

KEYWORD: Financial

DIGEST: Applicant and his wife overextended themselves financially in 2001. They have eight delinquencies from that period totaling more than \$18,000. They are making payments on one of the larger debts, but failed to resolve or make plans to resolve the others. Clearance is denied.

CASENO: 05-03559.h1

DATE: 01/26/2006

DATE: January 26, 2006

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In re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 05-03559

**DECISION OF ADMINISTRATIVE JUDGE**

**JAMES A. YOUNG**

**APPEARANCES**

**FOR GOVERNMENT**

Robert E. Coacher, Esq., Department Counsel

## **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant and his wife overextended themselves financially in 2001. They have eight delinquencies from that period totaling more than \$18,000. They are making payments on one of the larger debts, but failed to resolve or make plans to resolve the others. 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. In accordance with Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan 2, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on 27 July 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 9 August 2005 and elected to have a hearing before an administrative judge. The case was assigned to me on 27 October 2005. On 8 December 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 19 December 2005.

I kept the record open until 21 December to give Applicant an opportunity to submit additional documents. He did not submit any.

### **FINDINGS OF FACT**

Applicant is a 43-year-old transportation supervisor for a defense contractor. He is in charge of shipping/receiving and all of the company's vehicles. He is married and has two stepchildren at home. His wife works as an administrative assistant at a bank. Applicant currently holds a security clearance.

Applicant and his wife married in 1995. In 2001, they found themselves unable to pay their outstanding debts after their monthly expenses were paid. In 2002, they began coordinating their expenses, but still had difficulty paying their debts. In August 2004, they came to a new arrangement and are now effectively managing their monthly expenses. Applicant makes about \$45,000 a year. His wife makes approximately \$30,000 a year. Applicant's wife's ex-husband pays them about \$300 a month in child support.

In the SOR, DOHA alleged Applicant had four delinquent debts totaling more than \$13,900 in collection status and four delinquencies totaling more than \$4,400 that had been charged off as bad debts. Applicant suspects the debt in 1.g and 1.f are the same, but presented nothing to corroborate his belief. In 2004, Applicant entered an installment repayment plan with one of his creditors to whom he owes \$5,720. He pays \$193 each month for 36 months. Although other creditors have offered settlements, Applicant doesn't feel able to afford them and has made no arrangements to pay off his other debts.

Applicant and his wife bought a new vehicle in 2005, on which they pay approximately \$600 a month. He thinks his mortgage is \$725 a month.

## 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 had delinquent debts totaling more than \$13,900 that were in collection status (¶¶ 1.a, 1.e, 1.f, 1.g) and delinquent debts totaling more than \$4,400 that had been charged off (¶¶ 1.b-1.d, 1.h). In his Answer, Applicant admitted each of the allegations. An applicant who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1.

The evidence established the existence of each of the debts alleged in the SOR. The Government established potentially disqualifying conditions under Guideline F. Applicant has a history of not meeting his financial obligations (DC E2.A6.1.2.1.) and is unable or unwilling to satisfy his debts (DC E2.A6.1.2.3.). After carefully considering all of the information, I find only one mitigating condition listed under the guideline applies-Applicant has made a good faith effort to repay overdue debts (MC E2.A6.1.3.6)-and that applies to only one of his eight debts valued at \$5,720. Paying off his debts does not appear to be a very high priority for Applicant. He has three fairly small debts; one for \$369, a second for \$564, and a third for \$694. Yet he has taken no action to try to resolve these debts by either paying them off or setting up a payment plan. Although he suspects the debt alleged in ¶ 1.g may be the same as alleged in ¶ 1.f, he did not even investigate to find out if that was the case. Under all the circumstances of this case, I conclude Applicant failed to mitigate the financial security concerns, except for the debt alleged in ¶ 1.f, for which he established a payment plan and has been paying.

## 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: For Applicant

Subparagraph 1.g: Against Applicant

Subparagraph 1.h: Against Applicant

Subparagraph 1.d: Against Applicant

Subparagraph 1.e: 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