

DATE: July 12, 2006

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In re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-08828

**DECISION OF ADMINISTRATIVE JUDGE**

**JAMES A. YOUNG**

**APPEARANCES**

**FOR GOVERNMENT**

Ray T. Blank Jr., Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

After her husband was physically disabled some 10 years ago, Applicant has struggled financially. Although she has paid some of the minor debts, she does not have a firm grasp on her financial situation. 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. As required by Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan. 2, 1960), as amended, DOHA issued a Statement of Reasons (SOR) on 2 June 2005 detailing the basis for its decision-security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing on 23 June 2005 and elected to have a hearing before an administrative judge. The case was assigned to another judge and reassigned to me on 14 February 2006. On 27 April 2006, 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 (R.) on 9 May 2006.

I left the record open until 12 May for Applicant to submit a letter of recommendation from her employer, who was out of town on the day of the hearing, and evidence of any payment plan with any of her creditors. No submission was received.

**FINDINGS OF FACT**

Applicant is a 54-year-old computer technician for a defense contractor. Her husband injured his back 10 years ago and does not work outside the home. When he was injured, he was making approximately \$8 an hour and working between 50 and 60 hours a week. Applicant, who had only worked outside the home part-time, became the family bread winner. The state provided some training for her in 1997, and she has worked for the same company since 1998. She has a 12-year-old daughter and a grandson at home.

The following chart lists the debts alleged in the SOR and their current status:

Debt	Status	Record
1.a-Collection acct-May 1999-\$2,600	Claims she makes regular payments and debt is now \$2,700-no documents support claim but debt is no longer on credit report	R. 14-15
1.b-Collection acct \$100	Not sure of creditor. Thinks she paid, but no document supports claim	R. 15
1.c-Collection acct-March 2000-\$2,239	Medical bills-No longer on credit report-not clear whether it was paid or not	R. 15; Ex. 7
1.d-Charged off acct for repo'd car-September 2002-\$8,539	Plans to pay off in the next year or so-no payment plan in effect	R. 17
1.e-Collection acct-March 2004-\$50	Unknown medical creditor-no longer appears on credit report	Ex. 7 at 1
1.f-Collection acct-May 2004-\$45	Unknown medical creditor-unpaid	Ex. 7 at 1
1.g-Collection acct-August 2004-\$50	Unknown medical creditor-paid	Ex. 7 at 1
1.h-Collection acct-January 2005-\$500	Unknown medical creditor-paid	Ex. 7 at 1

Applicant is working hard to stay solvent. She intends to switch accounts to a different bank that will provide financial counseling and assess whether it makes sense to refinance her home.

### 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 (Jan. 6, 1993). Each security clearance decision "must be a fair and impartial common sense determination based upon consideration of all the relevant and material information and the pertinent criteria and adjudication policy." Directive ¶ 6.3. 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 seven delinquent debts (¶¶ 1.a-1.c, 1.f-1.h) in collection status totaling more than \$5,580 and one delinquent debt (¶ 1. d) for more than \$8,530 that was charged off as a bad debt. In her Answer, Applicant admitted the debts in ¶¶ 1.a, 1.c, 1.e-1.h, some with explanation. She tentatively denied the debts alleged in ¶¶ 1.b-1.c, but indicated her lack of certainty with a question mark.

An applicant who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1. Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions

about an individual's reliability, trustworthiness and ability to protect classified information. The Government established that Applicant has a history of not meeting her financial obligations (DC E2.A6.1.2.1.) and has been unable to satisfy her debts (DC E2.A6.1.2.3.).

An applicant may mitigate financial considerations security concerns by establishing the conditions that resulted in the delinquent debts were largely beyond her control (MC E2.A6.1.3.3), she has received counseling and there are clear indications the problem is resolved or under control (MC E2.A6.1.3.4), or she initiated a good-faith effort to repay overdue creditors or otherwise resolve her debts (MC E2.A6.1.3.6). Applicant established that her financial problems were largely beyond her control. The family was not in great financial condition before Applicant's husband was disabled. After his disability, Applicant struggled to obtain training so she could be the family bread winner. None of the other mitigating conditions apply. Although Applicant may get some financial counseling in the future, she has not done so yet, and there are no clear indications her problems are being resolved or are under control. She made a good-faith effort to pay some of her debts, but not others. She does not appear to have a full grasp of her financial situation. Under all the circumstances, I conclude Applicant has not met her burden of showing it is in the national interest to grant her a clearance. Once she receives financial counseling and establishes a financial plan, she should be considered for a clearance. I find for her on ¶¶ 1.g and 1.h, which alleged debts she has paid.

### **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: Against Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: Against Applicant

Subparagraph 1.e: Against Applicant

Subparagraph 1.f: Against Applicant

Subparagraph 1.g: For Applicant

Subparagraph 1.h: For 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