost 40 years and understands the need for a security clearance. Applicant's facility security manager also testified that Applicant is a trustworthy person, and he sees no problems for her security clearance.

## **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."<sup>(9)</sup> Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.<sup>(10)</sup>

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.<sup>(11)</sup> 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.<sup>(12)</sup>

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.<sup>(13)</sup> 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.<sup>(14)</sup> Thereafter, Applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts.<sup>(15)</sup> An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance."<sup>(16)</sup> "[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."<sup>(17)</sup> "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security."<sup>(18)</sup>

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*). Applicant accumulated delinquent debts maintaining two households for a period of time. The credit bureau reports and Applicant's admissions show the delinquent debts, and I conclude the above disqualifying conditions have been established.

Applicant's testimony and exhibits raises Financial Consideration Mitigating Conditions E2.A6.1.3.3 (*the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, . . . )*); 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*); and E2.A6.1.3.6 (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). Applicant's financial difficulties started with the closure of the military base where she and her husband worked and the need to move to another military base to continue government employment. The family had to maintain two households while their house sold. They incurred additional expenses and delinquent debt maintaining the two households. When Applicant was able to move to the new location, she did not find employment immediately, and then only at a reduced salary further increasing their delinquent debts. The conditions that led to the delinquent debts were largely beyond her control. Applicant and her husband sought credit counseling and have followed the advice of the counselors. They made all payments on time under their repayment plan, and the debt has been reduced. These are clear indications the problem is under control. Applicant is not required to be debt free. Applicant presented documentary information that her debts are being paid which shows her ability and desire to repay the debts. Her

testimony shows her plan is a systematic, concrete method of handling her debts and is evidence of a good-faith effort to repay the debts. Applicant has established the circumstances resulting in the debts were beyond her control, that she sought and followed financial counseling to resolve the debts, and that she made a good-faith effort to pay the debts. I conclude Applicant has mitigated the security concerns for financial considerations.

I carefully considered all of the circumstances in light of the "whole person" concept. I conclude Applicant is 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: FOR APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: For Applicant

Subparagraph 1.c.: For Applicant

### **DECISION**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national security to grant or continue a security clearance for Applicant. Clearance is granted.

Thomas M. Crean

Administrative Judge

1. Government Exhibit 1b (Security Clearance Application, dated Oct. 18, 2001).
2. Tr. 16-18.
3. Government Exhibits 1b (Credit Bureau Report, dated Jan 1, 2005); Government Exhibit 1c (Credit Bureau Report, dated Oct. 23, 2001); Government Exhibit 1d (Credit Bureau Report, dated Oct. 7, 2003).
4. Government Exhibit 1e (Applicant's statement, dated Apr. 1, 2003).
5. Applicant Exhibit D (Letter from Credit Agency, dated Nov. 4, 2003).
6. Applicant exhibits A, B, and C (Applicant's records of payment on accounts, undated).
7. Tr. 18-20; Applicant Exhibit E (Statement of Accounts, various dates). It should be noted the Statements list other debts the agency is paying for Applicant. These debts were being paid as agreed and not included as allegations in the SOR. The statement of accounts does show is meeting all of her financial requirements.
8. Tr. 14; Government Exhibit 2 (Credit Bureau Report, dated Oct. 26, 2005).
9. *Department of the Navy v. Egan*, 484 U.S. 518 (1988).
10. Directive ¶ E2.2.1.
11. *Id.*
12. Directive ¶¶ E2.2.1.1 through E2.2.1.9.
13. *See* Exec. Or. 10865 § 7.
14. Directive ¶ E3.1.14.
15. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15.
16. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
17. ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993))
18. *Egan*, 484 U.S. at 531; *see* Directive ¶ E2.2.2.