

KEYWORD: Financial

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

CASENO: 04-08086.h1

DATE: 02/13/2006

DATE: February 13, 2006

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-08086

**DECISION OF ADMINISTRATIVE JUDGE**

**JOHN GRATTAN METZ, JR**

**APPEARANCES**

**FOR GOVERNMENT**

Jason Perry, Esquire, Department Counsel

## **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant's history of financial difficulties makes him unsuitable for a security clearance. Clearance denied.

### **STATEMENT OF THE CASE**

Applicant challenges the 23 June 2005 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 in August 2005 and requested a decision on the record.. He did not respond to DOHA's 22 September 2005 File of Relevant Material (FORM). DOHA assigned the case to me 7 November 2005.

### **PROCEDURAL ISSUES**

In the FORM, Department Counsel moved to amend the SOR to add subparagraph 1.o., a charged-off account that first appeared on Applicant's August 2005 credit report. The record evidence supports the amendment and, accordingly, I grant the motion. Applicant having not responded to the FORM, I formally enter his denial of the allegation, consistent with his answer to the original SOR.

### **FINDINGS OF FACT**

Applicant denied the allegations of the SOR. He is a 38-year-old creative director employed by a defense contractor since February 2001. He seeks to retain the clearance he has held since approximately September 1995. He submitted

his clearance application for periodic reinvestigation in November 2001.

Applicant has a history of financial difficulties dating back to at least 1996. He attributes his financial problems to his 1994 marriage to a woman who turned out to be a compulsive shopper, suffering from both bipolar disorder and ADHD. Their finances deteriorated so quickly that they filed a chapter 7 bankruptcy petition and were discharged from \$62,000.00 in debt in September 1996. Applicant had an automobile repossessed in January 1997 and had his wages garnished in January 1998. In December 2001, Applicant's employer notified the government that the creditor at 1.1. had filed a garnishment order to recover their judgment, plus interest and fees, totaling over \$15,000.00. Applicant and his wife separated in October 2000 and have since divorced.

The SOR alleges fifteen delinquent accounts totaling nearly \$34,000.00, falling delinquent between October 1997 and August 2005. Over \$21,000.00 of that amount is for an automobile loan first reported delinquent in August 2005. The fifteen debts are supported by four credit reports obtained between November 2001 and September 2005. Some of the accounts are reflected as individual accounts; some as joint accounts. With the exception of the debt at 1.o., Applicant denies the remaining debts as either paid previously or the responsibility of his ex-wife. However, he has not provided documentation of paid accounts, divorce records showing allocation of marital debt, or any evidence of his efforts to remove erroneous entries from his credit report.

### **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. <sup>(2)</sup>

### **CONCLUSIONS**

The Government established a Guideline F case, and Applicant did not mitigate the security concerns. Government records reflect a large amount of delinquent debt acquired after Applicant's bankruptcy discharge in 1996. <sup>(3)</sup> Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent <sup>(4)</sup> and not isolated; <sup>(5)</sup> indeed they appear to be ongoing, with a new delinquent account in August 2005. Although they may have been due somewhat to circumstances beyond his control, <sup>(6)</sup> there is no evidence that Applicant has sought credit counseling or otherwise brought the problem under control. <sup>(7)</sup> Finally, Applicant provided no evidence to support his assertions that these accounts were either paid or that he had been relieved of the legal obligation for the accounts. <sup>(8)</sup> I conclude Guideline F against Applicant.

### **FORMAL FINDINGS**

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph a: Against Applicant

Subparagraph b: Against Applicant

Subparagraph c: Against Applicant

Subparagraph d: Against Applicant

Subparagraph e: Against Applicant

Subparagraph f: Against Applicant

Subparagraph g: Against Applicant

Subparagraph h: Against Applicant

Subparagraph i: Against Applicant

Subparagraph j: Against Applicant

Subparagraph k: Against Applicant

Subparagraph l: Against Applicant

Subparagraph m: Against Applicant

Subparagraph n: Against Applicant

Subparagraph o: Against 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. *See, Department of the Navy v. Egan*, 484 U.S. 518 (1988).
3. E2.A6.1.2.1 A history of not meeting financial obligations; E2.A6.1.2.3 Inability or unwillingness to satisfy debts;

4. E2.A6.1.3.1 The behavior was not recent;
5. E2.A6.1.3.2 It was an isolated incident;
6. E2.A6.1.3.3 The conditions that resulted n the behavior were largely beyond the person's control. . .;
7. 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;
8. E2.A6.1.3.6 The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.