

DATE: March 27, 2007

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 05-08084

DECISION OF ADMINISTRATIVE JUDGE

DAVID M. WHITE

APPEARANCES

FOR GOVERNMENT

Ray T. Blank, Jr., Esq., Department Counsel

FOR APPLICANT

Pro se

SYNOPSIS

Applicant had 18 delinquent debts, totaling \$16,744, when he submitted his Security Clearance Application (SF-86). He deliberately omitted these debts when completing the Application. Applicant has not resolved any of these debts, and did not mitigate the security concerns raised by his history of not meeting financial obligations, and his inability or unwillingness to satisfy debts. Nor did he mitigate personal conduct and criminal conduct security concerns raised by his deliberate falsification of material facts on his Security Clearance Application. Clearance is denied.

STATEMENT OF THE CASE

Applicant applied for a security clearance on May 14, 2005, in conjunction with his employment by a defense contractor. The employment agreement is contingent upon his obtaining a clearance.⁽¹⁾ On November 21, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended. The SOR detailed reasons, under Guideline F (financial considerations), Guideline E (personal conduct), and Guideline J (criminal conduct), 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 a clearance should be granted, continued, denied, or revoked.

Applicant responded to the SOR allegations in a notarized letter dated December 21, 2005, denied some of the allegations and admitted others, and elected to have his case decided on the written record in lieu of a hearing.⁽²⁾ Department Counsel submitted the government's written case on September 28, 2006. A complete copy of the file of relevant material (FORM)⁽³⁾ was provided to Applicant, and he was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant signed the document acknowledging receipt of his copy of the FORM on October 15, 2006, and returned it to DOHA with a handwritten note stating "I am requesting a

postponement of my hearing for an extra 90 days if this is possible. This is in order to start putting my affairs in order." (4) He has not submitted any further response to the FORM. The case was assigned to me on January 9, 2007.

FINDINGS OF FACT

Applicant admitted the truth of the factual allegations concerning the 12 delinquent debts set forth in the SOR ¶¶ 1.c, 1.e, 1.g, 1.h, 1.l, 1.o., 1.p, 1.q, 1.s, 1.t, 1.u, and 1.v, pertaining to financial considerations under Guideline F. He denied the remaining 10 Guideline F allegations set forth in SOR ¶ 1. He did not directly admit or deny the Guideline E personal conduct allegations (SOR ¶¶ 2.a through 2.c), and did not address the Guideline J criminal conduct allegation (SOR ¶ 3.a). However, the conduct alleged under both Guideline E and Guideline J is the same deliberate falsification of material facts in his Security Clearance Application. Accordingly, I have considered Applicant's statements in response to the SOR ¶ 2 allegations under both guidelines. Applicant's admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 55-year-old welder seeking to obtain a security clearance to permit his overseas employment by a defense contractor. (5) He was born in Jamaica and became a naturalized U.S. citizen in 1996. He was married in 1984 and divorced in 1989. He worked almost continuously as a welder for four different employers from February 1992 until February 1, 2005, when he reported that he left his job "for other reasons under unfavorable circumstances," due to a "misunderstanding of words [he] did not say." In May 2005, he was offered employment to work as a welder overseas, contingent on obtaining a security clearance. He has never served in the military or held a security clearance. Applicant neither asserted nor documented any circumstances that were unexpected or beyond his control to explain his financial circumstances. There is no evidence that he sought or participated in any financial counseling.

Applicant completed and signed a Security Clearance Application (SF-86) on May 14, 2005, certifying that his statements therein were true, complete and correct to the best of his knowledge and belief. (6) In that application he answered "No" to question 37 (*In the last 7 years, have you had any judgments against you that have not been paid?*), "No" to question 38 (*In the last 7 years, have you been over 180 days delinquent on any debt(s)?*), and "No" to question 39 (*Are you currently over 90 days delinquent on any debt(s)?*). He also answered "No" to question 36 (*In the last 7 years, have you had a lien placed against your property for failing to pay taxes or other debts?*), but circled the number "7" in the question and wrote "State?" next to it. He answered "Yes" to question 35 (*In the last 7 years have you had any property repossessed for any reason?*), and listed the February 1, 2005, repossession of his "Grand Laredo Vehicle."

