

KEYWORD: Financial; Criminal Conduct; Personal Conduct

DIGEST: In 1995, Applicant incurred hundreds of thousands of dollars in medical bills. Her debts were discharged in bankruptcy in 1999. In 2001, she lost her job, and shortly thereafter incurred \$11,000.00 in new medical bills. Her husband became disabled, and is still unable to work. Following their relocation in 2003, she found better employment. She is slowly working to pay her debt. The criminal charge against her was the result of falsification, and the warrant a result of miscommunication. She did not intentionally falsify her answers regarding her debt when she completed her security clearance application. She has mitigated the government's concerns regarding her debt and finances, her past criminal conduct, and personal conduct. Clearance is granted.

CASENO: 05-02166.h1

DATE: 03/20/2006

DATE: March 20, 2006

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In re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 05-02166

**DECISION OF ADMINISTRATIVE JUDGE**

**MARY E. HENRY**

**APPEARANCES**

**FOR GOVERNMENT**

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

In 1995, Applicant incurred hundreds of thousands of dollars in medical bills. Her debts were discharged in bankruptcy in 1999. In 2001, she lost her job, and shortly thereafter incurred \$11,000.00 in new medical bills. Her husband became disabled, and is still unable to work. Following their relocation in 2003, she found better employment. She is slowly working to pay her debt. The criminal charge against her was the result of falsification, and the warrant a result of miscommunication. She did not intentionally falsify her answers regarding her debt when she completed her security clearance application. She has mitigated the government's concerns regarding her debt and finances, her past criminal conduct, and personal conduct. Clearance is granted.

**STATEMENT OF THE CASE**

On September 12, 2005, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified, issued a Statement of Reasons (SOR) to Applicant. The SOR 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. Specifically, the SOR set forth security concerns arising under Guideline F (Financial Considerations), Guideline J (Criminal Conduct), and Guideline E (Personal Conduct) of the Directive. DOHA recommended the case be referred to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. On September 29, 2005, Applicant submitted a notarized response to the allegations, and requested a hearing.

This matter was assigned to me on January 3, 2006. A notice of hearing was issued on January 20, 2006, and a hearing was held on February 9, 2006. Four government exhibits and ten Applicant exhibits were admitted into evidence. Applicant and two witnesses testified. The record was held open until March 9, 2006 for Applicant to submit additional documentation. The additional documentation was received on February 27, 2006. The government did not object to the

admission of this evidence, which was admitted as Applicant Exhibit J. The hearing transcript (Tr.) was received on February 24, 2006.

### **FINDINGS OF FACT**

Applicant admitted, with explanation, all the allegations of Guideline F and Guideline J of the SOR.<sup>(1)</sup> Those admissions are incorporated here as findings of fact. She denied the Guideline E allegations. After a complete review of the evidence in the record and upon due consideration, I make the following additional findings of fact:

Applicant is a 48-year-old office clerk for a defense contractor.<sup>(2)</sup> She has worked for this contractor for two and one-half years.<sup>(3)</sup> She served three years in the United States Navy, and twelve years in the United States Army.<sup>(4)</sup> Her current status is inactive reserve.<sup>(5)</sup> She completed a security clearance application (SF 86) in July 2003.<sup>(6)</sup>

Applicant and her husband married in 1996.<sup>(7)</sup> She has three children by a previous marriage, one of whom is deceased.<sup>(8)</sup> In 1992, she decided to leave the Army to care for her sick mother.<sup>(9)</sup> Under an early out program, the Army paid her a separation bonus of \$43,000.00.<sup>(10)</sup> She used \$27,500.00 as a down payment on a house.<sup>(11)</sup> In the same year, her husband left the Army under an early out program and received a separation bonus of \$53,000.00.<sup>(12)</sup> He used his money for house repairs and to purchase a tractor-trailer to work as a long-distance truck driver.<sup>(13)</sup>

In 1995, Applicant's oldest daughter was diagnosed with sinus cancer.<sup>(14)</sup> Her daughter underwent extensive medical treatment, which cost several hundred thousand dollars, and was not covered by insurance.<sup>(15)</sup> Her daughter died a year later at the age of 16.<sup>(16)</sup>

