DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 18-02538
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Bryan Olmos, Esq., Department Counsel
For Applicant: *Pro se*

10/04/2019

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Decision

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HEINY, Claude R., Administrative Judge:

Applicant contests the Department of Defense's (DoD) intent to deny his eligibility for a security clearance to work in the defense industry. He failed to provide sufficient evidence to explain why he was unable to pay or otherwise resolve the delinquent obligation listed in the Statement of Reasons (SOR). Additionally, he used marijuana after being granted a security clearance in 2013. Financial considerations and personal conduct security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On November 14, 2018, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued an SOR to Applicant, detailing the security concerns under Guideline F, financial considerations, and Guideline E, Personal Conduct, under which it was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him.

The DoD CAF acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD 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) effective within the DoD on June 8, 2017.

On December 14, 2018, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). (SOR Response) On March 21, 2019, DOHA issued a Notice of Hearing scheduling a hearing that was conducted on April 10, 2019.

Eight Government exhibits (Ex. 1 – 8) and three Applicant exhibits (Ex. A – C) were admitted into evidence without objection. The record was held open following the hearing to allow Applicant to submit additional documentation. On May 2, 2019, four additional documents were received and admitted into evidence without objection as Ex. D – G. Applicant testified, as reflected in a transcript (Tr.) received on April 19, 2019.

Findings of Fact

In Applicant's answer to the SOR, he admitted he was aware of the account that charged off $26,191 following the voluntary repossession of his vehicle. He admitted being charged with Driving While Intoxicated (DWI), and admitted that he drank a lot after he left the military, but denied admitting during a 2015 substance abuse evaluation that he had a drinking problem, and denied the marijuana allegations. After a thorough review of the pleadings and exhibits, I make the following findings of fact.

Applicant is a 49-year-old technical support associate who has worked for a defense contractor since June 2005 and seeks to retain a security clearance. In 2013, he was granted a secret security clearance. (Ex. 3, Tr. 62) He was also granted a security clearance in the 1990s. (Ex. 4) He is married, and has three children ages 25, 21, and 17. (Tr. 12) His son is in high school and still lives with him. (Tr. 63) His wife has a cosmetology job. (Ex. 3, Tr. 25) Her income is not part of the record. His annual income is $55,000, plus overtime. (Tr. 63)

From July 1989 through July 1993, Applicant honorably served on active duty with the U.S. Army. He left the Army as an E-4. (Ex. 1) He served in Iraq, Kuwait, Saudi Arabia, and Bahrain. (Tr. 32) From October 1990 to April 1991, he was deployed for seven months in support of Operation Desert Storm. (Ex. 2) Desert Storm started on August 2, 1990 and ended February 28, 1991. He was also deployed to Kuwait for three and a half months from May 2002 through August 2002 in the Liberation of Kuwait campaign. (Ex. 1, Ex. 2) His unit deployed again, but he did not go since the deployment started three days after his expiration term of service (ETS) date. (Tr. 34) In 2008 or 2009, he was diagnosed with post-traumatic stress disorder symptoms (PTSD). (Ex. 3, Ex. 5) He says he went to the U.S. Department of Veterans Affairs (VA) for help, but stopped going to the VA a few years ago. (Tr. 52) He does not receive any VA disability compensation. (Tr. 80)

When Applicant completed his March 2017 Electronic Questionnaires for Investigation Processing (e-QIP), he indicated he had two delinquent obligations of $428 and $103. He also listed a delinquent $1,800 student loan and stated he was currently in the process of establishing a monthly $250 automatic draft to pay the student loan obligation. (Ex. 1)

In Applicant's January 2018 Enhanced Subject Interview, he stated he drank heavily after work every other day and on most weekends while on active duty until 1993. (Ex. 3) He indicated his consumption of alcohol increased after his deployment during Desert Storm as he would drink to escape the feeling that being in active combat invoked. (Ex. 3) After leaving the Army, he would drink three or four beers and a couple of shots of hard liquor two times a week. In 2004/2005, he stopped drinking beer and started drinking red wine. (Ex. 3)