SOR ¶¶ 1.a and 1.b allege two debts to the State of New Jersey, in the amounts of \$8,002.50 and \$2,519.12, for which judgments were entered against Applicant on February 24, 1995, and April 16, 1998, respectively. Although Department Counsel argues that the "credit reports" (7) clearly show that Applicant had judgment entered against him 8 and 11 years ago, (8) there is no evidence of any judgment debt contained in any of those reports. Applicant's May 31, 2005, CBR lists an unsatisfied tax lien, in the amount of \$8,000, filed by New Jersey on February 24, 1995, but contains no information about why it was filed. The same report also lists a federal tax lien that was filed January 29, 1996, and released August 5, 1999. No other liens and no judgments appear anywhere in the FORM. I do not find substantial evidence that either of these alleged judgment debts exists.

The 12 delinquent debts to which Applicant admitted were reported as delinquent between November 2000 and June 2005, ranged from \$60 to \$8,083, and totaled \$13,015. (9) Of these debts, six (totaling \$4,075) went to collection before August 2004, and one (for \$126) went to collection during January 2005. I find that each of these are Applicant's delinquent debts.

Applicant denied the seven debts alleged in SOR ¶¶ 1.d, 1.f, 1.i, 1.j, 1.k, 1.m, and 1.n, stating that he did not know about or did not recall them. He provided no documentation with respect to any challenged debt. The debts alleged in SOR ¶¶ 1.d (\$87 placed for collection June 2001), 1.f (\$1,021 placed for collection August 2001), 1.i (\$155 placed for collection October 2002), 1.j (\$1,880 placed for collection October 2002), and 1.m (\$144 placed for collection September 2004), appear consistently on all three CBRs in the FORM. The CBRs reflect that Applicant has never disputed any of them to the credit bureaus. The total of these five debts is \$3,287. I find that each one is a delinquent debt owed by Applicant to

the respective creditors alleged in the SOR. The disputed debts alleged in SOR ¶¶ 1.k (\$849 placed for collection July 2003), and 1.n (\$650 placed for collection July 2004) appear only in Item 5, the earliest of the three CBRs. They do not appear in Items 6 or 7, the two more recent ones. I do not find substantial evidence that Applicant owed these debts.

The remaining debt denied by Applicant is alleged in SOR ¶ 1.r. This debt, for \$272, is to a collection agency for the same television service provider to whom the admitted \$186 debt alleged in SOR ¶ 1.l was owed before it was placed for collection with a different debt collector. Applicant claims he only owes the admitted \$186 debt (SOR ¶ 1.l), but the two debts are separately listed as becoming delinquent some two years apart in Item 5 (*compare* #1 on page 1 with # 11 on page 3). The \$272 debt (SOR ¶ 1.r) also appears on all three CBRs, and was not placed for collection until May 2005. This television service provider is the only creditor Applicant claims, in his December 2005 response to the SOR, to have contacted to arrange a repayment schedule. He provided no documentation to corroborate this assertion. He did not claim to have contacted either collection agency to whom the two debts were transferred, and both debts were reported as fully outstanding in the September 2006 CBR (Item 7). I find that the debts alleged in SOR ¶¶ 1.l and 1.r are separate delinquent debts, each of which was still owed by Applicant when the FORM was submitted.

Applicant's response to the SOR ¶ 2.a allegation, that he deliberately falsified material facts on his SF-86 when he answered "No" to question 37, concerning unpaid judgments, was "These are not my debts. My wallet was stolen and/or lost. I did follow all procedure with identity theft." His response to the SOR ¶¶ 2.b and 2.c allegations, that he deliberately falsified material facts by answering "No" to question 38 (concerning debts over 180 days delinquent during the last 7 years), and question 39 (concerning debts currently over 90 days delinquent) was:

[2.b] I was aware that an extensive financial background check was going to be done. I was not able to get any information on delinquent bills so I would reply when your check was done and I knew what bills are out standing [sic].

[2.c] Same as above. I did pay a professional \$300 to clear up some of my credit errors. I paid him and gave him every bill I had. He had a heart attack and was in the hospital, and was evicted from his apartment losing [sic] most of his belongings - - including my paperwork.

In my defense I was not being deceptive for I know your company will find out my complete credit history. Then I knew I would have a chance to respond.

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into disqualifying conditions (DC) that may raise security concerns, and mitigating conditions (MC) that may reduce or negate security concerns. Applicable DCs and MCs must be considered in deciding whether to grant, continue, deny or revoke an individual's eligibility for access to classified information.

An administrative judge need not view the adjudicative guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are intended to be applied in conjunction with the factors set forth in the Adjudicative Process provision of the Directive (Enclosure 2, Section E2.2), to assist the administrative judge in reaching fair and impartial, common sense decisions.

The entire decision-making 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 which an administrative judge should consider, in addition to the applicable guidelines, 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.

Protection of the national security is the paramount consideration, so the final decision in each case must be arrived at by applying the standard that issuance of a clearance must be clearly consistent with the interests of national security.

