



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



In the matter of:)
)
) ISCR Case No. 12-08463
)
Applicant for Security Clearance)

Appearances

For Government: Alison O’Connell, Esq., Department Counsel
For Applicant: Matthew L. Davis, Esq.

12/17/2018

Decision

CREAN, THOMAS M., Administrative Judge:

Applicant did not provide sufficient documentary evidence to mitigate all financial, alcohol, and criminal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted Electronic Questionnaires for Investigations Processing (e-QIP) on June 18, 2016 (Government Exhibit (GX) 1), and March 29, 2012 (GX 3), to obtain a security clearance required for a position with a defense contractor. He was granted access to classified information after submission of the 2012 e-QIP. However, the Department of Defense (DOD) could not make the affirmative findings required to continue his eligibility for access to classified information after he submitted his 2016 e-QIP. On June 28, 2017, DOD issued Applicant a Statement of Reasons (SOR) detailing security concerns for alcohol consumption (Guideline G), criminal conduct (Guideline J), and financial considerations (Guideline F). DOD amended the SOR on October 17, 2017, to more clearly outline the allegations under Guidelines G and J. 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 (AG) effective in the Department of Defense on June 8, 2017.

Applicant answered the original SOR on July 19, 2017. He admitted the four financial allegations under Guideline F. He answered the amended SOR on October 25, 2018, admitting the two allegations of alcohol consumption under Guideline G and the one allegation of criminal conduct under Guideline J. Department Counsel was prepared to proceed on the original allegations on October 23, 2017, and the case was assigned to me April 13, 2018. DOD issued a notice of hearing on September 4, 2018, for a hearing on September 19, 2018. Unfortunately, Applicant's mother passed away on the day of the hearing. A new notice of hearing was issued on September 19, 2018, for a hearing on November 1, 2018. I convened the hearing as rescheduled. Department Counsel introduced 17 documents which were admitted into the record without objection as Government Exhibits (GX) 1 to 17. Applicant introduced five documents admitted into the record without objection as Applicant Exhibit (AX) A to E. I kept the record open for Applicant to introduce additional documents. Applicant timely submitted six documents that I admitted without objection as AX F to K. (GX 18, e-mail, dated December 3, 2018) DOHA received a copy of the hearing transcript on November 9, 2018. The record closed on December 3, 2018, upon receipt of all post-hearing documents.

Findings of Fact

After a thorough review of the case file, I make the following findings of fact. Applicant is 62 years old. Applicant received a bachelor's degree in May 2000, and took additional college courses from January 2003 until November 2005. He did not receive an additional degree. He married the first time in 1980, had one child, and divorced in 1985. He married again in 1985 and had four children. Applicant and his wife separated briefly a number of times in their marriage and now have been separated since 2015. Applicant and his wife are trying to reconcile. He has four adult children from this marriage. Since separating from his wife, Applicant rented the basement of a town house where he and his special needs son reside. (Tr. 25-26, 35-38)

Applicant served on active duty in the Army from March 1975 until April 1995. He retired as a First Sergeant (E-8) with an honorable discharge. After leaving active duty, he served as a minister for three years until approximately 2000. In February 2002, he started working with his present defense contractor employer as a mechanic. He was continually promoted and has been a production supervisor for the last ten years. Applicant's employer has been very supportive of him while he undergoes substance abuse rehabilitation, to care for his son, and the need to care for and bury his mother. (Tr. 26-27; 33-36; GX 1, e-QIP, dated June 18, 2016; GX 3, e-QIP, dated March 29, 2012)

The SOR alleges four financial security concerns under Guideline F; a Chapter 7 bankruptcy filed in November 2016 with debts discharged in March 2017 (SOR 1.a); a Chapter 13 bankruptcy filed in July 2016 but dismissed in December 2016 (SOR 1.b);

federal income tax debt of approximately \$45,773 for tax years 2009, and 2011 to 2015 (SOR 1.c); and a failure to file in a timely fashion federal tax returns for tax years 2009 through 2015 (SOR 1.d). Delinquent student loans are not alleged in the SOR as financial security concerns but are noted on credit reports (GX 4, dated May 9, 2017; GX 5, dated August 19, 2016; GX 6, dated September 2, 2014; and GX 7, dated April 3, 2012).