Applicant stated he first used marijuana in 1992, the night before his deployment to Kuwait in hopes a positive urinalysis would prevent his deployment overseas. (Ex. 3, Tr. 20) There was no urinalysis before his deployed. He did not smoke marijuana during his deployment, but did some two or three times a year until 1997/1998. (Ex. 3) At the hearing, he said he only used marijuana one time, the night before his deployment to Kuwait. (Tr. 33) During the hearing he stated that after leaving the Army his marijuana use "was pretty regularly, pretty regularly when I got out. It was, I wouldn't say every day, but it was a lot more than what I – my consumption when I was in the military." (Tr. 34)

Applicant asserted he started using marijuana less after his children were born in 1993 and 1998. (Tr. 35) At the hearing he asserted his last use of marijuana was in the late 1990s. (Tr. 36) In his January 2018 interview, he stated he had not used marijuana since 1997/1998. (Ex. 3)

A November 2015 Substance Abuse Evaluation stated Applicant met the criteria for alcohol abuse. (Tr. 4) In the alcohol/drug history portion of the evaluation it stated:

> While in the Army on active duty he drank almost every day until drunk or buzzed in order to forget. In his mid-30s he drank 6 beers on 4 nights a week. In his 40s (since 2010) until his DWI arrest he drank 3-4 times a week, usually 2-3 shots during the week and up to 4 shots on weekends. He mostly stopped drinking beer 3 years ago. In the past 5 years he recalls getting drunk once a month and has experienced a few blackouts. He last drank in September 2015.
>
> He began smoking marijuana at 15 and said he quit in August of this year. At the peak of his pot smoking he was smoking daily "in spurts." In 2015 he said he got high 10-20 times.
>
> In the past year [Applicant] has noticed that he has been drinking too much because of anger and frustration with his life. He said he drinks and smokes to forget and to help him deal "with stuff." (Ex. 4)

In the Patient's Report section of the evaluation, it states Applicant admits to having a drinking problem, but not a drug problem. (Ex. 4) The evaluation stated Applicant was suffering from PTSD as a result of his military service in Desert Storm. He suffered from flashbacks and nightmares, experienced depression, anxiety, and hyper-vigilance. (Ex. 4) In response to the evaluation stating that Applicant quit smoking marijuana in August 2015, he stated, "The truth is that I stated I have used marijuana before, and I used to get high quite often when I first got out of the military, but I no longer use it." (Ex. 4, Tr. 39) His response never specifically denied he stated he quit using marijuana as of August 2015. A month after the evaluation, marijuana was found in the vehicle he was driving. (Tr. 43)

In September 2015, Applicant attended a family party over the Labor Day weekend. He arrived at the party at 5:00 p.m. and over the course of six or seven hours consumed two or three shots of tequila and "a couple of beers." Later at 1:42 a.m. when stopped by the police his blood alcohol content (BAC) was above .15. (Ex. 3, Tr. 26)

When the party ended, Applicant felt his daughter was not able to drive herself home, so he did. (Ex. 6) After dropping her at her home he continued onto his home. He asserted he was attempting to roll up the passenger-side window when he ran into the curb. He was stopped by the police. He refused a breathalyzer test and was taken into custody and charged with Driving Under the Influence (DUI) of alcohol. (Ex. 3) He said that he had a couple of beers and a couple of mixed drinks at the family event. In a search of the vehicle, a small bag of marijuana was found between the seats. He was charged with possession of marijuana, but the charge was later dismissed. (Ex. 3)

Applicant paid his attorney $5,000. (Tr. 28) Applicant was found guilty of DUI with a BAC greater than .15, fined $2,457, and required to complete 21 months of supervised probation, which ended in July 2017. (Ex. 4, Ex. 6) Following the completion of his supervised probation, he was required to pay a $1,000 surcharge each year for three years to the Department of Public Safety. He was also required to complete 80 hours of community service, which he did at an animal shelter. (Tr. 29) He completed the community service in December 2015 and January 2016. (Ex. F)

