

DATE: November 17, 2006

In re:

SSN: -----

Applicant for Security Clearance

CR Case No. 05-16321

DECISION OF ADMINISTRATIVE JUDGE

ERIN C. HOGAN

APPEARANCES

FOR GOVERNMENT

Robert E. Coacher, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has approximately \$18,774 in delinquent debt. Most of his financial problems were caused by circumstances beyond his control. They include a 12 month period of under employment, and becoming the sole provider of a new wife and three stepdaughters at the same time. Applicant's past history of holding a security clearance during a 14 year military career and his demonstrated efforts to resolve his debts mitigated the security concern raised under financial considerations. Clearance is granted.

STATEMENT OF CASE

On June 6, 2006, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) stating they were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance.⁽¹⁾ The SOR, which is in essence the administrative complaint, alleges security concerns under Guideline F, Financial Considerations.

In a sworn statement dated July 23, 2006, Applicant responded to the SOR allegations and requested a hearing. The case was assigned to me on August 16, 2006. A notice of hearing was issued on September 11, 2006, scheduling the hearing for October 3, 2006. The hearing was conducted on that date. The government submitted five exhibits that were marked as Government Exhibits (Gov Ex) 1-5, and admitted without objection. Applicant testified on his behalf, and submitted nine exhibits which were marked as Applicant Exhibits (AE) A-I and admitted without objection. The record was held open and Applicant timely submitted a 12 page post-hearing submission which was marked as AE J, and admitted without objection. DOHA received the hearing transcript (Tr.) on October 11, 2006.

FINDINGS OF FACT

In his SOR response, Applicant admits to the allegations under Guideline F, ¶¶ 1.b -1.e, 1.g, 1.k, 1.m, 1.o, and 1.r. He denies the allegations in ¶¶ 1.a, 1.f, 1.h - 1.j, 1.l, 1.n, 1.p, 1.q, and 1.s. Applicant's admissions are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of

fact:

Applicant is a 40-year-old employee of a defense contractor seeking to obtain a security clearance. He is a ground systems engineer and has been employed with his current company since July 2006. He was an employee of a subcontractor working for the company the previous three years. He takes college courses on-line.⁽²⁾ He is married. He and his wife are raising her three daughters from a prior marriage, ages 17, 15, and 13. They also have a four year old son.⁽³⁾ Applicant has two adult sons from a previous marriage, ages 20 and 22.⁽⁴⁾

From September 28, 1988, to January 14, 2002, Applicant served on active duty in the United States Army. He separated from active duty at the rank of Staff Sergeant, E-6. He was an intelligence specialist. He decided to separate from the military when he and his current wife decided to marry.⁽⁵⁾

When he separated from the military, Applicant went to work for a defense contractor. Soon after, he learned his mother had cancer. He went to visit her. Unfortunately, she passed away before he got there. He paid expenses towards her funeral and clearing up her estate.⁽⁶⁾ Upon his return to work, he had difficulty concentrating since he was still mourning the loss of his mother. He was terminated within a month of his return in August 2002.⁽⁷⁾

Around this same time period, Applicant married his wife on August 17, 2002. His wife's ex-husband provides little to no child support so Applicant is the principal provider for the family. His wife works part-time as a dance instructor. Applicant was unemployed from August 2002 to September 2003. He worked some temporary jobs, such as temporary holiday work, but it was not enough to pay all of the bills.⁽⁸⁾ Many of the accounts went delinquent.

