



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 10-08493
)
Applicant for Security Clearance)

Appearances

For Government: Ray T. Blank, Jr., Esquire, Department Counsel
For Applicant: *Pro se*

01/11/2013

Decision

HENRY, Mary E., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, Applicant's eligibility for access to classified information is granted.

Statement of the Case

Applicant completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP) on February 24, 2010. The Department of Defense (DoD) issued Applicant a Statement of Reasons (SOR) on June 13, 2012, detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines For Determining Eligibility for Access to Classified Information* (AG) implemented on September 1, 2006.

Applicant received the SOR on June 22, 2012, and he answered it on July 9, 2012. Applicant requested a hearing before an administrative judge with the Defense Office of Hearings and Appeals (DOHA). Department Counsel was prepared to proceed on October 4, 2012, and I received the case assignment on October 15, 2012. DOHA issued a Notice of Hearing on October 31, 2012, and I convened the hearing as scheduled on November 14, 2012. The Government offered exhibits (GE) marked as GE 1 through GE 6, which were received and admitted into evidence without objection. Applicant and his wife testified. He submitted exhibits (AE) marked as AE A through AE K, which were received and admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on November 26, 2012. I held the record open until December 14, 2012, for Applicant to submit additional matters. Applicant timely submitted AE L - AE W, which were received and admitted without objection.¹ The record closed on December 14, 2012. AE X was submitted after the close of the record without objection from the Government. This document finalizes information provided in AE V and is relevant to a resolution of this case. It is admitted into evidence.

Procedural Ruling

Notice

Applicant received the hearing notice on November 12, 2012, less than 15 days before the hearing. I advised Applicant of his right under ¶ E3.1.8 of the Directive to receive the notice 15 days before the hearing. Applicant affirmatively waived his right to the 15-day notice. (Tr. 8.)

Findings of Fact

In his Answer to the SOR, Applicant admitted the factual allegations in ¶¶ 1.a-1.i, 1.k, 1.o, 1.r, and 1.s of the SOR. His admissions are incorporated herein as findings of fact. He denied the factual allegations in ¶¶ 1.j, 1.l-1.n, 1.p, and 1.q of the SOR.² He also provided additional information to support his request for eligibility for a security

¹AE L is a copy of emails from Applicant; AE M is a copy of earnings statements for October and November 2012; AE N is a budget; AE O is a copy of debt disputes; AE P is letters of recommendation; AE Q is a copy of Applicant's performance reviews for 2009 through 2011; AE R is a letter from Applicant's father-in-law; AE S is a copy of a debt payment; AE T is a statement of account on a school loan; AE U is a payment history statement on a second school loan; AE V through AE X are court documents related to modification of his child custody and child support issues.

²When SOR allegations are controverted, the Government bears the burden of producing evidence sufficient to prove controverted allegations. Directive, ¶ E3.1.14. "That burden has two components. First, the Government must establish by substantial evidence that the facts and events alleged in the SOR indeed took place. Second, the Government must establish a nexus between the existence of the established facts and events and a legitimate security concern." See ISCR Case No. 07-18525 at 4 (App. Bd. Feb. 18, 2009), (concurring and dissenting, in part) (citations omitted). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 08-06605 at 3 (App. Bd. Feb. 4, 2010); ISCR Case No. 08-07290 at 2 (App. Bd. Nov. 17, 2009).

clearance. After a complete and thorough review of the evidence of record, I make the following additional findings of fact.

Applicant, who is 32 years old, works in information technology (IT) and resource management for a DoD contractor (Company D). He began his current position in October 2011. Applicant has worked as a DoD contractor since August 2007, when he began working for Company A as a deployment technician. He left his job with Company A in December 2007 because of issues with payment of his travel expenses and salary. He worked for Company B, another DoD contractor, as a computer technician from January 2008 until September 2009. He accepted a position with Company C, another DoD contractor in September 2009. Company D purchased Company C in October 2009, and Applicant continues to work for Company D. From 2007 until October 2011, Applicant's work duties required him to travel to various company work sites inside and outside the United States most of the year.³

Applicant provided four letters of recommendation from co-workers and his team lead. They describe him as responsible, knowledgeable, independent, dedicated, and pleasant. They rely on him and his knowledge on a daily basis. His two performance reviews reflect that he completed all his goals and received an "achieves expectations" rating.⁴

Applicant graduated from high school in 1998 and enlisted in the military immediately. Five months later, the military gave him an entry level separation. Applicant has attended college, but he has not completed a degree program.⁵

Applicant married his first wife in November 2002, and they divorced in July 2005. They have a 10-year-old son, who began living with Applicant in July 2012. Applicant has paid child support for his son for many years and continued to make payments after his son began living with him. Applicant hired an attorney, at the cost of \$2,500, to file court papers to modify the custody arrangement and child support payments for his son. His first wife agreed to the changes and signed the appropriate papers. His attorney submitted these papers to the court, and on January 3, 2013, the court signed an order, which acknowledged that Applicant's 10-year-old son lived with him, eliminated his monthly child support payments of \$532, and directed his former wife to reimburse Applicant \$2,412 in child support overpayments at the rate of \$135 a month. His former wife is not required to pay him child support.⁶

Applicant married his second wife in November 2005; they separated a year later; and they divorced in October 2008. They did not have children. Applicant married

³GE 1; Tr. 29-30, 43.