Applicant was required to attend a Mothers Against Drunk Driving class and ordered to have a Substance Abuse Evaluation. (Ex. 3) In October 2015, he attended nine Alcoholics Anonymous meetings. (Ex. D) In October 2015, he completed a court required DWI Education Program. (Ex. F) He had a smart start interlock device installed on his vehicle and was required to pay $75 monthly for the 21 months the device was on his vehicle. (Ex. 3) Applicant believes the arrest cost him approximately $25,000. (Ex. 3) He asserts he has reduced his alcohol consumption, but continues to consume alcohol on weekends. (Tr. 35)

On January 5, 2016, Applicant's son was suspended from school for three days after coming to basketball practice smelling of marijuana. A search of his person discovered two marijuana buds. (Ex. A) Applicant believes the marijuana discovered

during his DUI stop belonged to his son. (Ex. 3, Tr. 43) When asked, his son denied it was his or that of his friends. (Tr. 31)

In Applicant's July 25, 2018 response to written interrogatories, he says he was last intoxicated in July 2018, the month he completed his response. (Ex. 4) In his response, he stated he had been informed he met the criteria for alcohol abuse and was recommended to complete counseling and continued with individual therapy. (Ex. 4)

From June 2018 through August 2018, Applicant had eight appointments with a doctor to address anxiety and PTSD. (Ex. B, Ex. 5) Applicant attended all scheduled sessions and successfully achieved all of his goals. (Ex. B, Ex. 5) On September 13, 2018, his doctor indicated Applicant's prognosis was "Most favorable." (Ex. B, Ex. 5)

Applicant was also approved for eight sessions of counseling or treatment from May 1, 2019 to December 31, 2019, through the Employee Assistance Program (EAP). (Ex. C) It is noted that the period of treatment has not ended. No information was received concerning the nature of the sessions or what benefit he has received from the sessions. He currently takes medication for depression, PTSD, and anxiety. (Tr. 54)

In June 2010, Applicant and his wife purchased an automobile for approximately $25,537 with $583 monthly payments. (Ex. 2, Ex. 7) His wife was to make the monthly payments, but failed to do so in a timely manner. In June 2011, $22,441 was past due when they surrendered the car. (Ex. 6) In September 2009, following the repossession, $15,149 was charged off on the vehicle. (Ex. 2) When asked about the debt during his January 2018 subject interview, he agreed with the delinquent account, but was unsure of the balance. (Ex. 3) His position on the delinquent debt was that since he no longer had the vehicle he had no reason to pay the debt. (Ex. 3, Tr. 59)

At the time of the hearing, Applicant had done nothing to address the delinquent obligation. (Tr. 61) He asserted that following the hearing, he would contact the creditor and take care of the debt. (Tr. 62, 64) No information or documentation concerning discussions with the creditor or payment on the debt was received following the hearing.

During Applicant's November 2013 subject interview, he indicated he was laid off from his job for three months from January 2004 through March 2004, and his wife was laid off from her job in early 2004. (Ex. 2) His mortgage became delinquent and the house went to foreclosure in 2005 or 2006. (Ex. 2) In his January 2018 subject interview, he stated the vehicle repossession was due to his wife losing her job and he was recovering from a layoff. However, the only evidence produced at the hearing indicates his wife lost her job in 2004, and he was laid off in 2004. As listed on his September 2013 security clearance application, his only period of unemployment between July 2000 and September 2013 was during the first three months of 2004. The vehicle was purchased six years later, in June 2010.

Applicant's financial issues may have been contributed to by a $400 per month garnishment commenced in 1998. The garnishment was for child support for his daughter. The child support ended in 2011, when his daughter graduated from high school. (Ex. 2)

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 must be considered 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(a), the adjudication process is an examination of a sufficient period and a careful weight of a number of variables of an individual's life to make an affirmative determination that the individual is an acceptable security risk. This is known as the whole-person concept.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the 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, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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 of 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

AG ¶ 18 articulates the security concern for financial problems:

> Failure 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 or sensitive information. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

The Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

> This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes three disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts," "(b) unwillingness to satisfy debts regardless of the ability to do so," and "(c) a history of not meeting financial obligations." In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