While being treated for her cancer, Applicant's daughter told school authorities that her maternal grandfather had sexually abused her.<sup>(17)</sup> During an interview with the prosecutor, Applicant's daughter stated that Applicant knew about the abuse.<sup>(18)</sup> Applicant did not know about the abuse, as her daughter never said anything to her.<sup>(19)</sup> As a result of her daughter's statement, Applicant was arrested for failure to report her child as a victim of child abuse.<sup>(20)</sup> In a sworn statement, Applicant's daughter later recanted the allegation that Applicant knew about the sexual abuse, as well as the allegation of sexual abuse against the grandfather.<sup>(21)</sup> The court dismissed the criminal charges against Applicant in 1996.<sup>(22)</sup>

For three years, Applicant and her husband continued to pay some of the voluminous debt they had incurred during her daughter's illness. [\(23\)](#) Because of the overwhelming debt, they finally filed for bankruptcy in 1999. [\(24\)](#) Their debts included three accounts with one bank: a credit card account in the amount of \$5,023.73, a line of credit for \$2,034.00 and a personal loan for \$1,105.30. [\(25\)](#) In 1999, the court discharged all their debts, which were in excess of \$100,000.00. [\(26\)](#)

In July 2001, Applicant lost her job when the plant where she worked closed. [\(27\)](#) Two months later, she started work as a minimum wage cashier at a convenience store. [\(28\)](#) In December 2001, she was admitted to the intensive care unit of a hospital for a bleeding ulcer. [\(29\)](#) Her medical benefit paid \$1,000.00 of her bill, leaving approximately \$11,000.00 in unpaid medical bills. [\(30\)](#)

By 2002, Applicant's husband could no longer work and is considered unemployable by his physician. [\(31\)](#) He had suffered several heart attacks while driving on the road. [\(32\)](#) He suffers from high blood pressure, emphysema, patellofemoral syndrome in both knees, diabetes, post traumatic stress syndrome, tension headaches, coronary artery disease, fatigue, memory loss, sleep disorder, and other medical problems. [\(33\)](#) Because of these conditions, he takes 18 pills twice a day. [\(34\)](#) He experiences side effects from the pills, including drowsiness and passing out. [\(35\)](#)

The Veteran's Administration determined that Applicant's husband had a 50% service connected disability. [\(36\)](#) The VA initially awarded him benefits in the amount of \$633.00 a month, effective January 1, 2003, then increased his benefit to \$646.00 a month, effective December 1, 2003. [\(37\)](#) The VA has advised him that his entire benefit will be withheld until he has repaid the \$53,000.00 separation bonus received in 1992. [\(38\)](#) He has twice filed for social security disability benefits, but has been denied. [\(39\)](#) He is awaiting a hearing before a Social Security Administration administrative law judge. [\(40\)](#) He has no income at this time. [\(41\)](#)

In April 2003, Applicant and her husband relocated from their home in another state to find better employment. [\(42\)](#) By this time, they had lost their house to foreclosure. [\(43\)](#) To her knowledge, the house has not been sold. [\(44\)](#) They currently live with their adult daughter in the daughter's house. [\(45\)](#)

In the same month, the State charged Applicant for check deception when the bank refused to pay a \$15.57 check written to a fast food restaurant. Applicant paid the restaurant this amount plus a \$30.00 service fee on December 4, 2003, after receiving the notice to pay at her new address. [\(46\)](#) Although she notified the court by telephone of her new out of state address, she did not receive the trial date notice until after she was to appear in court. [\(47\)](#) When she failed to appear, the court issued a warrant for her arrest in March 2004. She was unaware of the warrant until she received the

SOR. [\(48\)](#) She immediately contacted the court, and submitted documentation indicating that she had paid the money at issue. [\(49\)](#) Based on this documentation, the court dismissed the check deception case and cancelled the warrant. [\(50\)](#)

Applicant earned \$31,838.00, including overtime, in 2005. [\(51\)](#) Her net monthly income averages \$1,750.00. [\(52\)](#) On January 24, 2006, she began working part-time at a local drug store. [\(53\)](#) She earns \$6.20 an hour and worked 16 hours during the first pay period. [\(54\)](#) Her first net pay for a two-week period was \$87.31. [\(55\)](#) Her monthly expenses are: \$460.00 for rent, \$400 for groceries, \$245 for a car payment, \$89 for cell phone, and \$150 on credit card payments. [\(56\)](#) These expenses total \$1,244.00. Her monthly clothing, gasoline and car insurance payments are unknown as are miscellaneous expenses. These expenses are estimated at \$350.00 for total monthly expenses of \$1,600.00.

