

DATE: October 30, 2006

---

In re:

-----

SSN: -----

Applicant for Security Clearance

---

CR Case No. 05-17269

## **DECISION OF ADMINISTRATIVE JUDGE**

**MICHAEL H. LEONARD**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Eric H. Borgstrom, Esq., Department Counsel

#### **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant has a history of financial problems as evidenced by more than \$22,000 in delinquent consumer debt. She failed to present sufficient evidence to rebut, explain, extenuate, or mitigate the security concern under Guideline F. Clearance is denied.

### **STATEMENT OF THE CASE**

Applicant is challenging the Defense Department's preliminary decision to deny or revoke her security clearance. Acting under the relevant Executive Order and DoD Directive, [\(1\)](#) on May 5, 2006, the Defense Office of Hearings and Appeals (DOHA) issued a statement of reasons (SOR) detailing the basis for its decision. The SOR, which is in essence the administrative complaint, alleges a security concern under Guideline F for financial considerations. In an undated response, Applicant replied to the SOR and indicated she did not wish to have a hearing. On July 26, 2006, department counsel submitted his written case consisting of all relevant and material information that could be adduced at a hearing. This so-called file of relevant material (FORM) was mailed to Applicant and it was received by her on August 4, 2006. Applicant did not submit any information or objections within the 30-day period after receiving the FORM. The case was assigned to me September 25, 2006.

### **FINDINGS OF FACT**

In her response to the SOR, Applicant admits the factual allegations. Her admissions are incorporated herein. In addition, I make the following findings of fact.

1. Applicant is a 52-year-old employee of a contractor of the Defense Department. She works as an electric assembly specialist. She has worked for the same company since October 1983.
2. She married for the first time in 1974 and divorced in 1981. She remarried her current husband in 1984.

3. Applicant has a history of financial problems as evidenced by more than \$22,000 in delinquent consumer debt (for example, credit card accounts). The SOR alleges seven accounts that have been charged off as bad debt or placed for collection. Applicant's admissions, coupled with the credit reports and other documentary information in the FORM, establish the factual allegations in the SOR. None of the seven accounts have been paid, settled, or otherwise resolved by Applicant.

4. Because she did not respond to the FORM, the available information in support of Applicant is limited. In her response to the SOR, she indicated that she had an appointment with a financial counseling organization in June. She did not submit any further information on this point.

5. There is no record evidence concerning Applicant's employment record, job training, or constructive community involvement.

## POLICIES

The Directive sets forth adjudicative guidelines to consider when evaluating a person's security clearance eligibility, including disqualifying conditions (DC) and mitigating conditions (MC) for each guideline. In addition, each clearance decision must be a fair and impartial commonsense decision based upon consideration of all the relevant and material information, the pertinent criteria and adjudication factors, and the whole-person concept.<sup>(2)</sup> A person granted access to classified information enters into a special relationship with the government. The government must be able to have a high degree of trust and confidence in those persons to whom it grants access to classified information. The decision to deny a person a security clearance is not a determination of an applicant's loyalty.<sup>(3)</sup> Instead, it is a determination that the applicant has not met the strict guidelines the President has established for granting eligibility for a security clearance.

## BURDEN OF PROOF

The only purpose of a security-clearance decision is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.<sup>(4)</sup> There is no presumption in favor of granting or continuing access to classified information.<sup>(5)</sup> The government has the burden of presenting witnesses and other evidence to establish facts alleged in the SOR that have been controverted.<sup>(6)</sup> An applicant is responsible for presenting witnesses and other evidence to refute, explain, extenuate, or mitigate facts that have been admitted or proven.<sup>(7)</sup> In addition, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.<sup>(8)</sup>

No one has a right to a security clearance.<sup>(9)</sup> And as noted by the Supreme Court in *Department of Navy v. Egan*, "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."<sup>(10)</sup> Under *Egan*, Executive Order 10865, and the Directive, any doubt about whether an applicant should be allowed access to classified information will be resolved in favor of protecting national security.

