

DATE: December 8, 2005

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-08715

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

Robert E. Coacher, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant and his wife incurred more than \$22,000 in delinquent debts. Although he has the resources to pay these debts, Applicant refuses to do so. 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. On 23 March 2005, DOHA issued a Statement of Reasons (SOR) detailing the basis for its decision ⁽¹⁾-security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing on 11 April 2005 and elected to have a hearing before an administrative judge. The case was assigned to me on 27 July 2005. On 17 October 2005, 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 28 October 2005.

FINDINGS OF FACT

Applicant is a 53-year-old production support senior for a defense contractor. He has been married for 22 years. He served in the U.S. Air Force from 1970-74. He obtained a security clearance in 1986. Ex. 1 at 1-2, 6.

Applicant put some of the funds from his paycheck toward savings and gave the rest to his wife to pay the family's bills. In 1999, Applicant and his wife began receiving telephone calls from creditors and collection agencies. She had not told Applicant they were having financial difficulties. Applicant did not know if they were living beyond their means or he just had not given his wife sufficient funds to pay the bills. He now owes more than \$22,000 to three creditors.

In a statement to an agent of the Defense Security Service, Applicant asserted his "game plan" was to "continue to ignore" these delinquent debts. Ex. 2 at 2. At the hearing, Applicant admitted he still owes the debts and does not have any plan to pay them. He insists he owes the debts to the original creditors, not the agencies that purchased the debts. He

believes he should not have to pay the additional fees the current holders of the debts have added since the debts were incurred. Applicant has sufficient funds to pay off the 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 four delinquent debts totaling more than \$30,000. ¶ 1.a-1.d. Applicant admitted each of the allegations in his answer. At the hearing he presented evidence that the debt alleged in ¶ 1.d is the same as that alleged ¶ 1.b. Ex. G. The debts are from the same credit card account. The allegation in ¶ 1.b is from the original creditor, while the allegation in ¶ 1.d is from the assignee of that debt. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1.

The Government's evidence establish potentially disqualifying conditions under Guideline F. Applicant has a history of not meeting his financial obligations (DC E2.A6.1.2.1) and is unwilling to satisfy these debts (DC E2.A6.1.2.3). He now has three delinquent debts totaling more than \$22,000. None of the mitigating conditions apply. Applicant failed to take adequate measures to ensure his bills were being paid in a timely manner. He admits his delinquent debts, but refuses to pay them. I find against Applicant on ¶¶ 1.a, 1. c, and 1.d. I find for Applicant on ¶ 1.b as it is the same debt as alleged in ¶ 1.d.

FORMAL FINDINGS

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

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Subparagraph 1.b: For Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: Against 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

1. As required by Exec. Or. 10865, (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6 (Jan. 2, 1992), as amended and modified (Directive).