⁴AE P; AE Q.

⁵GE 1; Tr. 9.

⁶GE 1: AE K; AE V - AE X; Tr. 30, 33-34, 51.

his current wife in December 2011. They have a six-month-old son. He also has three step-daughters, six-year-old twins and a four-year-old. His wife receives sporadic child support from the father of her daughters.⁷ Applicant coaches fifth grade basketball.⁸

Applicant's wife does not work. He earns \$5,373 a month in gross income. His net monthly income totals \$2,438 after deductions, which include his \$532 monthly child support payments and \$650 monthly school loan payments. He and his family live with his wife's father. His father-in-law receives \$1,300 a month in social security income, making a total household income of \$3,738. The total monthly household expenses amount to \$3,535, including \$320 towards debt payment. The monthly remainder totals \$198 for miscellaneous expenses, such as haircuts, car repairs, postage, and clothes. The payments from his first wife are not included in his budget. There is no evidence the payments have begun, although Applicant indicated he would use this money towards bill payment.⁹

In 2001, Applicant and a friend rented an apartment and worked together at a distribution company (Company E). In December 2001, Company E laid off both Applicant and his friend. Applicant did not collect unemployment. When he and his friend exhausted their funds, they were unable to pay their rent and other bills. Their apartment complex evicted them. Applicant obtained employment by April 2002. The debts alleged in SOR allegations 1.q (\$163), 1.r (\$185), and 1.s (\$2,045) relate to this period of unemployment. The September 2007 credit report reflects that these debts became past-due around March 2002. Applicant has paid the debt in SOR allegation 1.q. He and his roommate are still friends, and Applicant has spoken to his roommate about paying his share of these debts. No agreement has been reached between them about payment.¹⁰

After he and his first wife divorced, Applicant could no longer pay the rent on their apartment and moved out. He relates the debts in SOR allegations 1.c (\$1,426) and 1.k (\$3,940) to his divorce. The September 2007 credit report indicates that the debt in allegation 1.k became past-due in December 2005 and the January 2012 credit report indicates the debt in allegation 1.c became past-due in April 2008. These debts are not resolved.¹¹

Applicant traveled continuously when he started working for Company A in August 2007. This company gave him a business credit card to pay his travel expenses.

⁷The father of Applicant's stepdaughters is required to pay \$440 a month in child support. He sends a payment every few months. Tr. 36.

⁸GE1; Tr. 30-31, 33.

⁹AE H; AE M; AE N; AE R.

¹⁰GE 3; AE D; Tr. 36-38.

¹¹GE 3; GE 5; Tr. 45-46.

Within a few months, Applicant encountered problems with his travel pay and his income. His monthly checks provided enough income to pay his business credit card bill and no other bills. He fell behind in his other bills, including school loans and his car payment, and eventually incurred a \$16,000 debt on his company business credit card, which he denies owing. He left this company because of these payment problems. He does not have a copy of his earnings statement or travel expense sheets from this employment. Company A has refused to provide him with copies of his earnings statements and travel expense sheets when he requested it.¹² His wife contacted the credit card company, which told her that it did not have any information on this debt. After the hearing, Applicant sought a copy of his bank statements from July 2007 through December 2007, but since his bank no longer exists, and he no longer has the account number, the successor bank could not provide him with any information. Applicant has held business credit cards for travel expenses from subsequent employers without a problem. He continues to dispute this debt.¹³

Applicant acknowledges that when he traveled continuously, he lost track of his bills and debts. He used his mother's home as his mailing address. Most mail was not forwarded to him because he regularly changed hotels and had trouble getting mail. He knows that mail was lost.¹⁴

SOR allegations 1.e through 1.h concern four school loans and total approximately \$8,000. Initially, these loans were deferred, but by 2010, the loans had been assigned to the Government for payment. The new creditor, identified in the SOR, contacted Applicant. Applicant agreed to a monthly payment and agreed to have the payments made directly to the creditor from his pay check, which is shown as a garnishment on his pay stubs. The creditor verified that Applicant has paid \$14,600 on his debt as of November 19, 2012. The creditor indicated that Applicant still owed \$3,500 on his debt and that the debt would be paid in full on December 28, 2012. Given his payment in December 2012 would amount to \$650, there is an inconsistency in the information provided by the creditor. Applicant stated that he would pay the balance on this debt with his tax refund in 2013.¹⁵ Based on Applicant's testimony and the information provided by the creditor, this debt will be paid shortly. Once this debt is resolved, Applicant will have \$650 a month available to pay other debt.¹⁶

¹²Applicant is now keeping copies of his earnings statements and expense sheets as he understands he must do so. Tr. 52.