In July 2003, Applicant found full-time employment. On February 2, 2005, he submitted a security clearance application.⁽⁹⁾ He disclosed his financial problems on the security clearance application. A subsequent background investigation disclosed the following delinquent debts: a \$555 credit card account charged off in September 1998 (SOR ¶ 1.a); a \$1,386 account placed for collection in October 2001 (SOR ¶ 1.b); a \$3,124 account placed for collection in November 2001 (SOR ¶ 1.c); a \$11,883 account placed for collection in April 2002 (SOR ¶ 1.d); a \$68 cell phone account placed for collection in June 2002 (SOR ¶ 1.e); a \$218 cable account placed for collection in August 2002 (SOR ¶ 1.f); a \$248 dental bill delinquent since 2002 (SOR ¶ 1.g); a \$109 account charged off in November 2002 (SOR ¶ 1.h); a \$509 account placed for collection in September 2003 (SOR ¶ 1.i); a \$43.45 account placed for collection in September 2003 (SOR ¶ 1.j); a \$331 phone or cell phone account placed for collection in November 2004 (SOR ¶ 1.k); a \$183.04 account placed for collection in November 2004 (SOR ¶ 1.l); a \$105 medical account placed for collection in November 2004 (SOR ¶ 1.m); a \$105 medical account placed for collection in December 2004 (SOR ¶ 1.n); a \$218 cable bill placed for collection in April 2005 (SOR ¶ 1.o); a \$12.86 medical account delinquent since May 2005 (SOR ¶ 1.p); a \$100 delinquent loan (SOR ¶ 1.p); a \$106.63 delinquent medical account (SOR ¶ 1.r); and a \$8,342 collection account (SOR ¶ 1.s).⁽¹⁰⁾

The current status of the delinquent accounts are:

SOR Paragraph	Debt	Status	Record
1.a	\$555 credit card account	Denies. Can't locate creditor.	Tr. at 29-30, 39-40; Gov Ex 3 at 6; AE J at 10.
1.b	\$1,386 collection account	Loan Consolidation.	Tr. at 21, 30; Gov Ex 2 at 3; Gov Ex 3 at 1; Gov Ex 4 at 3; Gov Ex 5 at 2; AE J at 1 - 6, 10.
1.c	\$3,124 collection account.	Loan Consolidation.	Tr. at 21, 30; Gov Ex 3 at 1; Gov Ex 4 at 3; Gov Ex 5 at 2; AE J at 1-6, 10.
1.d	\$11,883 collection account.	Loan Consolidation.	Tr. at 21, 30; Gov Ex 2 at 3; Gov Ex 3 at 7; Gov Ex 4 at 3; Gov Ex 5 at 2; AE J at 1-6, 10.
1.e	\$68 collection account broad band account.	Either paid or added to balance of debt in 1.k.	Tr. at 30; Gov Ex 2 at 2-3; Gov Ex 4 at 2; Gov Ex 5 at 2; AE F; AE J at 10.

1.f	\$218 collection account.	Intends to pay off end of November. Duplicate of 1.o.	Tr at 31; Gov Ex 2 at 2; Gov Ex 3 at 3; AE J at 11.
1.g	\$248 dental bill.	Ex-wife's bill but will pay by end of November.	Tr. at 31; Gov Ex 2 at 4; AE J at 11.
1.h	\$109 charged off credit union debt.	Paid.	Tr. at 31; Gov Ex 2 at 3; Gov Ex 4 at 3; Gov Ex 5 at 2; AE J at 6.
1.i	\$509 collection account.	Paid as of April 26, 2006.	Tr. at 31-32; Gov Ex 3 at 3; Gov Ex 4 at 1; Gov Ex 5 at 1; AE A; AE J at 11.
1.j	\$43.45 collection account for retail store.	Paid.	Tr. at 32; Gov Ex 4 at 1; Gov Ex 5 at 1; AE C; AE J at 11.
1.k	\$331 cell phone account.	Still owes.	Tr. at 32; Gov Ex 2; Gov Ex 4 at 2; Gov Ex 5 at 1; AE J at 11.
1.l	\$183.04 collection account.	Intends to pay by Dec 06.	Tr. at 32; Gov Ex 3 at 1-2; AE J at 11.
1.m	\$105 medical collection account.	Intends to pay off on November 5.	Tr. at 32; Gov Ex 4 at 1; AE J at 11.
1.n	\$105 medical collection account.	Duplicate of 1.m.	Tr. at 32; Gov Ex 4 at 1; AE J at 11.
1.o	\$218 cable bill turned over for collection.	Duplicate of 1.f Intends to pay by end of November.	Tr. at 32; Gov Ex 2 at 2, 4; Gov Ex 4 at 2; Gov Ex 5 at 1; AE J at 11.
1.p	\$12.86 delinquent medical account.	Paid.	Tr. at 32; AE B; AE J at 11.
1.q	\$100 delinquent signature loan.	Paid. Duplicate of 1.h.	Tr. at 32; Gov 3 at 4; AE J at 11.
1.r	\$106.63 delinquent account.	Intends to pay off on November 5. Duplicate of 1.m	Tr. at 32; AE J at 11.
1.s	\$8,342 collection account.	Duplicate of 1.d	Tr. at 32, 38-39; AE J at 11.

