

KEYWORD: Financial

DIGEST: Applicant is a 42-year-old employee of a defense contractor. She has eleven delinquent debts with a total approximate balance of \$10,645.00 over a six-year period. She has not received financial counseling or addressed her debt through a consolidation loan payment program. Moreover, she has made no effort to pay her longstanding debts. Applicant has not mitigated the security concerns arising from her financial difficulties. Clearance is denied.

CASENO: 05-04318.h1

DATE: 03/21/2006

DATE: March 21, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 05-04318

DECISION OF ADMINISTRATIVE JUDGE

NOREEN A. LYNCH

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 42-year-old employee of a defense contractor. She has eleven delinquent debts with a total approximate balance of \$10,645.00 over a six-year period. She has not received financial counseling or addressed her debt through a consolidation loan payment program. Moreover, she has made no effort to pay her longstanding debts. Applicant has not mitigated the security concerns arising from her financial difficulties. Clearance is denied.

STATEMENT OF THE CASE

On August 23, 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 Personnel 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 because of security concerns arising under Guideline F (Financial Considerations).

In a sworn written statement, dated October 14, 2005, Applicant responded to the allegations in the SOR. She elected to have her case decided on the written record in lieu of a hearing.

Department Counsel submitted the government's written case on November 15, 2005. Applicant was provided a complete copy of the file of relevant material (FORM) ⁽¹⁾, along with notice of her opportunity to file objections and submit material to refute, extenuate, or mitigate the government's case. Applicant received the FORM on November 23, 2005. She did not submit additional evidence. The case was assigned to me on February 17, 2006.

FINDINGS OF FACT

Applicant admitted the factual allegations pertaining to financial matters under Guideline F (subparagraphs 1.a. through 1.f. and 1.j.) of the SOR.⁽²⁾ Those admissions are incorporated as findings of fact. She denied the factual allegations under Guideline F (subparagraphs 1.g. through 1. i. and 1.k.) of the SOR. After a complete and thorough review of the evidence in the record, I make the following additional findings of fact.

Applicant is a single, 42-year-old employee of a defense contractor.⁽³⁾ On May 12, 2004, she submitted her security clearance application.⁽⁴⁾

After graduating from high school in 2000, Applicant worked at several jobs. She remained gainfully employed with no break in employment.⁽⁵⁾

In February 2000, Applicant moved to California with her two sons to live with a friend.⁽⁶⁾ When she arrived, she learned that her friend had personal problems, and she decided to move out in April 2000. After the move, Applicant lived in hotels until locating an apartment, where she has lived for the past five years.⁽⁷⁾

At some point in 2004, Applicant quit her job for an unknown period of time, due to car problems. Her gross monthly income in November 2004, was \$1,400. She listed monthly expenses of \$1,342.00,⁽⁸⁾ including rent, car payment and utilities. However, she could not pay any of her outstanding credit card debts. She did not seek credit counseling, nor did she make any arrangements with her creditors.⁽⁹⁾

Applicant's credit bureau report, dated July 2005, lists eleven credit card debts from 1999 until the present. This report confirms the outstanding debts listed in the SOR. All the debts are in collection and unpaid. Applicant disputes, without explanation, a medical bill alleged in SOR paragraph 1.g , and three credit card accounts in subparagraphs 1.h, 1.i, and 1. k.

Her outstanding unpaid debts are as follows: ¶1. a, wireless in the amount of \$825.00; ¶1.b, video in the amount of \$111.00; ¶1.c, credit card in the amount of \$1,713.00; ¶1.d, credit card in the amount of \$691.00; ¶1.e, credit card in the amount of \$565.32; ¶1.f, credit card in the amount of \$557.89; ¶1.g, a medical bill in the amount of \$2,853.00; ¶1.h, credit card in the amount of \$1,100.00; ¶1.i, credit card in the amount of \$650.00; ¶1.j, credit card in the amount of \$1,048.00; and ¶1.k, credit card in the amount of \$531.49. [\(10\)](#)

After receiving the SOR, Applicant claimed she is willing to pay her debts and is attempting to consolidate those debts. However, Applicant provided no supporting documentation of payments or a structured repayment plan. Despite her acknowledgment of the majority of the debts, Applicant has not made any effort to make even small payments on any of the accounts. [\(11\)](#)

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (disqualifying conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (mitigating conditions).

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 set forth in Section E.2.2, Enclosure 2, of the Directive, are intended to assist the administrative judge in reaching fair and impartial common sense decisions. Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision.