Any doubt as to whether access to classified information is clearly consistent with national security must be resolved in favor of the national security.⁽¹⁰⁾ In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

In the decision-making process, facts must be established by "substantial evidence."⁽¹¹⁾ The burden of producing evidence initially falls on the government to establish a case which demonstrates, in accordance with the Directive, it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. "Department Counsel is responsible for presenting witnesses and other evidence to establish facts alleged in the SOR that have been controverted."⁽¹²⁾ "The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and [Applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision."⁽¹³⁾ Once it has met its initial burden of production, the burden of persuasion (including any burden to disprove a mitigating condition) never shifts to the government.⁽¹⁴⁾

A person who seeks access to classified information seeks to enter 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 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. Section 7 of Executive Order 10865 specifically provides that any adverse industrial security clearance decision shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." 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 loyalty or patriotism.

CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to each allegation set forth in the SOR:

Guideline F (Financial Considerations)

Financial considerations may raise security concerns because an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.⁽¹⁵⁾ A person who fails or refuses to pay long-standing debts or is financially irresponsible may also be irresponsible or careless in his or her duty to protect sensitive information.

The government has established its case under Guideline F. Financial Considerations Disqualifying Condition (FCDC) E2.A6.1.2.1 (*history of not meeting financial obligations*), and FCDC E2.A6.1.2.3 (*inability or unwillingness to satisfy debts*) apply. Applicant had 18 delinquent debts, totaling \$16,774, during the four and a half years preceding his clearance application. This establishes a consistent history of financial irresponsibility through not meeting his financial obligations while incurring additional debt. It also shows his inability, unwillingness, or both, to satisfy those debts, since he has done nothing to resolve, or even formally dispute, any of these debts.

I have considered all of the potential Financial Considerations Mitigating Conditions (FCMCs), none of which was asserted by Applicant in his response to the SOR. FCMC E2.A6.1.3.1 (*the behavior was not recent*) does not apply. His financial irresponsibility was substantial at the time the SOR was issued, and he has still not resolved any of the delinquent debts, so the behavior is ongoing. FCMC E2.A6.1.3.2 (*it was an isolated incident*) does not apply. His 18 proven delinquent debts spanned the period from November 2000 to May 2005, and involved 14 different original creditors.

FCMC E2.A6.1.3.3 (*the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)*), does not apply. Except for the three months immediately preceding his clearance application, Applicant was regularly employed as a welder for at least 13 years, and throughout the 7-year period these debts became delinquent. He had been divorced for more than 11 years before the first delinquent debt in question arose. He supplied no evidence of any medical emergency, and only one \$144 delinquent debt involved medical services.

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 has demonstrated no reasonable effort to seek financial guidance or counseling. Even if his uncorroborated and somewhat incredible response to SOR ¶ 2.c is true, at best that describes a failed attempt at debt consolidation, not financial counseling. Nor has he shown any progress toward resolving the problem or getting it under control. FC MC E2.A6.1.3.5 (*the [unexplained] affluence resulted from a legal source*) does not apply since no unexplained affluence was alleged. Finally, FC MC E2.A6.1.3.6 (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) does not apply because none of the debts that are substantiated by this record have been resolved.

I find that Department Counsel did not submit substantial evidence of the Guideline F security concerns alleged under SOR ¶¶ 1.a, 1.b, 1.k, and 1.n. Applicant denied those allegations, and I resolve each of them in his favor. Department Counsel did submit substantial evidence of the remaining 18 delinquent debts, totaling \$16,744, alleged in SOR ¶ 1. Applicant has not met his burden of rebutting, explaining, extenuating or mitigating any of these debts sufficiently to overcome the security concerns they raise.

Guideline E (Personal Conduct)

Personal conduct involving questionable judgment, untrustworthiness, unreliability, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information. Deliberate falsification of material facts in the security clearance application or background investigation process, unless successfully mitigated, constitutes such conduct.

The government has not established its case under Guideline E with respect to the SOR ¶ 2.a allegation that Applicant deliberately falsified his "No" answer to question 37 on his SF-86, dated May 14, 2005. Question 37 asks "In the last 7 years, have you had any judgments against you that have not been paid?" SOR ¶ 2.a. alleges that unpaid judgments filed against Applicant in February 1995 and April 1998 (SOR ¶¶ 1.a and 1.b) should have been disclosed in response to this question. Besides the fact that the record is devoid of any evidence of either alleged "judgement," each is facially alleged to have been filed more than 7 years before Applicant signed his SF-86. Applicant apparently recognized his 1995 state tax lien was more than 7 years old, since he circled the "7" and wrote in "State?" next to question 36. Before an answer to a security clearance question can be found to be falsified, it must be established that the answer is incorrect. ⁽¹⁶⁾ On the face of the SOR ¶ 2.a allegation, and on the state of this record, "No" was the correct answer to question 37.