Applicant's debts listed in the SOR are as follows:

SOR ¶	TYPE OF DEBT	AMOUNT	CURRENT STATUS
1.b.	bank line of credit <a href="#">(57)</a>	\$2,174.00 <a href="#">(58)</a>	Discharged in bankruptcy <a href="#">(59)</a>
1.c.	medical bill <a href="#">(60)</a>	\$ 285.00 <a href="#">(61)</a>	Payment Plan (included with 1.i. debt) <a href="#">(62)</a>
1.d.	car loan <a href="#">(63)</a>	\$3,997.00 <a href="#">(64)</a>	Unpaid <a href="#">(65)</a>
1.e.	medical bill <a href="#">(66)</a>	\$ 938.00 <a href="#">(67)</a>	Unpaid <a href="#">(68)</a>
1.f.	medical bill <a href="#">(69)</a>	\$ 245.00 <a href="#">(70)</a>	Paid in full February 3, 2006 <a href="#">(71)</a>
1.g.	credit card debt <a href="#">(72)</a>	\$ 707.00 <a href="#">(73)</a>	Unpaid <a href="#">(74)</a>
1.h.	medical bill <a href="#">(75)</a>	\$ 42.00 <a href="#">(76)</a>	Paid in full 2/1/06 <a href="#">(77)</a>
1.i.	medical bill <a href="#">(78)</a>	\$7,960.00 <a href="#">(79)</a>	Payment plan (\$50 a month. First payment made February 21, 2006) <a href="#">(80)</a>
1.j.	credit card debt <a href="#">(81)</a>	\$ 890.00 <a href="#">(82)</a>	Balance as of December 27, 2005 \$650.93. Paying \$40 a month <a href="#">(83)</a>
1.k.	medical bill <a href="#">(84)</a>	\$ 125.00 <a href="#">(85)</a>	Paid in full January 30, 2006 <a href="#">(86)</a>
1.l.	medical bill <a href="#">(87)</a>	\$ 624.00 <a href="#">(88)</a>	Payment plan (\$50 a month began in February 2006) <a href="#">(89)</a>
1.m.	medical bill <a href="#">(90)</a>	\$ 333.00 <a href="#">(91)</a>	Paid in full January 31, 2006 <a href="#">(92)</a>
1.n.	telephone bill <a href="#">(93)</a>	\$ 113.00 <a href="#">(94)</a>	Paid in full February 3, 2006 <a href="#">(95)</a>
1.o.	medical bill <a href="#">(96)</a>	\$ 170.00 <a href="#">(97)</a>	Paid in full February 1, 2006 <a href="#">(98)</a>
1.p.	unpaid check and fees <a href="#">(99)</a>	\$ 45.63 <a href="#">(100)</a>	Paid in full December 4, 2003 <a href="#">(101)</a>

Applicant has already filed her 2005 federal tax return and received a refund. [\(102\)](#) She used the refund money to pay [\(103\)](#)

some of her outstanding bills. She has contact three creditors and worked out a payment plan for paying four of the debts listed in the SOR. [\(104\)](#) She has not made arrangements with the three remaining creditors to repay her debt.

On July 16, 2003, Applicant completed her security clearance application. She answered "yes" and listed a different debt to each of the following questions in the SOR: [\(105\)](#)

Question 38. Your Financial Delinquencies - 180 days

In the last 7 years, have you ever been over 180 days delinquent on any debt(s)?

Question 39. Your Financial Delinquencies - 90 Days

Are you currently over 90 days delinquent on any debt?