In October 2006, Applicant consolidated his three largest bills. His monthly payments towards the consolidation plan will be \$395.08. ⁽¹¹⁾ He would have consolidated the three bills earlier but when he started his new job, they underpaid him \$200 each paycheck. The pay issue is now resolved. ⁽¹²⁾ He did not include the bills with lower balances in the consolidation because he is confident that he will be able to pay off these bills within 90 days. ⁽¹³⁾

Applicant's financial situation is improving. He and his wife have a budget. His budget indicates that there is \$113 left over each week after expenses. ⁽¹⁴⁾ In addition, his wife works on a steady basis in the fall and winter. She brings in approximately \$400 a month. He also expects that his wife's ex-husband will soon start making child support payments of \$800 a month. ⁽¹⁵⁾ He has paid off five of the lesser accounts. He intends to pay three additional accounts by the end of November and one by the end of December. Five of the accounts are duplicates of other accounts as described in the table above. I find for Applicant with regards to SOR ¶ 1.s. I find credible Applicant's explanation that this was a duplicate account of SOR ¶ 1.d. There is nothing in the record evidence that suggests otherwise. In fact, there is nothing in the record evidence verifying the alleged debt. He is actively working on the remaining two accounts by either disputing the account or attempting to arrange a payment plan. ⁽¹⁶⁾ He also provided evidence of other debts that were resolved which were not alleged in the SOR. ⁽¹⁷⁾

Applicant has worked for the government for the past 20 years either in the military or as a contractor. He has always believed his job is important and would not do anything to jeopardize his country, family, or job. He and his wife are ⁽¹⁸⁾

striving to resolve their debts.

The Assistant Area Director of Applicant's former employer wrote a letter on his behalf. She has known him since 2002. She was impressed with his professionalism. He has always been responsive and helpful and has always exceeded expectations of his managers. She trusts his judgment and would not hesitate to rely on him with important matters. She would hire him back if given the opportunity.⁽¹⁹⁾ A close friend, who he served with in the Army, states he has known Applicant for nine years. He notes that he always found ways to "get the job done, get it done right, and ensure all actions were legal and ethical." He has the utmost faith in his personal ethics and professionalism.⁽²⁰⁾ His current supervisor states Applicant has "always displayed the utmost integrity and has proven to be an extremely trustworthy employee." He personally requested that his company hire him from the subcontractor he worked for based on these characteristics.⁽²¹⁾

POLICIES

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."⁽²²⁾ In Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), the President set out guidelines and procedures for safeguarding classified information within the executive branch.

To be eligible for a security clearance, an applicant must meet the security guidelines contained in the Directive. Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions and mitigating conditions under each guideline. The adjudicative guideline at issue in this case is:

Guideline F, Financial Considerations: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.⁽²³⁾

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns pertaining to this adjudicative guideline, is set forth and discussed in the conclusions below.

"The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance."⁽²⁴⁾ An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person.⁽²⁵⁾ An administrative judge should consider the following factors: (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.⁽²⁶⁾

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may disqualify the applicant from being eligible for access to classified information.⁽²⁷⁾ Thereafter, the applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate the facts admitted by the applicant or proven by Department Counsel. The applicant has the ultimate burden of persuasion as to obtaining a favorable clearance decision.⁽²⁸⁾ "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security."⁽²⁹⁾

A person granted access to classified information enters into a special relationship with the government. 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. The decision to deny an individual a security clearance is not a determination as to the loyalty of the applicant. It is merely an indication that the applicant has not met the strict guidelines the President has established for issuing a clearance.

