

DATE: December 3, 2007

In Re:

SSN: -----

Applicant for Security Clearance

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) ISCR Case No. 07-03232
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**DECISION OF ADMINISTRATIVE JUDGE
JOHN GRATTAN METZ, JR**

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Pro Se

SYNOPSIS

____ Applicant's financial irresponsibility renders her an unsuitable candidate for a security clearance. Clearance denied.

STATEMENT OF THE CASE

____ Applicant challenges the 26 July 2007 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of her clearance because of financial considerations.¹ Applicant submitted an undated answer, and requested a hearing. The case

¹Required by Executive Order 10865 and Department of Defense Directive 5220.6, as amended and modified—most recently in August 2006 (Directive).

was assigned to me 11 September 2007, and I convened a hearing 23 October 2007. DOHA received the transcript (Tr.) 31 October 2007.

PROCEDURAL RULINGS

At hearing, I left the record open to allow Applicant to provide any proof of the payments she claimed to have made during her testimony. Applicant responded in a timely fashion, but the documents she submitted were mostly unresponsive to the reason the record was left open, consisting of character references and military service awards. Accordingly, I have only considered her the portion of her post-hearing submission delineated by Department Counsel as documents 12-15 (A.E. D).

FINDINGS OF FACT

Applicant denied the financial allegations of the SOR. She is a 31-year-old order clerk for a defense contractor since April 2004. She has previously held a clearance, but her current status is unclear.

The SOR alleges six delinquent debts totaling nearly \$25,000. Each of these debts is documented in Applicant's credit reports. Three debts (SOR 1.a., 1.b., and 1.d.) are each less than \$200. Applicant claims to have paid the debt at SOR 1.b., but has provided no corroboration of that claim. She paid the debt at SOR 1.a. in August 2007 and the debt at SOR 1.d in September 2007 (A.E. B). The remaining three debts (SOR 1.c., 1.e., and 1.f.) are each more than \$7,000. Of those three, Applicant claims that the debt at SOR 1.c. to a furniture company is not hers. She and her husband had a joint account with the furniture company when they bought, and paid for (A.E. B), furniture for their house. Applicant asserts that he husband bought furniture on that account after they separated, but is unable to corroborate that claim.

Applicant's financial problems dating back to 2000. She ascribes her financial difficulties to her separation and divorce. Several of their joint accounts became delinquent because Applicant could not keep up with the payments, and her ex-husband filed for bankruptcy (A.E. C) and had himself discharged from his liability for those accounts. However, the debt at SOR 1.e. is for a time share Applicant and her husband bought after they divorced. While she has submitted some proof of payment on the account (A.E. D), she has not produced proof of her claim that she satisfied the debt. Similarly, the debt at SOR 1.f. is the deficiency balance on a voluntary repossession of Applicant's automobile. Again, she has provided some proof of past payments (A.E. D), but no corroboration of her claim that the debt has been resolved.

Applicant has undertaken some efforts to have her credit reports updated to remove accounts that are not hers (A.E. A), although she has had a difficult time getting them to respond to her. She has set aside \$800, and continues to set aside about \$100 per pay period, to pay any debts that the credit bureaus confirm are hers. Her ex-husband owes her substantial arrears in child support. She has been unable to compel his compliance in the past, and currently lacks the funds to pursue the arrears directly. She is now pursuing her remedies through the cognizant state agency.

POLICIES AND BURDEN OF PROOF

The Revised Adjudicative Guidelines list factors to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guidelines is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.²

CONCLUSIONS

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Government records reflect nearly \$25,000 of delinquent debt acquired during her marriage.³ While her divorce undoubtedly contributed to her financial difficulties, she has compounded them by purchasing a time share with her ex-husband, and her inability to effectively pursue her rights under the divorce decree, both regarding his agreement to take a certain amount of the joint debt and his obligation to pay child support.

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and multiple;⁴ indeed they appear to be ongoing. Applicant has

²See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

³¶19.(a) inability or unwillingness to satisfy debts; (b) indebtedness caused by frivolous or irresponsible spending and the absence of any evidence of willingness or intent to pay the debt or establish a realistic plan to pay the debt; (c) a history of not meeting financial obligations;

⁴¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

established that her debts were only partially due to circumstances beyond her control, and she has not acted entirely responsibly in addressing her debts.⁵ There is no evidence that she has sought credit counseling, or otherwise brought the problem under control.⁶ Applicant has taken few verifiable steps to address her debts.⁷ The two debts she has resolved are small, and were resolved only recently. While she may have a legitimate dispute on the furniture debt, the two other large debts are clearly her responsibility, and she has produced no evidence to corroborate her claims that she had resolved them. Further, the record contains little to suggest that Applicant would be able to become or remain financially stable in the future. I conclude Guideline F against Applicant.

FORMAL FINDINGS

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph a:	Against Applicant
Subparagraph b:	Against Applicant
Subparagraph c:	Against Applicant
Subparagraph d:	Against Applicant
Subparagraph e:	Against Applicant
Subparagraph f:	Against 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. Clearance denied.

John G. Metz, Jr.
Administrative Judge

⁵¶20.(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

⁶¶20.(c) 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;

⁷¶20.(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.