The government has established its case under Guideline E concerning the allegations in SOR ¶¶ 2.b and 2.c (except to the extent each alleges that he should have listed the unsubstantiated debts set forth in 1.k and 1.n). These allegations involve Applicant's "No" answers to questions 38 (*In the last 7 years, have you been over 180 days delinquent on any debt(s)?*), and 39 (*Are you currently over 90 days delinquent on any debt(s)?*). During the 7 years preceding May 14, 2005, Applicant was delinquent more than 180 days on the 11 debts set forth in SOR ¶¶ 1.c, 1.d, 1.e, 1.f, 1.g, 1.h, 1.i, 1.j, 1.l, 1.m, and 1.o. He was also more than 90 days delinquent on those same 11 debts, and on the debt alleged in SOR ¶ 1.p when he completed his SF-86. Accordingly, these "No" answers were incorrect.

Personal Conduct Disqualifying Condition (PCDC) E2.A5.1.2.2 (*the deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities*) requires more than an incorrect answer, however. The omission, concealment or falsification must have been knowing and deliberate. Applicant's statement, "I was not being deceptive for I know your company will find out my complete credit history," must be considered with all

circumstantial and other relevant evidence in the record. (17) I conclude that the extent of his delinquent debt is such that he must have known "No" to each of those questions was false. He also knew that his vehicle had been repossessed for loan default three months earlier, and even listed that in response to question 35. His answer to the SOR does not deny that he intentionally answered the questions "No." Rather, he admits that he did so intending to address the issue if and when a background check revealed the extent of his debts. Moreover, he must have known about the delinquent debts if, as he claims, "I did pay a professional \$300.00 to clear up some of my credit errors . . . and gave him every bill I had." His statement, that he knew he would get caught, also shows that he knowingly and deliberately falsified his answers to these two questions, to which he could have truthfully responded "Yes, but I'm presently unaware of all the details." I conclude that Applicant deliberately answered "No" to questions 38 and 39, knowing that answer was false. The omitted and falsified facts were relevant and material to the adjudication of his clearance application as they bear directly on security concerns under the financial considerations guideline. Accordingly, PCDC E2.A5.1.2.2, quoted above, applies.

Examination of Applicant's actions in this respect reveals conduct involving questionable judgment, untrustworthiness, unreliability, and lack of candor. I have considered all of the Personal Conduct Mitigating Conditions and determined that none of them applies, none has been asserted by Applicant, and none is even raised by the facts of this case. The falsification was as recent as the filing of the security clearance application currently under consideration and, although there is no hard and fast definition of recent, combined with his failure to provide correct information voluntarily or before being confronted with the facts shows no mitigation of the security concerns. He does not assert someone advised him to omit the material facts or refuse to cooperate, and has taken no steps to reduce or eliminate his vulnerability to coercion, exploitation or pressure. Under these circumstances, Applicant has failed to mitigate or overcome the government's case. Allegations 2.b, and 2.c of the SOR are concluded against Applicant.

Guideline J (Criminal Conduct)

Criminal conduct raises security concerns because a history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness. The government has established its case under Guideline J.

Criminal Conduct Disqualifying Condition (CCDC) E2.A10.1.2.1 (*Allegations or admissions of criminal conduct, regardless of whether the person was formally charged*) and CCDC E2.A10.1.2.2 (*A single serious crime or multiple lesser offenses*) apply. In the absence of admissions, the former applies only to the extent the allegations can be determined to be true. The criminal statute alleged to have been violated in SOR ¶ 3.a is Title 18, United States Code, Section 1001, that makes it a federal crime, punishable by up to 5 years in prison and a \$10,000 fine, to knowingly and willfully make a false statement or misrepresentation concerning a material fact to any department or agency of the United States. As discussed above, I conclude that Applicant did knowingly and willfully make false statements and misrepresentation concerning material facts when he answered "No" to questions 38 and 39 on his clearance application. His response to the SOR is most reasonably interpreted to be a tacit admission of that, and the circumstantial evidence confirms that he did so. This is a single serious crime to falsify not one, but two answers, and he acknowledged in signing the form that he understood such conduct was criminal. This raises security concerns beyond those under Guideline E, since it demonstrates his willingness to be deceptive and not follow rules even when he knows such conduct is a federal crime.