¹³GE 4; AE L; Tr. 43, 47-53, 74-77, 94-97.

¹⁴Tr. 75-76, 99.

¹⁵Applicant testified that he and his wife received a substantial tax refund for the tax year 2011. He anticipates a similar refund for the tax year 2012. He stated he would use this money to pay debt. Tr. 60.

¹⁶GE 2 - GE 6; AE M; AE T; AE U; Tr. 40-43, 60.

Applicant has a second school loan debt. He fell behind on paying this debt in the past. He reached an agreement to make monthly payments of approximately \$150 to rehabilitate the loan. He began rehabilitation payments on this loan in April 2009. By July 28, 2011, Applicant had paid \$4,717. The creditor found the loan rehabilitated on August 14, 2011. In March 2012, Applicant made two payments, totaling \$552 and has paid \$92 a month on this loan since then. This debt is not listed in the SOR, although an unpaid fee of \$75, which relates to this school admission, is identified in SOR allegation 1.p. Applicant paid this debt.¹⁷

The creditor in SOR allegation 1.o (\$17,853 car loan default) sold this debt to another creditor. The new creditor filed a collection action against Applicant. Applicant reached an agreement with the creditor through its attorney. Applicant agreed to an entry of consent judgment against him. Under the terms of the agreement, the court found that Applicant owed the creditor \$13,078, plus attorney fees of \$3,361 for a total of \$16,439 plus an annual interest of 20.24% from July 7, 2011 until the judgment is paid in full. The creditor agreed to a stay of execution on the judgment as long as Applicant paid \$8,500 at the rate of \$125 a month beginning June 15, 2012 until paid. Applicant has made the payments as required. He stated that if he is late on the payments, the full debt will become due and payable. He intends to make each payment timely, and the payments are part of his monthly budget.¹⁸

Applicant and his wife indicate that they have worked with creditor counselors to develop a plan to resolve their debts, but they have not provided the name of the counselors. They have developed a payment plan for their debts (Applicant's and his wife's). They have paid 11 small debts in addition to the school loans and judgment debt payments. Along with the paid debts already discussed, Applicant paid the debts in SOR allegations 1.l (\$63) and 1.n (\$27). He also disputed several debts listed on his credit report. Most of the disputes have not been resolved in his favor. He did not believe he owed the debt in SOR allegation 1.i (\$507); however, after the hearing, he investigated this debt and determined that he did owe it. The debt is on his list of debts to pay. He continues to seek information from the original creditor about the \$81 debt in SOR allegation 1.m, as he believes this debt is paid.¹⁹

The credit reports of record reflect that Applicant fell behind in his child support payments and that he resolved this arrearage sometime ago. The credit reports also show that he resolved at least one other overdue debt. Based on the credit reports, most of Applicant's SOR past-due debts occurred between the summer of 2007 and the end of 2009. Applicant has not incurred any additional past-due debts in the last three years. Instead, he has paid approximately \$21,000 towards old debt. When Applicant worked at Company A, he experienced a serious medical event, which required

¹⁷GE 2; AE C; AE E; AE N; Tr. 39-41.

¹⁸AE I; AE J; AE S.

¹⁹AE A; AE B; AE F; AE G; AE L; AE O.

treatment. Company A provided no health insurance, leaving him with \$5,000 in medical bills. Most of the SOR debts are not listed on his 2012 credit reports.²⁰

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." An applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

²⁰GE 3- GE 6; Tr. 43.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

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.

AG ¶ 19 describes the disqualifying conditions that could raise security concerns. I have considered all the conditions, and the following are potentially applicable:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Appellant developed significant financial problems after he started working for Company A. He also incurred debts when he lost a job in 2001, and when he and his first wife divorced. He did not keep an account of his debts, which have not been timely resolved. These two disqualifying conditions apply.

The Financial Considerations guideline also includes examples of conditions that can mitigate security concerns. I have considered mitigating factors AG ¶ 20(a) through 20(f), and the following are potentially applicable:

- (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;
- (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;
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant lost his job in 2001, which started his debt problems. He married a year later and divorced in 2005, which created more unpaid debts. He incurred additional debt after his second divorce in 2008. Issues arose with Company A over the payment of his salary and travel expenses, which resulted in issues with his business credit card and payment of his other bills. He had \$5,000 in unreimbursed medical expenses. These events were beyond his control. During this time frame, he paid his child support and child support arrearage. He developed payment plans for his school debt and complied with these plans for more than two years. AG ¶ 20(b) partially applies because he ignored many of his other debts for a long time.