The SOR alleges under alcohol consumption (Guideline G) that Applicant in October 2011 discharged a firearm from a moving vehicle after consuming alcohol. He was sentenced to be incarcerated for 180 days with 165 days suspended. (SOR 2.a). The SOR also alleges that after consuming alcohol Applicant was arrested for recklessly handling a firearm, swearing in public and public intoxication. He was sentenced to probation for 12 months. (SOR 2.b) These offenses were also cross-alleged as criminal conduct. (SOR 3.a) Applicant admitted all allegations. (Answer to SOR, dated October 25, 2018)

Applicant lived beyond his means while on active duty. He used credit cards sent to him in the mail to bolster his ability to purchase whatever he wanted. After leaving active duty in 1995 and working as a minister, Applicant continued to have financial problems caused by lack of sufficient income and living beyond his means. In 1997, Applicant and his second wife filed a Chapter 13 bankruptcy in an attempt to save their house. They were unable to make the required payments to the bankruptcy trustee, so the bankruptcy was converted to a Chapter 7 bankruptcy. Their debts at the time were discharged in the bankruptcy in 1997. His house was foreclosed in 2002. (Tr. 20-21, 35-37; GX 8 and 9, Bankruptcy Documents, 1997; GX 10, Foreclosure documents, dated May 3, 2002; GX 11, Applicant's Statement, dated May 16, 2002)

Applicant and his wife continued to have financial issues. They moved so he could have a better job, but his wife could not find employment to provide sufficient income for the family. He could not afford to buy a house so he rented one. Applicant's wife usually calculated, completed, and filed their tax returns. After a separation in approximately 2006 from his wife, Applicant did not file his federal income tax returns for six years from approximately 2009 until 2015 because he knew he would owe about \$6,000 each year in taxes that he could not afford to pay. His wife continued to file separately. Starting in 2008, Applicant knew he would owe substantial federal taxes. He was overwhelmed by his problems and did not focus on what he needed to do and did not take care of his business. (Tr. 40-41, 73-75)

In 2012, Applicant went to a tax service and an attorney to resolve his taxes to no avail. Starting in 2012, Applicant's pay was garnished by the Internal Revenue Service (IRS). After the IRS pay garnishment, Applicant's take-home pay was reduced to approximately \$600 a month after garnishment. Applicant's car was repossessed, and he and his family were evicted from the home they rented. Applicant and his wife separated permanently in 2015. In 2016, Applicant was able to have a tax preparer file his past-due tax returns. Applicant has continued to use this attorney to file his taxes. (Tr. 41-43)

Applicant also contacted an attorney, and Applicant and his wife filed another Chapter 13 bankruptcy that was later converted to a Chapter 7 bankruptcy. Their debts were again discharged in 2017. (Tr. 21-23, 43-45; GX 2, Bankruptcy Documents)

Applicant was overwhelmed by his financial issues and the need to care for his special needs son. After the bankruptcy discharge, Applicant worked with a Certified Public Accountant (CPA) to resolve the federal tax debt that remained from the bankruptcy discharge. With the help of the CPA, Applicant was able to have his disabled son declared his dependent and his income restructured to minimize his tax liability. Instead of owing taxes, he received a tax refund that is applied to his tax debt. His mother, who was located in another state, became sick and Applicant had to travel to help care for her. His mother passed away in September 2018. (Tr. 23-25, 35-38)

Applicant filed his past-due federal tax returns in 2016. (AX F, G, and H, IRS Tax Documents). He timely filed his 2016 and 2017 federal tax returns. (AX I and J, IRS Tax Documents) After all of the tax returns were filed, the IRS determined that Applicant owed approximately \$35,000 in back taxes. In April 2018, Applicant agreed to a payment plan of \$425 a month with the ISR to pay back taxes. His payment amount will increase in April 2019 to \$595. No taxes were owed for tax years 2016 and 2017. He is current with the IRS payment plan for past-due taxes for tax years 2010 to 2015. (Tr. 49-52, 72-74)

Applicant drank alcohol from approximately 1990 to 2000. He started drinking because he was a young soldier and just wanted to drink alcohol. He stopped drinking alcohol in 2000 because he entered the ministry becoming a pastor and did not want to be seen consuming alcohol. He started drinking again in 2003 because he left the ministry and there was no accountability for behavior, he was still having financial problems, and he had lost his home. In 2010, his consumption of alcohol increased substantially for no reason except he and his wife were separated; his children had moved back into his house; and he had issues caring for his mother who was in another state. He was consuming from six to nine beers a day. He drank to deal with his problems and his stress. Applicant sought substance abuse counseling. In 2015, he started to consult with a psychologist who he still periodically sees. He last consumed alcohol on September 22, 2018, the day before his mother's funeral. The day before the hearing, he started a Veteran's Affairs (VA) Substance Abuse Rehabilitation Program (SARP) through his employer. He understands he has an issue with alcohol and needs treatment. He stated that he does not intend to consume alcohol in the future. (Tr. 51-58, 75-78: AX A through D; VA Hospital staff assignments and schedule)