## CONCLUSIONS

### 1. The Financial Considerations Security Concern

Under Guideline F,<sup>(11)</sup> a security concern typically exists for two different types of situations--significant unpaid debts or unexplained affluence. An individual who is financially overextended is at risk of having to engage in illegal or unethical acts to generate funds to meet financial obligations. Similarly, an individual who is financially irresponsible may also be irresponsible, unconcerned, negligent, or careless in properly handling and safeguarding classified information.

Here, based on the record evidence as a whole, a security concern is raised under Guideline F. As established above, Applicant has a history of not meeting financial obligations as well as inability or unwillingness to pay one's just debts.<sup>(12)</sup> What's notable here is Applicant's apparent inaction in addressing her delinquent consumer debt.

I reviewed the MC under the guideline and conclude none apply in Applicant's favor. Applicant has not presented sufficient evidence, including documentary evidence, to support application of any of the MC under the guideline. Likewise, the record evidence is insufficient to establish that she has made a good-faith effort to pay or otherwise resolve her delinquent debt.

## **2. The Whole-Person Concept**

I considered the available information in light of the whole-person concept. Applicant is a 52-year-old woman who has been continuously employed by the same company for more than 20 years.<sup>(13)</sup> Her mature age and long-term employment do not help explain, extenuate, or mitigate her financial problems. Also, it appears her financial problems are ongoing and likely to continue.<sup>(14)</sup> Although there is no evidence that her financial problems arose from gambling, substance abuse, or other conduct that would increase security concerns, her delinquent accounts suggest financial irresponsibility by using credit to live beyond her means.<sup>(15)</sup> Finally, she did not offer any reliable information to establish proof-of-payment or other arrangements for the accounts in question.<sup>(16)</sup> Considering the record evidence as a whole, I conclude Applicant failed to present sufficient evidence to rebut, explain, extenuate, or mitigate the security concern arising under Guideline F. And she has not met her ultimate burden of persuasion to obtain a favorable clearance decision.

### **FORMAL FINDINGS**

The following are my conclusions as to each allegation in the SOR:

SOR Paragraph 1-Guideline F: Against Applicant

Subparagraphs a-g: 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.

Michael H. Leonard

Administrative Judge

1. Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended (Directive).
2. Directive, Item E2.2.1.
3. Executive Order 10865, § 7.
4. ISCR Case No. 96-0277 (July 11, 1997) at p. 2.
5. ISCR Case No. 02-18663 (March 23, 2004) at p. 5.
6. Directive, Enclosure 3, Item E3.1.14.
7. Directive, Enclosure 3, Item E3.1.15.
8. Directive, Enclosure 3, Item E3.1.15.
9. *Department of Navy v. Egan*, 484 U.S. 518, 528 (1988) ("it should be obvious that no one has a 'right' to a security clearance"); *Duane v. Department of Defense*, 275 F.3d 988, 994 (10<sup>th</sup> Cir. 2002) ("It is likewise plain that there is no 'right' to a security clearance, so that full-scale due process standards do not apply to cases such as Duane's.") (citations

omitted).

10. 484 U.S. at 531.

11. Directive, Enclosure 2, Attachment 6 (setting forth the disqualifying and mitigating conditions).

12. Directive, Item E2.A6.1.2.1. A history of not meeting financial obligations; Item E2.A6.1.2.3. Inability or unwillingness to satisfy debts.

13. Directive, Item E2.2.1.4. The individual's age and maturity at the time of the conduct.

14. Directive, Item E2.2.1.9. The likelihood of continuation or recurrence.

15. Directive, Item E2.2.1.2. The circumstances surrounding the conduct, to include knowledgeable participation.

16. Directive, Item E2.2.1.6. The presence or absence of rehabilitation and other pertinent behavioral changes.