> It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

The record having established disqualifying conditions, additional inquiry about the possible applicability of mitigating conditions is required. Applicant has the burden of establishing that matters in mitigation apply. Five financial considerations mitigating conditions under AG ¶ 20 are potentially applicable in this case:

(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;

(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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to 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 purchased a vehicle in June 2010 and voluntarily surrendered it. He asserted he was unable to make the monthly payments because he had been laid off and his wife had lost her job. However, both of those events occurred in 2004, six years before the car was purchased. Once the vehicle was repossessed and resold, Applicant owed $15,149. He acknowledged the debt, but was unsure of the balance owed on the vehicle. He stated he did not want to pay the delinquent obligation because he no longer owned the car. He said he would contact the creditor and address the debt. No documentation showing this occurred has been received.

AG ¶ 20(a) does not apply because the debt remains unpaid and there is no showing it occurred under circumstances that are unlikely to recur. AG ¶ 20(b) does not apply because Applicant's and his wife's job losses occurred six years before they purchased the vehicle.

An applicant is not required to establish that he has paid the delinquent debt in the SOR. However, an applicant needs to show that he has a plan to resolve this debt and that he has taken significant steps to implement his plan. Applicant was questioned about the debt during his November 2013 interview, during his January 2018 interview, and it was listed in his November 2018 SOR. At the hearing, he stated he intends to contact the creditor and pay the debt. A promise to pay a debt at some future date is not a substitute for a track record of timely payments. *See* ISCR Case No. 07-13041 at 4 (App. Bd. Sep. 19, 2008) (citing ISCR Case No. 99-0012 at 3 (App. Bd. Dec. 1, 1999)). There is no evidence of financial counseling or a good-faith effort to repay the debt. Without

documented progress toward resolving the debt in the SOR, neither AG ¶ 20(c) nor AG ¶ 20(d) apply.

AG ¶ 20(e) does not apply because Applicant acknowledged the debt. None of the mitigating conditions apply. Under all of these circumstances, Applicant failed to establish that financial considerations security concerns are mitigated.

Guideline E: Personal Conduct

The security concern about personal conduct is articulated in AG ¶ 15:

> Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Concerning the Government's case for disqualification under the personal conduct guideline because of Applicant's marijuana use continued until 2015, the Appeal Board has held that security-related conduct can be considered under more than one guideline, and in an appropriate case, be given independent weight under each. *See* ISCR Case No. 11-06672 (App. Bd. Jul. 2, 2012). Applicant exercised "questionable judgment" within the general security concerns set forth in AG ¶ 15 when he used marijuana while holding a security clearance, which he received in 2013. Separate from the risk of physiological impairment associated with the use of a mood-altering substance, Applicant had an obligation as a clearance holder to comply with federal law prohibiting marijuana use. AG ¶ 16(d) provides:

> (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself of an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of: . . .
>
> (3) a pattern of dishonesty or rule violations.

The Director of National Intelligence (DNI) issued an October 25, 2014 memorandum concerning adherence to federal laws prohibiting marijuana use. In doing so, the DNI emphasized three things. First, no state can authorize violations of federal law, including violations of the Controlled Substances Act, which identifies marijuana as a Schedule I controlled drug. Second, changes to state laws (and the laws of the District of Columbia) concerning marijuana use do not alter the national security adjudicative

guidelines. And third, a person's disregard of federal law concerning the use, sale, or manufacture of marijuana remains relevant when making eligibility decisions for sensitive national security positions.

It is difficult to believe that Applicant did not know that marijuana possession and use was and continues to be illegal under U.S. federal law, not only given his age, level of education, and experience, which includes his employment with a defense contractor with a security clearance for six years. Nothing about the circumstances of his recreational marijuana use mitigates or justifies his noncompliance with federal law and the requirements of his security clearance eligibility.

Although Applicant asserts he last used marijuana in the late 1990s, the November 2015 Substance Abuse Evaluation stated Applicant said he had stopped using marijuana three months prior the evaluation, in August 2015. The evaluation also stated Applicant got high 10 to 20 times in 2015. He used marijuana after receiving a clearance in the 1990s and after he received a clearance again in 2013. At times, he was using marijuana daily. I find Applicant self-serving statement that the stopped using marijuana in the 1990s to be lacking in credibility. A statement made during a medical evaluation tends to be more reliable and credible because the person making the statement is motivated to provide accurate information to the treatment provider to ensure proper medical treatment is received.

