

ISCR Case No. 06-24474

SSN: -----

Applicant for Security Clearance

APPEARANCES

Nichole Noel, Esq. , Department Counsel

Pro Se

Applicant, a 27-year-old employee of a defense contractor, accumulated delinquent debts as a result of a severe injury in 2001 that precluded his work as an installer of office structures. He has since taken action pay or settle all but two of the debts and has offered a substantial partial payment to one creditor and is in negotiation with the second one. He lives within his means and has mitigating security concerns by his actions to resolve the security concerns. Clearance is granted.

_____ On or about February 28, 2007, the Defense Office of Hearings and Appeals (DOHA),

pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified, and subject to the revised Adjudicative Guidelines effective September 1, 2006, issued a Statement of Reasons (SOR) 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. DOHA recommended the case be referred to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

On March 30, 2007, Applicant responded to the SOR allegations and requested a hearing. The matter was assigned to me on June 20, 2007. A notice of hearing was issued on July 20, 2007, for a hearing on August 6, 2007, and held that day. The government offered four exhibits. Applicant offered nine into evidence at the hearing and provided post hearing submissions on August 17, 2007, (Exh. J.), October 9, 2007, (Exh. K), and October 9, 2007, (Exh. L). All of the offered exhibits were admitted in evidence without objection. The transcript was received on August 20, 2007.

FINDINGS OF FACT

_____Applicant admitted with explanation seven of the nine SOR allegations relating to delinquent debts. He and denied two which were duplicates of two of the seven he admitted. After a complete review of the record, I make the following additional findings of fact:

Applicant is a 27-year-old employee of a defense contractor working overseas as an installer of furnishings in U.S. embassies. He also does the same type of commercial installations in the U.S. for the same company for whom he works overseas. He has had financial difficulties stemming from an accident in 2001 when he severely injured his right hand which made it impossible for him to work. He also donated a kidney to his wife which caused him to miss work for two months and affected both of their health causing a decline in family income.

An analysis of the debts alleged in the SOR indicates as follows from testimony and documentary evidence submitted in the record:

1. Par. 1.a.: Debt of \$57 for carry-out. Settled on March 17, 2007 (Exh. A).
2. Par. 1.b.:Credit card debt of \$9,653 for purchases. Offer was made by Applicant for payment of \$5,000 but creditor demanded payment in full. In negotiation which resulted in determination that debt was no longer on his credit report since determined to be uncollectible since over six years old (Exh. L).
3. Par. 1.c.:Debt of \$834 for cell phone settled for \$420 (Exh. B).
4. Par. 1.d.:Credit card debt for \$1,048 settled on March 17, 2007, for \$656. (Exh. C).
5. Par. 1.e.:Duplicate of 1.d.

6. Par. 1.f.:Eviction charges of \$3,457 during his unemployment as a result of his accident. He is in negotiation with landlord as to amount assessed as he believes it to be very excessive (Tr. 25-26).

7. Par. 1.g.:Credit card debt of \$7,291 which is a duplicate of 1.b.(Exh. H).

8. Par. 1.h.:Credit card debt of \$1,587 which has grown with interest to \$2,954 and has been settled. One payment of \$1,370 has been made and like amount was deducted on April 30, 2007, to settle the debt in full (Exhs. E and I).

9. Par.1.i.: Medical bill of \$75 paid December 13, 2006 (Exh. G).

Applicant is well regarded by his ;employer for his work as a well-motivated, competent performer who meets objectives (Exh. J). His domestic work pays approximately \$1,000 bi-weekly. His wife is employed and her pay is approximately \$750 bi-weekly (Tr. 35). He has one step-child age eleven and he and his wife have a three year old. Both children have modest education savings accounts.

Applicant's work overseas in embassies produces substantially more income than his U.S. work so he needs a security clearance to perform that work which he has applied to settlement of his delinquent debts. He does not now have a credit card and lives within his means. He and his wife have reasonable rental payments with a housing facility that bases tenant payments on family income. He has two automobiles that are six and twelve years old. He owes nothing on either of them. He and his wife are exploring the possibility of buying a home once the delinquent debts are resolved.

Applicant has made good faith efforts to resolve delinquent debts arising from causes beyond his control and has fully paid the majority of them. He has received credit counseling (Tr. 25). He has been in discussions with the creditor for two of the three remaining listed delinquent debts of which one is a duplicate (SOR ¶ 1.b. and 1.g.). He offered to pay \$5,000 on the \$9,000 debt but the offer was refused and it now has been dropped from his credit report. He is also in negotiation with the third creditor the eviction charges (SOR ¶ 1.f.).

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. An evaluation of whether the applicant meets the security guidelines includes consideration of the following factors: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence. Revised Adjudicative Guidelines (AG ¶ 2 a). Security clearances are granted only when "it is clearly

consistent with the national interest to do so.” Executive Order No. 10865 § 2. *See* Executive Order No. 12968 § 3.1(b).

_____ Initially, the Government must establish, by something less than a preponderance of the evidence, that conditions exist in the personal or professional history of the applicant which disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. The applicant then bears the burden of demonstrating it is clearly consistent with the national interest to grant or continue a security clearance. “Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security.” (AG ¶ 2 b) “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531. *See* Executive Order No. 12968 § 3.1(b).

CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate adjudicative factors under the revised Adjudicative Guidelines (AG) and factors in the Directive, I conclude the following with respect to all allegations set forth in the SOR:

Applicant’s delinquent debts, prompted the allegation of security concern under Guideline F since an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds (AG ¶ 18). Conditions that could raise a security concern and may be disqualifying include a history of not meeting financial obligations (AG ¶ 19 c) and evidence of inability or unwillingness to satisfy debts. (AG ¶ 19 a) Mitigating Conditions (MC) that might apply include the fact that the behavior happened so long ago or under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment (AG ¶ 20 a), or the conditions that resulted in the behavior were largely beyond the person’s control as a result of medical issues and that the person acted responsibly (AG ¶ 20 b), or the person has received counseling for financial problems and there are clear indications that the problem is being resolved or is under control (AG ¶ 20 c), or the person has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts (AG ¶ 20 d). I find that the evidence in this matter justifies application of all the cited mitigating conditions to Applicant.

In all adjudications, the protection of our national security is of paramount concern. Persons who have access to classified information have an overriding responsibility for the security concerns of the nation. The objective of the security clearance process is the fair-minded, commonsense assessment of a person’s trustworthiness and fitness for access to classified information.

The “whole person” concept recognizes we should view a person by the totality of his acts and omissions. Each case must be judged on its own merits taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis. Applicant impressed me at the hearing as a credible, hard-working person whose debts compared to his assets had accumulated as a result of his injuries to the point that they became delinquent. The conditions are unlikely to recur. He has taken significant corrective steps and established to my satisfaction that he is financially responsible.

After considering all the evidence in its totality, and as an integrated whole to focus on the

whole person of Applicant, I conclude that a security clearance should be granted.

FORMAL FINDINGS

Formal findings as required by the Directive are as follows:

_____	Paragraph 1. Guideline F:	FOR APPLICANT
	Subparagraph 1.a.:	For Applicant
	Subparagraph 1.b.:	For Applicant
_____	Subparagraph 1.c.:	For Applicant
	Subparagraph 1.d.:	For Applicant
	Subparagraph 1.e.:	For Applicant
	Subparagraph 1.f.:	For Applicant
	Subparagraph 1.g.:	For Applicant
	Subparagraph 1.h.:	For Applicant
_____	Subparagraph 1.i.:	For Applicant

DECISION

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or renew a security clearance for Applicant. Clearance is granted.

Charles D. Ablard
Administrative Judge