She did not list all her over due and outstanding debts identified in the SOR. [\(106\)](#) In Question 43, General Remarks, she stated: "... Am making an effort to get caught up on all outstanding debts." She had moved shortly before completely the security clearance application and did not have the information regarding all the debts she owed. [\(107\)](#)

Applicant's supervisor testified on her behalf. He is the Facilities Security Officer and Counterintelligence Manager for her employer. [\(108\)](#) He described her as trustworthy, reliable and professional. [\(109\)](#) She works well with all levels of employees in the company and arrives at work on time. [\(110\)](#) She does not exhibit suspicious behavior related to espionage, such as staying beyond her work hours, taking work home, or inquiring about activities or information beyond her access level. [\(111\)](#) Her department manager also wrote a very favorable letter of recommendation. [\(112\)](#)

## **POLICIES**

Enclosure 2 of the Directive sets forth adjudication guidelines which must be considered in the evaluation of security suitability. An administrative judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the adjudicative process provision in Paragraph E2.2., Enclosure 2 of the Directive, are intended to assist the administrative judge in reaching fair and impartial common sense decisions.

Included in the guidelines are disqualifying conditions and mitigating conditions applicable to each specific guideline. In addition, each security clearance decision must be based on the relevant and material facts and circumstances, the whole-person concept, along with the factors listed in the Directive. Specifically, these are: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence. (113) Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant. (114) The government has the burden of proving controverted facts. (115) The burden of proof is something less than a preponderance of the evidence. (116) Once the government has met its burden, the burden shifts to the applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against her. (117) Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision. (118)

No one has a right to a security clearance (119) and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." (120) Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information. (121) Section 7 of Executive Order 10865 specifically provides industrial security clearance decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." The decision to deny an individual a security clearance is not necessarily a determination as to the allegiance, loyalty, and patriotism of an applicant. (122) It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guidelines most pertinent to an evaluation of the facts of this case:

**Financial Considerations - Guideline F: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially**

**profitable criminal acts.**

**Criminal Conduct - Guideline J: A history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness.**

**Personal Conduct - Guideline E: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulation could indicate that the person may not properly safeguard classified information.**

### CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate adjudicative factors, I conclude the following with respect to the allegations set forth in the SOR:

The government has established its case under Guideline F. Applicant has a long history of excessive debt, including a bankruptcy in 1999 and a foreclosure on her house in 2003. After obtaining relief through Chapter 7 bankruptcy, she again, incurred significant debt which has not been paid. Applicant's financial problems clearly fall within the Financial Considerations 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*)

A security concern based on financial problems can be mitigated in several ways. Applicant's debt problems have been ongoing for a number of years, are not recent, and are not an isolated incident. Thus, she has not established a mitigating condition under Financial Considerations Mitigating Conditions (FC MC) E2.A6.1.3.1. (*The behavior was not recent*) and E2.A6.1.3.2. (*It was an isolated incident*). Likewise, since she has not received counseling for her credit problems. FC MC E2.A6.1.3.4. (*The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*) does not apply.

Applicant's debts, however, are a result of a series of factors beyond her control. Her oldest daughter was diagnosed with cancer in 1995 and underwent extensive and expensive medical treatment. Applicant did not have medical insurance which would pay for the treatment. As a result, she incurred hundreds of thousands of dollars of medical bills, which she and her husband tried to pay for three years. When it became clear that they could not pay their extensive debt, they filed for bankruptcy. The bankruptcy discharge allowed her to start again. She kept her bills current for two



years. In July 2001, she lost her job when her work place closed. She did find a new job, which paid only minimum wage and provided minimal medical insurance coverage.

In December 2001, she was hospitalized for a bleeding ulcer. Her medical insurance paid only \$1,000 of the bill, leaving a significant balance for her to pay. Within a few months, her husband became totally disabled, and could not work. Her minimum wage job was the sole source of their income, and was insufficient to meet the household expenses. Applicant has presented sufficient evidence that her debt occurred because of conditions beyond her control. FC C E2.A6.1.3.3. (*The conditions that resulted in the behavior were largely beyond the person's control...*) applies.

