

DATE: August 9, 2006

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In re:

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SSN: -----

Applicant for Security Clearance

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CR Case No. 06-07145

**DECISION OF ADMINISTRATIVE JUDGE**

**JAMES A. YOUNG**

**APPEARANCES**

**FOR GOVERNMENT**

Robert E. Coacher, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant failed to establish he is resolving more than \$22,100 in medical expenses and almost \$14,000 in education loans. 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, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on 15 May 2006, detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing on 5 June 2006 and elected to have the case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on 23 June 2006. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the disqualifying conditions. There is no record in the file of when Applicant received the FORM, but he responded on 17 July 2006 with one exhibit. The case was assigned to me on 27 July 2006.

**FINDINGS OF FACT**

In the SOR, DOHA alleged Applicant had medical bills totaling more than \$22,100 that were in collection status (¶¶ 1.a-1.1.g, 1.m-1.n) and past due accounts to the New Mexico Educational Assistance Foundation (NMEAF) totaling more than \$14,700 (¶¶ 1.h-1.1, 1.o). Applicant admitted each of the allegations, with explanation.

Applicant is a 25-year-old engineering assistant for a defense contractor. He graduated from college with a bachelor of science degree in May 2004.

Applicant submitted a settlement agreement with the NMEAF that shows NMEAF filed a civil action against him for failing to pay on his education loans. It appears NMEAF was willing to agree to settle the action totaling more than

\$13,914, grant Applicant a forbearance for a couple of months, but resume regular payments on the debt starting in May 2006. The settlement agreement is unsigned and Applicant provided no evidence that shows he has made any payments.

From January 2004 until August 2005, Applicant was either unemployed or earned less than \$10 an hour and was unable to make payments on his outstanding medical debts. In his response to the FORM, Applicant submitted a receipt showing that he paid \$40 toward one of his medical accounts, leaving a balance of \$12.82 on that account.

### POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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." *Id.* at 527. 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." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). 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." Directive ¶ 6.3. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

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. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

### CONCLUSIONS

An applicant who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1. Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. The evidence established each allegation in the SOR. Applicant has a history of not meeting his financial obligations (DC E2.A6.1.2.1.) and is unable or unwilling to satisfy his debts (DC E2.A6.1.2.3.).

An applicant may mitigate financial security concerns by establishing the delinquent debts resulted from conditions beyond his control (MC E2.A6.1.3), he received counseling for the problem and there are clear indications that the problem is being resolved (MC E2.A6.1.3.4), or he initiated a good-faith effort to repay overdue creditors or otherwise resolve the debts (MC E2.A6.1.3.6). To some extent, Applicant's financial situation appears to be the result of his unemployment or under employment from the date of his college graduation until August 2005. There is no evidence Applicant received counseling for his financial situation. Nor is there any evidence the problem is being resolved or he initiated a good-faith effort to repay the debts. He submitted no evidence to establish the settlement with NMEAF was formalized or that he is making payments. He also failed to establish he is paying on his medical debts, other than \$40 on a debt total of more than \$22,100. Under all the circumstances, Applicant failed to establish it is in the national interest to grant him a clearance.

### FORMAL FINDINGS

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

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a-1.o: 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.

James A. Young

Administrative Judge