Applicant and his wife have worked with credit counselors. With their assistance, Applicant and his wife have a plan to resolve all their unpaid debts. They have paid 11 small debts belonging to both of them. They have a budget, which includes more than \$300 a month in past-due debt payment. Applicant has not incurred any new past-due debt in over three years. He has resolved several small SOR debts and made a good-faith effort to resolve his school loans. AG ¶ 20(c) applies and AG ¶20(d) partially applies.

Applicant challenged several debts with the credit reporting companies because he did not believe he owed the debts. He continues to challenge two debts listed in the SOR. Some of his disputes were not resolved in his favor. His decision to challenge these debts was legitimate. AG ¶ 20(e) is applicable to the two debts he has continued to challenge.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of an applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. The decision to grant or deny a security clearance requires a careful weighing of all relevant factors, both favorable and unfavorable. In so doing, an administrative judge must review all the evidence of record, not a single item in isolation, to determine if a security concern is established and then whether it is mitigated. A determination of an applicant's eligibility for a security clearance should not be made as punishment for specific past conduct, but on a reasonable and careful evaluation of all the evidence of record to decide if a nexus exists between established facts and a legitimate security concern.

In assessing whether an Applicant has established mitigation under Guideline F, the Appeal Board provided the following guidance in ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008):

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts." See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007). However, an applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006). All that is required is that an applicant demonstrate that he has ". . . established a plan to resolve his financial problems and taken significant actions to implement that plan." See, e.g., ISCR Case No. 04-09684 at 2 (App. Bd. Jul. 6, 2006). The Judge can reasonably consider the entirety of an applicant's financial situation and his actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ("Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.") There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. See, e.g., ISCR Case No. 06-25584 at 4 (App. Bd. Apr. 4, 2008). Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

The evidence in support of granting a security clearance to Applicant under the whole-person concept is more substantial than the evidence in support of denial. In reaching a conclusion, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. After he lost his job in 2001, Applicant incurred about \$2,500 in unpaid debts, which he ignored. After his first marriage ended in 2005, he incurred another \$5,500 in unpaid debts, although he regularly paid his child support. After he started working for Company A, he encountered significant problems with payment of his travel expenses and salary, which

created significant debt problems for him. He left this company in late 2007 to work for another company in a job which required him to continuously travel. About this time, his second marriage ended. He decided to use his mother's house as his mailing address, which resulted in major problems with his mail. He lost track of his mail, including his bills and other financial statements, because he was careless about keeping a close watch on his mail and bills. He acknowledges that he did not give priority to paying his debts, except his child support and school loans. By 2009, he had regular payments in place for two large school loans.

Applicant has almost fully paid his \$17,000 school loan and is regularly paying his other school loan after complying with the requirements for rehabilitating the loan. More recently, Applicant has undergone significant behavioral changes. He has taken responsibility for his debts, and with the help of his wife, he has a plan of action to pay his debts. Applicant and his wife developed a budget, which includes more than \$300 a month to pay past-due debts. He negotiated an agreement to pay the \$17,000 car repossession debt and complies with the terms of this agreement. They have paid 11 small bills. His oldest son came to live with him recently, causing a change in his child support obligations. He is no longer paying \$532 a month in child support and will use this money towards debt reduction. He anticipates that his \$650 a month school loan payments will end shortly, which will provide him with additional funds to reduce his debts. His largest unresolved debt is in dispute. He has been unable to obtain relevant information from Company A or the credit card company on this debt. He has taken control of his finances and lives within his monthly income. He and his family live with his father-in-law to help reduce expenses. He has sufficient income each month to meet his normal living expenses and to pay some of his debts. While he did not act responsibly towards all his debts in the past, he has taken responsibility for the old debts he knows he owes. With the increase in funds available each month for debt payment, Applicant will be able to resolve his debts faster. His employer and co-workers recognize his dedication, integrity, and knowledge in the performance of his job and highly respect him. He has a good record of work performance and is an asset to his company. He is married and raising five children. He stopped traveling to focus his attention on providing a stable domestic environment for his family. Most significantly, he has taken affirmative action to pay or resolve his delinquent debts, one at a time. (See AG ¶ 2(a)(6).) He has not been able to pay all his debt, as he must support his family. The issue is not simply whether all his debts are paid: it is whether his financial circumstances raise concerns about his fitness to hold a security clearance. While some debts remain unpaid, they are insufficient to raise security concerns as he has a plan of action to pay his debts and an established track record of debt payment. He will continue to do so. (See AG ¶ 2(a)(1).)

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from his finances under Guideline F.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraphs 1.a - 1.s: For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

MARY E. HENRY
Administrative Judge