

KEYWORD: Financial

DIGEST: Applicant had difficulty meeting her expenses over the past several years due to being the sole provider for four people. Her financial situation has improved. Her husband now has full-time employment and their monthly income has doubled. She has resolved or entered into payment plans with all her delinquent creditors, with the exception of one account which she intends to resolve in the near future. She has made a good-faith effort to repay overdue creditors or otherwise resolve debts. Clearance is granted.

CASENO: 04-06561 .h1

DATE: 03/28/2006

DATE: March 28, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-06561

DECISION OF ADMINISTRATIVE JUDGE

ERIN C. HOGAN

APPEARANCES

FOR GOVERNMENT

Nichole Noel Esq., Department Counsel

Fahryn Hoffman Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant had difficulty meeting her expenses over the past several years due to being the sole provider for four people. Her financial situation has improved. Her husband now has full-time employment and their monthly income has doubled. She has resolved or entered into payment plans with all her delinquent creditors, with the exception of one account which she intends to resolve in the near future. She has made a good-faith effort to repay overdue creditors or otherwise resolve debts. Clearance is granted.

STATEMENT OF THE CASE

On June 20, 2005, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) stating they were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance. ⁽¹⁾ The SOR, which is in essence the administrative complaint, alleged security concerns under Guideline F, Financial Considerations.

In a sworn statement dated June 27, 2005, Applicant responded to the SOR allegations and requested a hearing. The case was originally assigned to another administrative judge on November 4, 2005, and was transferred to me on November 29, 2005. A notice of hearing was issued on January 3, 2006, scheduling the hearing for January 24, 2006. The hearing was delayed until January 26, 2006. The hearing was conducted on that date. The government submitted seven exhibits that were marked as Government Exhibits (Gov Ex) 1-7. The exhibits were admitted into the record without objection. Applicant testified on her own behalf, and submitted 16 exhibits that were marked as Applicant's Exhibits (AE) A-P. The exhibits were admitted without objection. DOHA received the hearing transcript (Tr.) on February 6, 2006.

FINDINGS OF FACT

In her SOR response, Applicant denied the allegations in subparagraphs 1.a, 1.d, 1.e and 1.h and admitted all the remaining allegations. Applicant's admissions are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is a 43-year-old woman employed as a logistics acquisition analyst with a Department of Defense contractor who is seeking a security clearance. She has been married since 1993.⁽²⁾ She has three children from a previous marriage, one daughter, age 17, and two sons, ages 20 and 24.⁽³⁾

Her middle son had difficulties when he was younger, especially when he was a teenager. He was diagnosed with Attention Deficit Disorder and emotional disability.⁽⁴⁾ She and her husband decided an adult was needed to stay at home in order to supervise his activities. Applicant and her husband decided that she would work full-time and her husband would stay at home. Her husband has had sporadic employment since 1996.⁽⁵⁾ Applicant's older son resided with his father. She supported her husband and two other children on an income of approximately \$2,000 a month.⁽⁶⁾ She received little child support for the two children who lived with her.⁽⁷⁾ The limited income and her son's condition caused her to fall behind on her financial obligations.

Her background investigation revealed Applicant had ten delinquent accounts with a total approximate balance of \$13,798.⁽⁸⁾ The accounts included six judgments for \$525 (SOR ¶ 1.a), \$102 (SOR ¶ 1.b), \$830 (SOR ¶ 1.d), \$448 (SOR ¶ 1.h), \$224 (SOR ¶ 1.i), and \$604 (SOR ¶ 1.j). There were three collection accounts in amounts of \$323 (SOR ¶ 1.e), \$5,690 (SOR ¶ 1.f) and \$4,588 (SOR ¶ 1.g). One account for \$624 was charged off as a bad debt (SOR ¶ 1.c). Between May 1998 to March 2003, Applicant's wages were garnished seven times.

The current status of the delinquent debt is:

SOR Paragraph	Debt	Status	Record
1.a	\$525 judgment	Paid in full	AE A
1.b	\$102 judgment, dental bill	Paid in full	AE B
1.c	\$624 charged off account	Not paid	Tr. at 35
1.d	\$830 judgment, unpaid rent	Paid in full	AE C
1.e	\$323 collection account, cell phone	Paid in full	AE F
1.f	\$5,690 student loan, collection account	Payment plan	AE D; AE P; Tr. at 38-42
1.g	\$4,588 student loan collection account	Payment plan	AE D; AE P; Tr. at 38-42
1.h	\$448 judgment, medical	Paid in full	AE E, Tr. at 43
1.i	\$244 judgment, medical	Paid in full	Tr. at 44

1.j	\$604 judgment, medical	Paid in full	Tr. at 44
1.k	Garnishments	Paid in full	Tr. at 45-47; 61-62

Applicant has resolved all delinquent debts, with the exception of the delinquent debts in subparagraphs 1.c, 1.f and 1.g. She intends to pay the debt alleged in subparagraph 1.c as soon as she is able to pay in one lump sum. The creditor is only willing to take a lump sum payment.⁽⁹⁾ In December 2005, she entered into a repayment plan regarding her student loan accounts which are alleged in subparagraphs 1.f and 1.g.⁽¹⁰⁾