The Adjudicative Process factors to consider are: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (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 pertinent 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. Protecting national security is the paramount concern in reaching a decision in any case, and is dependent upon the primary standard that issuance of a clearance must be clearly consistent with the interest of national security.

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

Guideline F - Financial Consideration: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

In the decision-making process, the burden of producing evidence initially falls on the government to establish a case which demonstrates, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information.⁽¹²⁾ If the government meets its burden, the heavy burden of persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation, or mitigation sufficient to overcome the doubts raised by the government's case, and to ultimately demonstrate that it is clearly consistent with the national interest to grant or continue the applicant's clearance.⁽¹³⁾

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information. Any doubt about whether an applicant should be allowed access to classified information must be resolved in favor of national security.⁽¹⁴⁾

One additional comment is worthy of note. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of the Executive Order 10865 specifically provides that 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." Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this decision should be construed to suggest I have based this decision, in whole or in part, on any express or implied decision as to Applicant's allegiance, loyalty or patriotism.

CONCLUSIONS

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

The government has established its case under Guideline F. Applicant accumulated debt over a period of years totaling more than \$10,000.00. Applicant is not required to be debt free, but is required to manage her finances in such a way as

to indicate she is responsible and of sound judgment. Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1 (*a history of not meeting financial obligations*) and FC DC E2.A6.1.2.3 (*inability or unwillingness to satisfy debts*) apply.

Under the Directive, it is possible to mitigate security concerns arising from financial difficulties. Appellant's bad debts arose at various times and continued for many years until the present time. Thus, Financial Considerations Mitigating Condition (FC MC) E2.A6.1.3.1 (*the behavior was not recent*) and FC MC E2.A6.1.3.2 (*it was an isolated incident*) do not apply in this case.

Applicant provided no information to support unemployment or medical emergencies as a cause of her delinquent and unpaid debts. In fact, Applicant denied any knowledge of a medical bill and stated that she quit a job because her car did not work. FC MC E2.A6.1.3.3 (*the conditions that resulted in the behavior were largely beyond the person's control*) does not apply.

Applicant asserts in her October 14, 2005, written statement that she is willing to now pay her debts. She promised to live within her means and consolidate her bills, but has not done so. Neither has she sought nor received financial counseling. Applicant has not met her burden of proof in this case. There is no documentation of a systematic, concrete method of handling her debts. She failed to document any payment of debts. Financial Considerations Mitigating Condition (FC MC) E2.A6.1.3.4 (*there are clear indications that the problem is being resolved or is under control*) and FC MC E2.A6.1.3.6 (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) do not apply. Moreover, it is not apparent that Applicant acknowledged the reasons for her debt. I conclude her financial situation is not under control.

Considering all the evidence in this case, I find Applicant has failed to overcome the financial concerns in the SOR. Accordingly, allegation subparagraphs 1.a. through 1. k. of the SOR are concluded against Applicant.

Applicant has failed to meet her ultimate burden of persuasion to obtain a favorable clearance decision. In reaching my decision, I considered the record evidence, the whole person concept, the clearly-consistent standard, and the appropriate factors and guidelines in the Directive.

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: 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 Against Applicant

Subparagraph 1.g Against Applicant

Subparagraph 1.h Against Applicant

Subparagraph 1.i Against Applicant

Subparagraph 1.j Against Applicant

Subparagraph 1.k Against 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. Clearance is denied.

Noreen A. Lynch

Administrative Judge

1. The government submitted eight items in support of its contentions.
2. Item 3 (Applicant's Answer, dated October 14, 2005) at 1.
3. Item 4 (Applicant's Security Clearance Application (SF 86), dated May 12, 2004) at 1.
4. *Id.*
5. *Id.* at 2-4.
6. According to the SF 86, Applicant has three children and has never married.
7. Item 5 (Applicant's Sworn Statement, including Personal Finance Statement, dated November 21, 2004) at 1.
8. *Id.*
9. Item 5, *supra* note 6, at 3.
10. Item 6 (Credit report, dated November 14, 2005) at 1-3; Item 7 (Credit report, dated July 26, 2005) at 1-3; Item 8 (Credit report, dated July 3, 2004) at 1-5.
11. Item 3, *supra* note 2 at 1.
12. ISCR Case No. 96-0277 (July 11, 1997) at 2.
13. ISCR Case No. 94-1075 (August 10, 1995) at 3-4; Directive, Enclosure 3, Para E3.1.15.
14. Directive, Enclosure 2, Para. E2.2.2