She has also initiated a good faith effort to repay some of her debt. She used her most recent tax refund to pay in full some of the smaller outstanding medical bills. She not only has worked out a repayment plan for four more outstanding bills, she has begun making the payments. To keep her financial commitments, she has obtained a part-time job which will enable her to meet her monthly payment obligations. While she has not resolved all her outstanding debt issues, she has made a good faith effort to resolve a significant portion of her debt. The major portion of her debt is related to medical bills, not excessive spending and credit card debt. She only owes \$707.00 in credit card debt. She still owes approximately \$4,000.00 on a car loan and \$938.00 on one other medical bill. FC C E2.A6.1.3.5. (*The affluence resulted from a legal source*) and FC MC E2.A6.1.3.6. (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) apply.

The government has established its case under Guideline J. Applicant's arrest in 1995 for failure to report child abuse is a crime under state law. In addition, her failure to appear in court in 2004 on a criminal misdemeanor charge resulted in a warrant for her arrest. This criminal conduct raises Criminal Conduct Disqualifying Condition (CC DC) E2.A10.1.2.1. (*Allegations or admission of criminal conduct, regardless of whether the person was formally charged*) and CC DC E2.A10.1.2.2. (*A single serious crime or multiple lesser offenses*).

The police arrested and charged Applicant in 1995 following her oldest's daughter's false statement that Applicant knew her daughter was being sexually abused by her grandfather. Her daughter later recanted her accusation against her mother and grandfather. The court dismissed the charges against applicant in 1996. This unfortunate incident occurred when her daughter was seriously ill with cancer and was most likely a result of the daughter's stress and anger related to her illness. It has been almost ten years since these charges were dismissed by the court. Applicant has not been accused of such conduct at any other time. Criminal Conduct Mitigating Conditions E2.A10.1.3.1. (*The criminal behavior was not recent*) and E2.A10.1.3.2. (*The crime was an isolated incident*) apply.

Applicant wrote a check to a fast food restaurant which was dishonored by the bank. She was charged with check deception under state law. This matter was set for trial in March 2004. Although she notified the court of her new address, she did not receive the trial notice until after the scheduled trial date. Because she did not appear for trial, the court issued a warrant for her arrest, but never notified her. As soon as she learned about the warrant, she wrote the court and sent documentation showing that she had paid the check and fees. Based on her documentation, the court dismissed the check case and cancelled the warrant. The issuance of the warrant occurred because of miscommunication and mail problems, not through any intentional action of Applicant. Criminal Conduct Mitigating Conditions

E2.A10.1.3.2. (*The crime was an isolated incident*) applies. These two incidents, both independent of each other and one the result of a false accusation, are not indicative of a pattern of criminal conduct.

The government has established its case under Guideline E. Applicant's answers omitted material facts from her SF-86. She denies, however, that she deliberately falsified her answer to Questions 38 and 39, arguing that she referenced the existence of more debt in the general remarks section of the SF-86, and that she specifically listed only those debts for which she could remember all the requested information. Most of her debt information was not readily accessible due to her recent move. When a falsification allegation is denied, the government has the burden of proving it. Proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred. [\(123\)](#)

Applicant truthfully answered "yes" to both questions and identified one, but not the same, debt for each answer. She provided all the requested information on these debts. She stated in the remarks section that she was trying to resolve "all" her debts. While this statement does not provide specific detail about the other debts of Applicant, it is an admission that she owed more debt. By acknowledging additional debt even generally, she has shown that she did not intend to falsify her answers. Based on the information requested by the question and the lack of availability of her records, she acted reasonably when she advised that she was trying to resolve all her debts. I find that Applicant did not deliberately falsify her answers to Question 38 and 39. I find in favor of her under Guideline E of the SOR.

Finally, I have considered the "whole person" concept in evaluating Applicant's risk and vulnerability in protecting our national interests. Applicant's ten year history of excessive debt resulted not from over spending, but because of a series of life changing events during an eight-year period of time. She paid her daughter's medical bills for three years before filing for bankruptcy in 1999. After her debts were discharged, she remained current on her bills until she lost her job, was hospitalized, and her husband became disabled from working. Although she found new work, she earned only minimum wage. In 2003, she and her husband moved to better their working opportunities. She recently obtained a part-time job to help pay her outstanding bills. She is making the appropriate decisions to reduce her outstanding debt, and has established a good faith effort to pay these debts. The criminal allegations by her daughter happened when the daughter was seriously ill, and for reasons other than the fact the child sexual abuse actually took place. Finally, the warrant for her arrest was the result of a series of miscommunications, not her intent to avoid prosecution. Accordingly, for the reasons stated, I find that it is clearly consistent with the national interest to grant a security clearance to Applicant.

