

DATE: June 7, 2006

In Re:

SSN: -----

Applicant for Security Clearance

CR Case No. 05-00871

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Jennifer I. Campbell, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's financial difficulties are long-standing and unlikely to be resolved anytime soon.

Clearance is denied.

STATEMENT OF THE CASE

On August 19, 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, (as administratively reissued on April 20, 1999), 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 10, 2005. The case was assigned to me on November 10, 2005. A Notice of Hearing was issued on November 15, 2005, and the hearing was held on December 10, 2005. Following the hearing, applicant submitted five pages of documents. These documents, and Department Counsel's letter indicating she has no objection to them, were marked as Exhibit A and admitted into evidence. The transcript was received on January 18, 2006.

FINDINGS OF FACT

Applicant is a 45 year old employee of a defense contractor.

SOR Allegation 1a: Applicant satisfied this past-due tax debt in March 2005 (TR at 13-18; Exhibits A and 2).

SOR Allegation 1b: Applicant wrote a check to a grocery store that bounced. When notified that his check bounced,

applicant made good on it. He was not arrested for issuing the bad check as alleged (TR at 19-21).

SOR Allegation 1c: In 1996, applicant filed for bankruptcy protection under Chapter 7. He received a discharge the same year (TR at 21).

SOR Allegations 1d: Applicant testified that this debt was satisfied. Exhibit A indicates that on or before March 2, 2001, the creditor told Equifax, Experian and Trans Union to delete this account from their credit reports because it was placed in applicant's credit file by error.

SOR Allegations 1e and 1f: These are the same debt. Applicant admits that he is indebted to this creditor in the amount of \$790.00 as alleged in SOR Paragraph 1e, and that he has not made any payments to the creditor. He testified that the creditor contacted within the past year asking him to settle the debt, but since he didn't have the money to pay them what they wanted, he told them he would "be in touch with them" (TR at 27-28).

SOR Allegation 1g: Applicant admits that he is indebted to this creditor in the amount of \$1,075.00, and that he has not made any payments to them. He testified that when he last talked to the creditor in 2004, they wanted payment in full (TR at 29).

SOR Allegation 1h: Applicant admits owing this creditor \$375.00, and that he has had no contact with the creditor (TR at 30).

SOR Allegation 1i: Applicant admits owing this creditor \$1,098.00, and that he has had no contact with the creditor since 2004 (TR at 30).

SOR Allegations 1j and 1k: Applicant has been indebted to this creditor on both accounts, the first in the amount of \$91.00 and the second in the amount of \$2,461.00, for at least a few years (TR at 32).

SOR Allegation 1l: This debt arose after applicant moved out of his apartment before his lease expired. Applicant testified that he and the creditor, who he has not communicated with since 2003, disagree on the amount of the debt (TR at 33-34).

SOR Allegation 1m: Applicant settled this \$3,913.00 debt for \$1,500.00, and satisfied it in 2004 (TR at 35-36; Exhibit 2).

Applicant testified that he intends to satisfy all of his debts, and is currently working on a plan to do so. The plan is to refinance his house. Although applicant's testimony was sincere, his current financial condition is best described as precarious. At best his current income is barely meeting his current expenses, excluding the past-due debts alleged in the SOR; at worst, he has a negative monthly cash flow. In either case, he is not in the position to satisfy his past-due debts.

CONCLUSIONS

The evidence establishes that applicant has a long history of not meeting his financial obligations, and that he is unable to satisfy his debts. These facts require 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*).

Applicant satisfied four of the debts alleged in the SOR. For this he deserves credit. However, after giving applicant the benefit of doubt on the disputed debt with his former landlord, the evidence establishes that (1) he still has at least six past-due debts totaling approximately \$5,890.00 with at least five different creditors, (2) all of these past-due debts were charged off or placed for collection years ago, and (3) applicant has done little or nothing to address these debts, even though some are relatively minor (e.g. \$91.00). Given these facts, he does not qualify for Mitigating Condition E2.A6.1.3.6 (*the individual has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

Hopefully applicant can refinance his house and finally begin to get his financial house in order. At this point, however, a refinance is mere speculation. Based on the evidence in the record, applicant is experiencing significant financial difficulties, which are likely to continue. As such, his situation fits squarely within the Financial Guideline Concern

expressed in the Directive (E2.A6.1.1.1 - *An individual who is financial overextended is at risk of having to engage in illegal acts to generate funds.*). Based on this fact, I have no choice but to conclude it is not now clearly consistent with the national interest for applicant to have access to classified information.

FORMAL FINDINGS

PARAGRAPH 1: 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.

Joseph Testan

Administrative Judge