

DATE: December 11, 1997

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In Re:

Applicant for Security Clearance

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ISCR Case No. 97-0512

## **DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Melvin A. Howry, Department Counsel

#### **FOR APPLICANT**

*Pro Se*

### **STATEMENT OF THE CASE**

On July 30, 1997, the Defense Office Of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) (copy appended) to (Applicant), which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

The applicant responded to the SOR in writing on or about August 18 1997, and elected to have her case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case on or about October 11, 1997. The applicant filed a response to the Government's written case on October 28, 1997. The case was received by the undersigned Administrative Judge on November 24, 1997.

### **FINDINGS OF FACT**

Applicant has been indebted in the total amount of at least \$32,000.00 to at least twenty-three creditors since at least October 1996.<sup>(1)</sup> There is no credible evidence that she has made any recent payments to any of these creditors, or that she is likely to make any payments to any of these creditors anytime soon.

In October 1996, applicant and her husband filed a Bankruptcy Petition under Chapter 13 of the Bankruptcy Code.<sup>(2)</sup> As a result of this filing, applicant's creditors were legally barred from trying to collect the debts directly from her. However, a payment plan was established requiring applicant to make regular payments to the Bankruptcy Trustee who, upon receipt, would make payments to the various creditors. In May 1997, the Bankruptcy Trustee filed a Motion for an Order dismissing the Chapter 13 proceeding due to applicant's failure to make the required plan payments.<sup>(3)</sup> On June 11, 1997, the Bankruptcy Judge dismissed the Chapter 13 proceedings and dissolved all of the stays that were in effect. Once the stays were dissolved, applicant's creditors could resume collection action directly against her.

Applicant admits that her wages were garnished by her employer in 1995 to satisfy a \$523.81 debt (SOR paragraph 1o).

### **POLICIES**

Enclosure 2 of the Directive sets forth the Adjudication Policy (divided into Disqualifying Factors and Mitigating Factors) which must be followed by the Administrative Judge. Based on the foregoing Findings of Fact, the following Disqualifying Factors and Mitigating Factors are applicable:

### **FINANCIAL CONSIDERATIONS**

Disqualifying Factors:

1. A history of not meeting financial obligations.
3. Inability or unwillingness to satisfy debts.

Mitigating Factors:

None.

### **CONCLUSIONS**

The evidence establishes that applicant has been indebted to at least twenty-three creditors in a total amount of at least \$32,000.00 since at least October 1996. She offered no credible evidence indicating that she is willing and able to satisfy these past-due debts. Without such evidence, it not clearly consistent with the national interest to grant her access to classified information. For this reason, Criterion F is found against applicant.

### **FORMAL FINDINGS**

PARAGRAPH 1: AGAINST THE 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.

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Joseph Testan

Administrative Judge

1. Department Counsel offered prima facie evidence of all the debts alleged in the SOR except the debts alleged in SOR Paragraphs 1e, 1r, and 1w.
2. Most of the debts alleged in the SOR were listed on the Bankruptcy Petition.
3. The Trustee stated in the Motion that the debtors were "delinquent at least \$2,968.92, and the delinquency continues to accrue."