In December 2005, Applicant's husband obtained a job as a clerk in a pharmacy.⁽¹¹⁾ In October 2005, Applicant transferred to a new job.⁽¹²⁾ Currently, she and her husband bring home about \$4,000 every month.⁽¹³⁾ In February 2005, she received a payment of \$20,000 for back child support.⁽¹⁴⁾ She paid off several bills and purchased an additional used car to make it easier for her husband to get to work.⁽¹⁵⁾ She provided a recent credit report which indicated the majority of her debts have been resolved.⁽¹⁶⁾

Applicant's supervisor from her previous job provided a statement on her behalf praising her work ethic and ability to multi-task. He notes she was responsible for handling classified material for the team and did extremely well. He is aware of her financial problems and notes that she refused assistance and handled the resolution of her finances in a calm and precise way. He would trust Applicant with any mission.⁽¹⁷⁾ In December 2004 and October 2005, she was recognized for her superior work performance.⁽¹⁸⁾

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." (*Department of the Navy v. Egan*, 484 U.S. 518, 527 (1988).) In Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), the President set out guidelines and procedures for safeguarding classified information within the executive branch.

To be eligible for a security clearance, an applicant must meet the security guidelines contained in the Directive. Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions and

mitigating conditions under each guideline. The adjudicative guideline at issue in this case is:

Guideline F, Financial Considerations: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. (Directive ¶ E2.A6.1.1.)

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns pertaining to this adjudicative guideline, are set forth and discussed in the conclusions below.

"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." (Directive, ¶ E2.2.1.) An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person. *Id.* An administrative judge should consider the following factors: (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 individual'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 or recurrence. (*Id.*)

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. (Directive, ¶ E3.1.14.) Thereafter, the applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate the facts. (Directive, ¶ E3.1.15.) 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 (App. Bd. Dec. 19, 2002).) "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security." (Directive, ¶ E2.2.2.)

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 a determination as to the loyalty of the applicant. (Exec. Ord. 10865, § 7.) It is merely an indication that the applicant has not met the strict guidelines the President has established for issuing a clearance.

CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards. The government has established a *prima facie* case for disqualification under Guideline F - Financial Considerations.

At the time of her security clearance background investigation in 2002, Applicant had several delinquent debts. By the time her SOR was issued, she had ten delinquent accounts with a total approximate balance of \$13,498. Under Guideline F, Disqualifying Conditions (FC DC) E2.A6.1.2.1: (*A history of not meeting financial obligations*) and FC DC 3 E2.A6.1.2.3: (*Inability or unwillingness to satisfy debts*) apply to Applicant's case. She had a history of not meeting her financial obligations since 1998. For a while, she was unable to satisfy debts based on her limited family income.

The security concern under Guideline F can be mitigated. I find the following Financial Considerations Mitigating Conditions (FC MC) apply:

FC MC E2.A6.1.3.3 (*The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation)*) applies.

Applicant's son had difficulties during his teen years which resulted in a decision to have one spouse stay at home. Her husband has been sporadically employed since 1996. Although Applicant has had steady employment during this time, her monthly income of \$2000.00 a month was not enough to meet expenses. She received no child support from her ex-husband during this same timeframe.

FC MC E2.A6.1.3.6 (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) applies. Applicant has paid off the majority of her delinquent accounts. Of the few that remain outstanding, she is on a repayment plan for her student loan accounts and intends to pay off the remaining delinquent debt as soon as she can.

Applicant's financial situation has improved as a result of her husband's full-time employment. Her family's income has doubled as a result. Although she recently entered into a repayment plan with her student loan accounts, her initiative in resolving her other delinquent accounts indicate a demonstrated track record that Applicant intends to resolve her remaining delinquent accounts. Applicant has mitigated the security concern under Guideline F.

FORMAL FINDINGS

Formal Findings for or against Applicant on the allegations set forth 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

Subparagraph 1.d: For Applicant

Subparagraph 1.e: For Applicant

Subparagraph 1.d: For Applicant

Subparagraph 1.e: For Applicant

Subparagraph 1.f: For Applicant

Subparagraph 1.g: For Applicant

Subparagraph 1.h: For Applicant

Subparagraph 1.i: For Applicant

Subparagraph 1.j: For Applicant

Subparagraph 1.k: For Applicant

DECISION

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

Erin C. Hogan

Administrative Judge

1. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended and modified (Directive).
2. Tr. at 63.
3. Tr. at 47.
4. Tr. at 46.
5. Tr. at 59.
6. Tr. at 48.
7. Tr. at 51.
8. *See* Gov Ex 2-6.
9. Tr. at 35.
10. AE D; AE P; Tr. at 38-42.
11. Tr. at 49.
12. Tr. at 48.
13. Tr. at 50.
14. Tr. at 51.
15. Tr. at 51-52.
16. AE L.
17. AE J.
18. AE K.