

DATE: March 19, 2007

---

In re:

-----

SSN: -----

Applicant for ADP I/II/III Position

---

ADP Case No. 06-16779

**DECISION OF ADMINISTRATIVE JUDGE**

**CAROL G. RICCIARDELLO**

**APPEARANCES**

**FOR GOVERNMENT**

Ray Blank, Jr., Esq., Department Counsel

**FOR APPLICANT**

Pro Se

**SYNOPSIS**

Applicant is 26 years old and has worked for a medical federal contractor since 2004. She has 15 unpaid delinquent debts. She attributes her financial problems to her separation from her husband and having to repay debts on one income. Some of the delinquent debts were incurred prior to her marriage and after her separation. Applicant has failed to mitigate the trustworthiness concerns under Guideline F, financial considerations. Applicant's eligibility for an ADP I/II/III position is denied.

**STATEMENT OF THE CASE**

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue an ADP I/II/III position for Applicant. As required by Department of Defense Regulation 5200.2-R (Jan. 1987), as amended (Regulation), and Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan. 2, 1992), as amended (Directive), DOHA issued a Statement of Reasons (SOR) on November 29, 2006, detailing the basis for its decision-concerns raised under Guideline F (Financial Considerations) of the Regulation. Applicant answered the SOR in writing on December 26, 2006.

Applicant elected to have her case decided on the written record. Department Counsel submitted the government's file of relevant material (FORM) on January 30, 2007. The FORM was mailed to Applicant on January 31, 2007, and received on February 8, 2007. Applicant was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant responded on February 14, 2007, stating she had no further information to provide. The case was assigned to me on February 28, 2007.

**FINDINGS OF FACT**

Applicant is 26 years old and has worked for a medical care federal contractor since April 2001. Applicant married in June 2002, and separated from her husband in December 2002. No information was provided as to whether Applicant is now divorced from her husband. Applicant has more than \$13,000 in delinquent debts. She acknowledges that she owes

all of the debts alleged. She stated in her answer to the SOR that when she left her husband she was responsible for all of the bills and is now unable to pay them with only one income. Applicant failed to provide any amplifying information as to which debts may have been exclusively the responsibility of her husband. No information was provided as to what actions Applicant has taken to negotiate repayment of joint debts with her husband. No information was provided as to what the debts were incurred for. The accounts listed as debts in SOR ¶¶ 1.n and 1.d were opened in 2000; the account listed as a debt in SOR ¶ 1.k was opened in 2001; the accounts listed as debts in SOR ¶¶ 1.a, 1.b, 1.e, 1.f, 1.h, 1.l, and 1.m were opened in 2002; the accounts listed as debts in SOR ¶¶ 1.c, 1.i and 1.g were opened in 2003, and the account listed in SOR ¶ 1.j was opened in 2004. <sup>(1)</sup> Applicant's creditors include credit card accounts, department stores, a jewelry store, a home furnishing store, and a telephone provider. <sup>(2)</sup>

Applicant stated on September 11, 2006, that she had done nothing to pay her creditors. <sup>(3)</sup> She further stated she was researching debt consolidation companies to decide which one to use. <sup>(4)</sup> She acknowledged that some creditors still send her letters and others do not. She had a second job for a period of time, but it interfered with her primary job. <sup>(5)</sup> In her response to the FORM on December 26, 2006, she did not provide any information as to whether she had secured a debt consolidation company and entered a repayment plan. <sup>(6)</sup> Applicant stated in her answer that she does not have the money to repay her debts. <sup>(7)</sup>

Applicant performance evaluations show that she exceeds the expectations and she is a strong worker. She solves problems and knows when to ask for assistance. She has initiative and consistently assists other coworkers. She is considered a key player and valuable member of her department. <sup>(8)</sup>

### POLICIES

Positions designated as ADP I or ADP II are classified as sensitive positions. Regulation ¶ AP10.2.1. ADP III positions are nonsensitive positions. Regulation AP10.2.3.1. By memorandum dated 19 November 2004, the Deputy Under Secretary of Defense for Counterintelligence and Security directed DOHA to resolve all contractor cases submitted for trustworthiness determinations, including ADP I, II, and III, under the Directive. Thus, even though they are nonsensitive positions, ADP III cases are treated in the same way and adjudicated under the same guidelines and procedures as ADP I and II cases.

