DATE: August 25, 2006

In Re:

SSN: -----------

Applicant for Security Clearance

ISCR Case No. 04-12820

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Ray T. Blank, Jr., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's long-standing indebtedness and his intentional falsification of material facts on a Security Clearance Application (SCA) preclude a finding that it is now clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

STATEMENT OF THE CASE

On August 5, 2005, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

Applicant responded to the SOR in writing on September 20, 2005 and in October 2005, and elected to have his case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case (FORM) on or about April 20, 2006. Applicant did not file a response to the FORM. The case was assigned to me on August 16, 2006.

RULINGS ON PROCEDURE

In the FORM, Department Counsel moved to amend SOR Allegations 2a, 2b, and 2c. Applicant did not object. Department Counsel's motion is granted, and the SOR is amended as requested by Department Counsel in the FORM.

FINDINGS OF FACT

Applicant is a 51 year old employee of a defense contractor.

Under Guideline F, applicant admits SOR Allegations 1a, 1c, 1d, 1e, 1f, and 1g. These allegations are therefore incorporated by reference as Findings of Fact.

With respect to SOR Allegation 1b, a civil judgment in the amount of $2,049.00 was entered against applicant in June 2000. In a signed, sworn statement he gave to the Defense Security Service (DSS) in April 2004 (Exhibit 14), applicant acknowledged the judgment and stated he is "paying [the creditor] $50 per month and the debt is now down to $350.00, soon the judgment will be satisfied." However, other than a copy of a check dated 8-22-05 made out to the creditor in the amount of $124.65 that he attached to his SOR response, applicant offered no evidence to corroborate his statements that he is making regular payments to the creditor and that the debt has been reduced to $350.00.

Applicant satisfied the debt alleged in SOR Paragraph 1h.

Applicant states that his "financial problems began in about April 1999 when [he] went on strike and didn't receive any pay until August 1999, when [he] went back to work" (Exhibit 14).

With respect to Guideline E, applicant completed and executed an SCA in September 2004 (Exhibit 7). Applicant provided false material information in response to three questions on the SCA. In response to Question 37, he stated he had no judgments entered against him during the previous seven years that had not been paid. In fact, there were two unpaid judgments that were entered against him during the previous seven years. In response to Question 38, he falsely stated that during the previous seven years he had not been over 180 days delinquent on any debt. And, in response to

Question 39, he falsely stated that he was not then 90 days delinquent on any debt. In Exhibit 14, applicant stated the following about the falsifications:

When preparing my security form I indicated "no" to all of the questions pertaining to personal financial problems. I believed at the time that I had made significant progress in rectifying my financial situation since the strike. It was not my intent to provide false information or falsify an official document in order to misrepresent myself to the U.S. Department of Defense.

CONCLUSIONS

The evidence establishes that applicant has a history of not meeting his financial obligations. This fact requires application of Disqualifying Conditions E2.A6.1.2.1 *(a history of not meeting financial obligations)* and E2.A6.1.2.3 *(inability or unwillingness to satisfy debts)*.

In view of applicant's long and extensive history of financial difficulties, and the lack of any evidence that would suggest his financial condition is likely to significantly improve anytime soon, it is not now clearly consistent with the national interest to grant his access to classified information. No mitigating conditions are applicable.[1] Based on the foregoing, Guideline F is found against applicant.

With respect to Guideline E, applicant's falsifications of material facts on the SCA are extremely troubling. The Government relies heavily on the honesty and integrity of individuals seeking access to our nation's secrets. When such an individual intentionally falsifies material facts on a security clearance application, it is extremely difficult to conclude that he or she nevertheless possesses the good judgment, reliability and trustworthiness required of clearance holders. Applicant's intentional falsifications require application of Disqualifying Condition E2.A5.1.2.2 *(the deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire . . .)*. No Mitigating Conditions apply. Based on the foregoing, Guideline E is found against applicant.

FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT

PARAGRAPH 2: AGAINST THE 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.

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Joseph Testan

Administrative Judge

1. Applicant has the burden to show mitigating conditions are applicable. Although going on strike undoubtedly contributed to applicant's financial difficulties, he has not presented evidence that going on strike was beyond his control. Accordingly, Mitigating Condition E2.A6.1.3.3 is not applicable.