

DATE: December 29, 2006

In re:

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SSN: -----

Applicant for Security Clearance

ISCR Case No. 05-17555

**DECISION OF ADMINISTRATIVE JUDGE**

**CHRISTOPHER GRAHAM**

**APPEARANCES**

**FOR GOVERNMENT**

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

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant is a 36-year-old electrician employed by a defense contractor. He has a long history of financial problems, including accounts charged off and past due, and several judgments entered against him between 1997 and 2000, all of which remain unsatisfied. He provided no evidence either with his answer to the Statement of Reasons (SOR) or in response to the file of relevant material (FORM.) He failed to mitigate the security concerns under Guideline F (financial considerations.) 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. As required by Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan. 2, 1960), as amended, DOHA issued a Statement of Reasons (SOR) on June 12, 2006, detailing the basis for its decision - security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing dated July 2, 2006, and requested a decision without a hearing. Department Counsel submitted a file of relevant material (FORM) in support of the government's case, a copy of which was received by Applicant on September 26, 2006. Applicant was afforded the opportunity to file objections and submit material in refutation, extenuation, or mitigation by October 26, 2006. Applicant filed no response. The case was assigned to me on December 1, 2006.

**FINDINGS OF FACT**

Applicant admitted all of the allegations contained in the SOR. The 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 36-year-old electrician employed by a defense contractor. <sup>(1)</sup> He has never married. <sup>(2)</sup> He served two years as an enlisted member of the U.S. Army. <sup>(3)</sup>

Applicant has a long history of financial problems, including accounts charged off and past due, and several judgments entered against him between 1997 and 2000, which remain unsatisfied. The amount of delinquent debts and judgments identified in the SOR totals \$8,716.67. Many of the accounts show no activity in years.<sup>(4)</sup> Specifically, on October 7, 1997, judgment was entered against Applicant in the amount of \$4,064. On August 25, 1998, judgment was entered against him in the amount of \$512. On December 8, 1998, judgment was entered against him in the amount of \$2,549.67. On October 3, 2000, judgment was entered against him in the approximate amount of \$227. Additionally he has two charged off accounts in the amounts of \$339 and \$346. Finally, he has five accounts with the same creditor that are 120 days past due in the approximate total amount of \$679.

Applicant's only evidence was the following statement: "I would only say one thing on my behalf. Yes I'm in debt, and I am having a hard time even seeing when I might be able to start settling them, but if that means I am a traitor or untrustworthy to a nation I would die for, then I shouldn't have a clearance. Just remember, the enemy won't send in someone in debt, they will look like a model citizen."<sup>(5)</sup>

## **POLICIES**

"No one has a 'right' to a security clearance."<sup>(6)</sup> 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."<sup>(7)</sup> 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."<sup>(8)</sup> Each security clearance decision "must be a fair and impartial common sense determination based upon consideration of all the relevant and material information and the pertinent criteria and adjudication policy."<sup>(9)</sup>

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance."<sup>(10)</sup>

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: nature and seriousness of the conduct and surrounding circumstances; frequency and recency of the conduct; age of the Applicant; motivation of the applicant, and the extent to which the conduct was negligent, wilful, voluntary, or undertaken with knowledge of the consequences involved; absence or presence of rehabilitation; and probability that the circumstances or conduct will continue or recur in the future. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant.<sup>(11)</sup> 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**

The government established its case under Guideline F. Financial Considerations Disqualifying Conditions (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*) are applicable. The available information demonstrates Applicant has a history of not meeting his financial obligations. He has been delinquent in payments on several accounts, he has four judgments against him, he has paid nothing, and he has not shown proof of a repayment plan. He provided no evidence on his own behalf.

Various conditions can mitigate the security concerns arising from financial difficulties. The Directive sets out Financial Considerations Mitigating Condition (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)*). Applicant provided no evidence as to the cause or causes of his delinquent debts, nor a reason why he has made no effort to resolve indebtedness. This mitigating condition is not applicable. FC C 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 as there is no evidence of Applicant seeking financial counseling. FC MC E2.A6.1.3.6. (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve bad debts*) is not applicable. He was given an opportunity to provide documentation of efforts to resolve his financial difficulties. He

chose not to respond. I conclude Guideline F against Applicant.

### **Whole Person Analysis**

"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."[\(12\)](#)

"Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination."[\(13\)](#)

In evaluating Applicant's case, in addition to the disqualifying and mitigating conditions, I also considered the "whole person" concept in evaluating Applicant's risk and vulnerability in protecting our national interests.[\(14\)](#)

I considered his age (36), his employment, and what might cause him to be in continual financial distress. He has had a ten year history of financial delinquencies, including the judgments between 1997 and 2000. However, Applicant failed to present any evidence showing why he incurred delinquent debts, why he had four judgments against him (especially when two were for less than \$400 each), and what may have prevented him from making some effort to resolve these delinquencies. The totality of the record leads me to conclude that Applicant does not have the ability nor responsibility to protect classified information and cannot exercise the requisite good judgment and discretion expected of one in whom the government entrusts its interests. I conclude it is not clearly consistent with the national interest to grant or continue Applicant's security clearance.

### **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: Against Applicant

Subparagraph 1.g: 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.

Christopher Graham

Administrative Judge

1. Item 4 (Security Clearance Application (SF 86), dated December 7, 2004) at 1-2.

2. *Id.* at 3.

3. *Id.* at 4.

4. Items 7-10 (Credit Bureau Reports, dated February 19, 2000, December 28, 2004, January 6, 2006, and May 10, 2006.)

5. Item 2 (Answer, dated July 2, 2006) at 1.

6. <sup>0</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

7. <sup>0</sup> *Id.* at 527.

8. <sup>0</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

9. <sup>0</sup> Directive ¶6.2.

10. <sup>0</sup> ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

11. <sup>0</sup> *See* Exec. Or. 10865 § 7.

12. Directive ¶ E.2.2.1.

13. *Id.*

14. *Id.*