### **FORMAL FINDINGS**

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F (Financial Considerations): FOR APPLICANT

Subparagraph 1.a: For Applicant

Subparagraph 1.b: For Applicant

Subparagraph 1.c: For Applicant

Subparagraph 1.d: For Applicant

Subparagraph 1.e: For Applicant

Subparagraph 1.f: For Applicant

Subparagraph 1.g: For Applicant

Subparagraph 1.h: For Applicant

Subparagraph 1.i: For Applicant

Subparagraph 1.j: For Applicant

Subparagraph 1.k: For Applicant

Subparagraph 1.l: For Applicant

Subparagraph 1.m: For Applicant

Subparagraph 1.n: For Applicant

Subparagraph 1.o: For Applicant

Subparagraph 1.p: For Applicant

Paragraph 2, Guideline J (Criminal Conduct): FOR APPLICANT

Subparagraph 2.a: For Applicant

Subparagraph 2.b: For Applicant

Subparagraph 2.c: For Applicant

Paragraph 3, Guideline E (Personal Conduct): FOR APPLICANT

Subparagraph 3.a: For Applicant

Subparagraph 3.b: For Applicant

**DECISION**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant a security clearance for Applicant. Clearance is granted.

Mary E. Henry

Administrative Judge

1. Applicant's Response to the SOR, dated September 8, 2005 at 1-3.
2. Government Exhibit 1 (Applicant's security clearance application) at 1, 3.
3. *Id.* at 3.
4. *Id.* at 6.
5. *Id.*
6. *Id.* at 1.
7. *Id.* at 4.
8. *Id.* at 5.
9. Tr. at 53.

10. *Id.*
11. *Id.*
12. *Id.* at 65-66.
13. *Id.* at 64.
14. *Id.* at 26.
15. *Id.* at 26-27.
16. *Id.* at 27; Government Exhibit 1, *supra* note 2, at 5.
17. Tr. at 45-46.
18. *Id.*
19. *Id.*
20. Response to SOR, *supra* note 1, at 2.
21. *Id.*; Tr at 45-46, 50.
22. *Id.*
23. Tr. at 26.
24. *Id.*
25. Applicant Exhibit J (Four earnings statements from December 31, 2006 through January 15, 2006; documents related to 1999 bankruptcy; Letter Clerk of the Court, dated February 16, 2005; letter dated January 31, 2006, and undated letter) at 7 and 12.
26. Response to SOR, *supra* note 1, at 1.
27. *Id.* at 3.
28. *Id.*; Government Exhibit 1, *supra* note 2, at 3.
29. Tr. at 29.
30. Tr. at 30; Response to SOR, *supra* note 1, at 3.
31. *Id.* at 64, 69.
32. *Id.*
33. *Id.* at 64, 69; Applicant Exhibit D (Disability letter from the Veteran's Administration, dated August 27, 2004).
34. Tr. at 69.
35. *Id.*
36. Applicant Exhibit D, *supra* note 33, at 1.

37. *Id.*
38. *Id.*
39. Tr. at 64-65.
40. *Id.*; Applicant Exhibit A (Letter from the Social Security Administration, dated November 23, 2005) at 1.
41. Tr. at 67.
42. Response to SOR, *supra* note 1, at 3.
43. Tr. at 54-55.
44. *Id.*
45. *Id.* at 57.
46. Applicant Exhibit G (documents related to the returned check, payment of debt, and notice to court of payment) at 1-2.
47. Tr. at 47.
48. Tr. at 47-48.
49. Applicant Exhibit G, *supra* note 46, at 3-4.
50. Applicant Exhibit J, *supra* note 25, at 14.
51. Applicant Exhibit I (Applicant and husband's 2005 federal income tax return and 2005 W-2).
52. Applicant Exhibit J, *supra* note 25, at 2-5.
53. Applicant Exhibit F (copy of pay statement, dated January 28, 2006) at 1.
54. *Id.*
55. *Id.*
56. Tr. at 57.
57. Government Exhibit 2 (Credit report, dated July 27, 2005) at 3; Government Exhibit 3 (Credit report dated December 2, 2004) at 7.
58. *Id.*
59. Applicant Exhibit J, *supra* note 25, at 12; Government Exhibit 2, *supra* note 57, at 3; Response to SOR, *supra* note 1, at 1. This debt is identified on the credit report as a line of credit with the bank. Government Exhibit 2, *supra* note 57, at 3. The bankruptcy papers reflect that a line of credit with this bank was included in the debts. Applicant Exhibit J, *supra* note 25, at 12.
60. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 10.
61. *Id.*
62. Applicant Exhibit J, *supra* note 25, at 16.