"The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person's loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security." Regulation ¶ C6.1.1.1. Appendix 8 of the Regulations sets forth the adjudicative policy, as well as the disqualifying conditions (DC) and mitigating conditions (MC) associated with each guideline. DoD contractor personnel are afforded the adjudication procedures contained in the Directive. Regulation ¶ C8.2.1.

Based upon consideration of all the evidence, I find the following adjudicative guideline most pertinent to the evaluation of the facts in this case:

Financial Considerations are a security concern because 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. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts.

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

### CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards.

Based on all the evidence, Financial Considerations Disqualifying Condition (FC DC) 19 (a) (*inability or unwillingness to satisfy debts*) and FC DC 19 (c) (*a history of not meeting financial obligations*), apply in this case. Applicant has many delinquent debts. The debts have been delinquent for a long period and she failed to pay or make any attempt to pay them. She admits she owes the debts and is unable to pay them.

I have considered all the Financial Considerations Mitigating Conditions (FC MC), and especially considered FC MC 20 (a) (*the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment*), FC MC 20 (b) (*the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances*), FC MC 20 (c) (*the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control*), and FC MC 20 (d) (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

All of Applicant's debts remain unpaid and therefore are recent. There are many delinquent debts so the situation is not an isolated one. I find FC MC 20 (a) does not apply. I considered Applicant's statement that her financial problems resulted from her separation from her husband and her inability to repay the debts on one income. Applicant's credit reports indicated that many of the delinquent accounts were opened before she married and some were opened after she separated from her husband. Applicant did not provide any information as to what the debts were incurred for. Based on a review of her credit reports, her creditors include credit card companies, department stores, a jewelry store, and a home furnishing store, among others. Applicant failed to provide amplifying information as to what circumstances were beyond her control that caused her to incur these debts. She also failed to provide any information to show that she acted responsibly under such circumstances. Therefore, I cannot apply FC MC 20 (b). Applicant discussed that she was researching debt consolidation companies, but failed to provide information as to what actions, if any, she has taken. There is no evidence she has received financial counseling or that the problem is being resolved. Applicant has not made an effort to repay her creditors or otherwise resolve her delinquent debts. Therefore, FC MC 20 (c) and (d) do not apply.

### **Whole Person Analysis**

In all adjudications, the protection of our national security is the paramount concern. The objective of the security clearance process is the fair-minded, commonsense assessment of a person's life to make an affirmative determination that the person is eligible for a security clearance. Indeed, the adjudicative process is a careful weighing of a number of variables in considering the "whole person" concept. It recognizes that we should view a person by the totality of their acts, omissions, motivations, and other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I considered all the evidence provided and also considered the "whole person" concept in evaluating Applicant's trustworthiness. I considered Applicant's age and her work performance. I also considered that Applicant did not provide any evidence that she has made a payment on any of her delinquent debts. I considered that she was looking into debt consolidation, but she provided no information as to any action she has taken or a payment plan she has instituted. I considered Applicant's statement that she is unable to repay her debts. After considering all of the evidence, I find Applicant has failed to mitigate the trustworthiness concerns raised by the financial considerations. Therefore, I am persuaded by the totality of the evidence in this case, that it is not clearly consistent to grant Applicant a favorable trustworthiness determination. Accordingly, Guideline F is decided against Applicant.

### **FORMAL FINDINGS**

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

Paragraph 1. Guideline F: (financial considerations) AGAINST APPLICANT

Subparagraph 1.a - 1.o: Against Applicant

**DECISION**

In light of all of the circumstances in this case, it is clearly not consistent with the interests of national security to grant or continue Applicant's eligibility for an ADP I/II/III position. Eligibility is denied.

Carol G. Ricciardello

Administrative Judge

1. Item 6, 7 and 8.

2. *Id.*

3. Item 5.

4. *Id.*

5. *Id.*

6. Response to FORM.

7. Item 2.

8. *Id.*