CONCLUSIONS

Guideline F- Financial Considerations

With respect to Guideline F, the government established its case. Applicant has a history of financial problems. Since 2002, he has incurred over \$18,774 in delinquent debts. His financial problems support the application of 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*).

Several conditions could mitigate the security concerns raised by Applicant's financial delinquencies. Neither Financial Considerations Mitigating Conditions (FC MC) E2.A6.1.3.1 (*The behavior was not recent*); or FC MC E2.A6.1.3.2 (*It was an isolated incident*) applies. Applicant just recently began to resolve his debts. His financial troubles cannot be described as an isolated incident since he has incurred approximately 14 delinquent debts.

Much of Applicant's financial problems were caused by incidents that were beyond his control. As such, FC MC 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)*), applies. Applicant had to deal with the death of his mother, the loss of his full-time job, a new marriage, and the added responsibilities of being a stepfather to three children within a short period of time. Aside from some temporary jobs which did not pay well, he was unemployed from August 2002 to July 2003. The family finances were further complicated by his wife's ex-husband's failure to provide child support for his three daughters. Applicant's financial problems were primarily caused by several factors beyond his control that unfortunately occurred during the same time period. I find FC MC E2.A6.1.3.3 applies.

FC MC E2.A6.1.3.6 (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) applies as well. Applicant initiated a good faith effort to repay his overdue debts as soon as he was able. He consolidated three of his largest debts. He has resolved four of the debts. He intends to pay off three additional debts by the end of November and another debt by the end of December. Five of the accounts are duplicates of other accounts. He is actively working towards resolving the other two accounts. He demonstrated a good faith effort to resolve his debts.

Applicant has mitigated the security concerns raised under Guideline F. Guideline F is decided for Applicant.

Whole Person Factors

I considered all the evidence provided and also considered the "whole person" concept in evaluating Applicant's risk and vulnerability in protecting our national interests. Applicant's financial problems were caused, in part, by factors beyond his control. Now that his financial situation has improved, he is actively attempting to resolve his debts. He and his wife have established a budget. Although not all of Applicant's delinquent debts are resolved, I found his character references particularly compelling. They each noted he is a reliable and trustworthy person. I also considered Applicant's hearing testimony, and his 14 year history of holding a security clearance while serving in the military. The security concerns under financial considerations have been mitigated. Therefore, I am persuaded by the totality of the evidence in this case, that it is clearly consistent with the national interest to grant Applicant a security clearance.

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: 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

Subparagraph 1.q: For Applicant

Subparagraph 1.r: For Applicant

Subparagraph 1.s: For Applicant

DECISION

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

Erin C. Hogan

Administrative Judge

1. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended and modified (Directive).

2. Tr. at 7.

3. Tr. at 43.

4. Tr. at 47.

5. Tr. at 48-49; Gov Ex 1.

6. Tr. at 33.

7. Tr. at 33; Gov Ex 1, question 20.

8. Tr at 33-34.

9. Gov Ex 1.

10. Gov Ex 2, 3, 4 and 5.

11. AE J at 2.

12. Tr. at 34.

13. Tr. at 21, 36-37.

14. AE J at 9.

15. Tr. at 34, 42; AE J at 9. (His wife pursued child support enforcement against her ex-husband. He moved to another state so the child support payments have been temporarily delayed.)

16. Gov Ex 2 at 6; AE J at 7-8.

17. AEs D, E, and H.

18. Gov Ex 2 at 6.

19. AE I at 1.

20. AE I at 2.

21. AE I at 3.

22. *Department of the Navy v. Egan*, 484 U.S. 518, 527 (1988).

23. Directive, ¶ E2.A6.1.1.

24. Directive, ¶ E2.2.1.

25. *Id.*

26. *Id.*

27. Directive, ¶ E3.1.14.

28. Directive, ¶ E3.1.15.

29. Directive, ¶ E.2.2.2.