63. Government Exhibit 3, *supra* note 57, at 7.
64. *Id.*
65. Tr. at 41.
66. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 9.
67. *Id.*
68. Tr. at 36.
69. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 9.
70. *Id.*
71. Applicant Exhibit H-7 (bank notice of payment February 3, 2006); Tr. at 33.
72. Government Exhibit 2, *supra* note 57, at 2.
73. *Id.*
74. Tr. at 36.
75. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 9.
76. *Id.*
77. Applicant Exhibit H-4 (bank notice of payment February 1, 2006); Tr. at 32.
78. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 9.
79. *Id.*
80. Applicant Exhibit J, *supra* note 25, at 16.
81. Government Exhibit 2, *supra* note 57, at 3; Government Exhibit 3, *supra* note 57, at 5.
82. *Id.*
83. Applicant Exhibit H-8 (letter from creditor, dated December 27, 2005) at 1.
84. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 9.
85. *Id.*
86. Applicant Exhibit H-5 (Copy of cleared check) at 1; Tr. at 33.
87. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 9.
88. *Id.*
89. Applicant Exhibit H-1 (medical creditor letter, dated January 31, 2006) at 1, and Applicant Exhibit J, *supra* note 25, at 15.
90. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 10.

91. *Id.*
92. Applicant Exhibit H-6 (Copy of cleared check) at 1; Tr. at 33
93. Response to SOR, *supra* note 1, at 1.
94. *Id.*
95. Applicant Exhibit H-2 (bank notice of payment February 3, 2006); Tr. at 33-34.
96. Government Exhibit 2, *supra* note 57, at 2; Government Exhibit 3, *supra* note 57, at 9.
97. *Id.*
98. Applicant Exhibit H-2 (bank notice of payment February 3, 2006) at 1.
99. Applicant Exhibit G, *supra* note 46, at 1; Response to SOR, *supra* note 1, at 2.
100. *Id.*
101. *Id.* at 2.
102. Applicant Exhibit I, *supra* note 51, at 1.
103. *Id.*; Tr. at 43.
104. Applicant Exhibit J, *supra* note 25, at 15-16; Applicant Exhibit H-1, *supra* note 89, at 1; Applicant Exhibit H-8, *supra* note 83, at 1.
105. Government Exhibit 1, *supra* note 2, at 1, 10-11.
106. *Id.*
107. Response to SOR, *supra* note 1, at 3.
108. Tr. at 60-61.
109. *Id.* at 61-62.
110. *Id.*
111. *Id.*
112. Applicant Exhibit E (Letter, dated February 8, 2006).
113. Directive, Enclosure 2, ¶ E2.2.1.1. through E2.2.1.9.
114. ISCR Case No. 96-0277 (July 11, 1997) at 2.
115. ISCR Case No. 97-0016 (App. Bd., December 31, 1997) at 3; Directive, Enclosure 3, ¶ E3.1.14.
116. *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).
117. ISCR Case No. 94-1075 (App. Bd., August 10, 1995) at 3-4; Directive, Enclosure 3, ¶ E3.1.15.
118. ISCR Case No. 93-1390 (App. Bd. Decision and Reversal Order, January 27, 1995) at 7-8; Directive, Enclosure 3, ¶ E3.1.15.



119. *Egan*, 484 U.S. at 531.

120. *Id.*

121. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.

122. Executive Order No. 10865 § 7.

123. ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004)(explaining holding in ISCR Case No. 02-23133 at 5(App. Bd. Jun. 9, 2004)).