

KEYWORD: Financial

DIGEST: Applicant failed to mitigate financial considerations security concerns raised by her more than \$70,000 in delinquent debts. Clearance is denied.

CASENO: 04-09329.h1

DATE: 01/30/2006

DATE: January 30, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-09329

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

Robert E. Coacher, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant failed to mitigate financial considerations security concerns raised by her more than \$70,000 in delinquent debts. 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 (Jan. 2, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on 28 April 2005 detailing the basis for its decision-security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in an undated writing and elected to have a hearing before an administrative judge. The case was assigned to me on 29 September 2005. On 17 November 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 2 December 2005.

FINDINGS OF FACT

Applicant is a 54-year-old employee of a defense contractor. She first obtained a security clearance in January 1974.

Applicant married her second husband in 1999. Each was financially overextended at the time of the marriage. After her mother died in 2003, Applicant helped her family pay off some of her mother's bills. Applicant's husband abandoned her in January 2004. Ex. 2 at 1.

In the SOR, DOHA alleged Applicant has six accounts in collection status totaling more than \$37,900 and 11 bad debts totaling more than \$34,800. In her Answer, Applicant admitted at least 12 of these debts as delinquent accounts, but complained the original creditors had either sold or transferred these accounts and added substantial additional charges in excess of the credit she actually used. Applicant's latest credit report (Ex. 3) shows she disputed four of the accounts. At the hearing, Applicant acknowledged each of the debts, except for ¶ 1.d, although she was unsure of some of the others. She has not taken any action to pay these delinquent debts.

Most of Applicant's delinquent debts date from 1999 and 2000. Since she has lived with poor credit since, she intends to wait the seven years until they drop off her credit report.

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 has six accounts that are in collection status totaling more than \$37,900 (¶¶ 1.a-1.c, 1.j-1.l) and bad debts totaling more than \$34,800 (¶¶ 1.d-1.i, 1.m-1.q). In her Answer, Applicant admitted ¶¶ 1.a, 1.b, 1.e-1.i, 1.m, and 1.o, and denied those in ¶¶ 1.c, 1.d, 1.j-1.l, 1.n, 1.p, 1.q)

The Government's evidence established potentially disqualifying conditions under Guideline F. Applicant has a history of not meeting her financial obligations (DC (E2.A6.1.2.1) and is unable or unwilling to satisfy her debts (DC E2.A6.1.2.3). Applicant has more than \$70,000 in delinquent debt.

An applicant may mitigate financial considerations security concerns by establishing the behavior was not recent (MC E2.A6.1.3.1), the debts were largely beyond her control (MC E2.A6.1.3.3), or she initiated a good-faith effort to resolve her debts (MC E2.A6.1.3.6). None of these mitigating conditions apply. Applicant admits she was financially overextended when she entered her second marriage. She provided no testimony or other evidence to show how her husband abandoning her or her mother's death affected her ability to resolve her financial difficulties. She apparently helped her family pay off some of her mother's debts, but presented no evidence as to the extent of her assistance or how it affected her ability to resolve at least some of the smaller delinquent debts. Three of the delinquent debts are for amounts less than \$300, one of which is for \$50. Under the circumstances, I conclude Applicant failed to mitigate the financial considerations security concerns raised by her delinquent debts.

FORMAL FINDINGS

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

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a-q: 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