The November 2015 Substance Abuse Evaluation stated Applicant met the criteria for alcohol abuse. In the evaluation, he admitted having a drinking problem, but not a drug problem. At the hearing, he stated he no longer believes he has a drinking problem. While in the Army on active duty he drank almost every day until drunk or buzzed in order to forget. In his mid-30s he drank six beers on four nights a week. In his 40s, from 2010 until his September 2015 DUI, he drank three to four times a week. As of November 2015, he recalled getting drunk once a month during the previous past five years and that he had experienced a few blackouts. Applicant's July 25, 2018 response to written interrogatories, he says he was last intoxicated in July 2018, the month he completed his response.

As to Applicant's September 2015 DUI, he asserted that he over the course of six or seven hours he consumed two or three shots of tequila and "a couple of beers." I find this assertion to lack credibility in that at 1:42 a.m. when stopped by the police, his BAC was above .15. It is not possible for three shots of alcohol and two beers over the course of six or seven hours to result in such a high BAC, unless the beers had high alcohol content and a very large volume. He still consumes alcohol, but asserted he had reduced his consumption.

Applicant has had no criminal alcohol-related involvement in four years. The record does not contain any other alcohol-related incidents away from at work or away from work. However, there are indications of habitual or binge consumption of alcohol to the point of impaired judgment since his DUI arrest. He admitted he was intoxicated in July 2018, approximately nine months before the hearing. Additionally, he met the criteria for alcohol abuse and it was recommended he continue individual counseling. He has

received counseling and has been authorized to continue counseling through the end of 2019. The record is silent as to the nature of the counseling or the benefits Applicant has received from the counseling. He followed all court orders following his DUI. With his last intoxication in July 2018 and the diagnoses of alcohol abuse, it is too soon to conclude alcohol consumption is no longer a problems.

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 the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

> (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 common sense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. The comments under Guideline F and Guideline E are incorporated in the whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

I considered Applicant's honorable service to the U.S. Army from July 1989 through July 1993, his deployment during Desert Storm in 1990 and 1991, and his deployment to Kuwait in 2002. Appellant deployments to qualified hazardous duty areas entitling him to receive hostile fire pay or imminent danger pay. His military service in harm's way in support of the United States military merits considerable respect. However, his service does not mitigate the financial consideration and personal conduct security concerns.

A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. Applicant did not provide any evidence of payments, payment plans, or other actions to resolve the delinquent debts alleged in the SOR. Applicant's actions show a lack of financial responsibility and raise unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. He was questioned about the delinquent obligation during his 2013 interview, during his January 2018 interview, and in his November 2018 SOR. The debt remains unpaid and there is no documentation that he has contacted the

creditor. I conclude that Applicant's financial considerations security concerns are not mitigated.

The record shows questionable judgment and unwillingness to comply with rules and regulations for his use of marijuana while holding a security clearance. To conclude, Applicant did not present sufficient evidence to explain, extenuate, or mitigate the security concerns. Applicant did not meet his ultimate burden of persuasion to obtain a favorable clearance decision. In reaching this conclusion, the whole-person concept was given due consideration and that analysis does not support a favorable decision.

The law, as set forth in *Egan,* Exec. Or. 10865, the Directive, and the AGs, have been carefully applied to the facts and circumstances in the context of the whole person. The issue is not simply whether all the delinquent obligations have been paid—it is whether his financial circumstances raise concerns about Applicant's fitness to hold a security clearance. (*See* AG ¶ 2(c)) Additionally, his use of marijuana while holding a clearance is of concern. Overall, the record evidence leaves me with questions and doubts about his eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the financial considerations and personal conduct security concerns.

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, Financial Considerations:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Paragraph 2, Personal Conduct:	AGAINST APPLICANT
Subparagraphs 2.a - 2.d:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

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CLAUDE R. HEINY II
Administrative Judge