I have considered all the potential Criminal Conduct Mitigating Conditions. None has been asserted by Applicant, and I find that none apply to his conduct. As noted above, I conclude that the behavior was recent. The crime was an isolated incident to the extent that it only happened once, but was so directly related to the security clearance process that, under the circumstances, this is not mitigating. He clearly committed this crime voluntarily, without external coercion or pressure, and there is no evidence of successful rehabilitation. Accordingly, I conclude Applicant has failed to rebut or mitigate the security concerns raised by his conduct under Guideline J. Allegation 3.a of the SOR is concluded against Applicant.

Whole Person Analysis

Weighing the foregoing determinations within the "whole person concept" I further find that Applicant's conduct:

(1) reflects an extensive, ongoing pattern of not meeting his financial obligations and unwillingness to acknowledge

some, or satisfy any, of those debts, together with an intentionally deceptive response to questions concerning those debts on his clearance application;

(2) was a matter of knowing choice, failing to resolve delinquent debts or put forth any effort to do so, and deliberately responding falsely on the application;

(3) was repetitive and frequent on the bad debts, and recent;

(4) took place while Applicant was fully mature and accountable for his conduct;

(5) was voluntarily engaged in;

(6) reflects no effort to seek assistance, counseling or rehabilitation, together with a pattern of disregard for his obligations;

(7) was not motivated by any unforeseeable circumstances, but rather by unwillingness to resolve his debts while incurring more, and by not wanting to reveal these matters on his application;

(8) reflects continuing potential for pressure, coercion, exploitation or duress since he continues to deny the extent of his financial irresponsibility while trying to justify his deliberate falsifications; and

(9) shows every sign of continuing as it has even while this application has been pending.

For the reasons stated, I conclude Applicant has not demonstrated that it is clearly consistent with the interests of national security to grant him access to classified information.

FORMAL FINDINGS

Formal Findings For or Against Applicant on the allegations set forth in the SOR, as required by Paragraph 25 of Enclosure 3 of the Directive are:

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraph 1.a: For Applicant

Subparagraph 1.b: For 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: For Applicant

Subparagraph 1.l: Against Applicant

Subparagraph 1.m: Against Applicant

Subparagraph 1.n: For Applicant

Subparagraph 1.o: Against Applicant

Subparagraph 1.p: Against Applicant

Subparagraph 1.q: Against Applicant

Subparagraph 1.r: Against Applicant

Subparagraph 1.s: Against Applicant

Subparagraph 1.t: Against Applicant

Subparagraph 1.u: Against Applicant

Subparagraph 1.v: Against Applicant

Paragraph 2, Guideline E: AGAINST APPLICANT

Subparagraph 2.a: For Applicant

Subparagraph 2.b: Against Applicant

Subparagraph 2.c: Against Applicant

Paragraph 3, Guideline J: AGAINST APPLICANT

Subparagraph 3.a: 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.

David M. White

Administrative Judge

1. Item 4 (Applicant's Security Clearance Application (SF-86), dated May 14, 2005) at 2.
2. Item 2 (Applicant letter response to LOI dated Dec. 21, 2005).
3. The government submitted seven items in support of the allegations.
4. Applicant receipt document, dated Oct. 15, 2006, and attached note.
5. All of the facts in this paragraph are taken from Item 4 (Applicant's SF-86), *supra* note 1.
6. He further acknowledged his understanding that a knowing and willful false statement on that form could be punished under 18 U.S. Code § 1001. *Id.* at 8.
7. Counsel is referring to Item 5 (Credit Bureau Report (CBR) dated May 31, 2005), Item 6 (CBR dated Oct. 25, 2005), and Item 7 (CBR dated Sep. 28, 2006).

8. FORM at 5.

9. Item 2, *supra* note 2; Items 5-7, *supra* note 7.

10. Directive ¶¶ E2.2.2, E2.2.3.

11. "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "Substantial evidence" is "more than a scintilla but less than a preponderance." *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

12. Directive ¶ E3.1.14.

13. Directive ¶ E3.1.15.

14. ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005); "The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, evaluate[s] Applicant's past and current circumstances in light of pertinent provisions of the Directive, and decide[s] whether Applicant ha[s] met his burden of persuasion under Directive ¶ E3.1.15." ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

15. Directive ¶ E2.A6.1.1.

16. ISCR Case No. 05-03472 at 5 (App. Bd. Mar. 12, 2007) (citing ISCR Case No. 00-0250 at 4 (App. Bd. Jul. 11, 2001)).

17. *Id.* at 6-7 (citing ISCR Case No. 02-23133 at 5 (App. Bd. June 9, 2004) and ISCR Case No. 02-15935 at 6 (App. Bd. Oct. 15, 2003)).