In October 2011, Applicant was separated from his wife and dating another woman. He was consuming a few beers before the woman asked him to take her and her young daughter to run some errands. Since he had been drinking alcohol, he asked the woman to drive. Applicant brought a handgun with him because the jurisdiction where they were located allowed the open carrying of handguns. Applicant and the woman argued and Applicant became irritated. As they drove down a road, Applicant fired his gun out the window of the moving car. He apologized to the woman and gave

her his gun. But she drove to a store to call the police. Applicant did not consider himself intoxicated but he knew he was over the legal limit to drive. Applicant was convicted of two counts of brandishing a weapon, served seven days in jail, and placed on probation for six months. He completed the period of probation. He was monitored for substance abuse while on probation. All tests were negative. (Tr. 59-65, 79-8; GX 12, Police Report; GX 13, Court Record; GX 16, Incident Report; GX 17, Criminal History Report)

Applicant had another incident with a weapon in 2015. By September 2015, his mother, who had been living with him, moved back to her home because Applicant was unable to care for her. Applicant also had problems with his special needs son, and the IRS was questioning him about his failure to file tax returns. Applicant was angry and frustrated. He went outside and fired his gun into the air three times. On the day of the incident, Applicant consumed over a pint of alcohol. He was arrested and charged with reckless handling of a firearm and public intoxication. He was convicted and sentenced to twelve months of supervised probation. He wore an ankle bracelet from October 2015 until October 2016. He did not consume alcohol and successfully completed probation. He no longer owes a firearm. However, he has continued to consume moderate amounts of alcohol since ending his probation in October 2016. (Tr. 65-70, 80-81; GX 14, Police Report; GX 15, Court Record; GX 16, Incident Report; GX 17, Criminal History Report)

Applicant presented a letter from a friend who is a psychologist and has known Applicant for over 25 years. The friend provided mentoring and counseling for Applicant. Applicant has been candid and transparent about the issues he has encountered including the death of his mother. He believes Applicant has taken the counseling he received to heart and is developing positive coping methods. He is resolving his financial issue and making restitution. He is taking strides to correct his past mistakes and entered substance abuse treatment. He is making efforts to reconcile with his wife. The friend recommends that he be granted eligibility for access to classified information. (AX E, Letter, dated October 31, 2018)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the Administrative Guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 over-arching adjudicative goal is a fair, impartial and common sense 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 burden of persuasion to 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 the 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.

Analysis

Financial Considerations

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 irresponsible, may also be irresponsible, unconcerned, or careless in his obligations to protect classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life. An individual who is financially overextended is at risk of having to engage in illegal or otherwise questionable acts to generate funds. (AG ¶ 18).

A person’s relationship with his or her creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to meet financial obligations. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a situation of risk inconsistent with the holding of a security clearance. An applicant is required to manage his or her finances in such a way as to meet financial obligations.

Applicant filed for bankruptcy in July 2016 and his debts were discharged in March 2017. Applicant admits that he has an income tax debt to the United States of approximately \$35,000 because he did not file income tax returns for six years for tax year 2009 through 2015. This information is sufficient to raise security concerns under Financial Considerations Disqualifying Conditions AG ¶ 19:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (c) a history of not meeting financial obligations;
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or pay annual Federal, state, or local income taxes as required.

Applicant's tax debt caused by his failure to timely file federal tax returns exhibits an inability and unwillingness to satisfy debts and meet financial obligations. Once the Government has established the adverse financial issue, the Applicant has the responsibility to refute or mitigate the issue. Based on the information provided by Applicant, I considered the following Financial Considerations Mitigating Conditions under AG ¶ 20:

- (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 problems were largely beyond the person's control (e.g. loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the person has received or is receiving counseling for the problem from a legitimate and credible sources, such as a non-profit credit counselling service, and there are clear indications that the problem is being resolved or is under control; and
- (d) the individual has initiated and is adhering to a good-faith effort to repay the overdue creditors or otherwise resolve debts; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

The mitigating conditions only partially apply. Applicant presented no evidence that he received financial counseling. However, an individual must establish that they completed a required financial counseling course for debts to be discharged in bankruptcy. Bankruptcy is a permissible and legal method of resolving debt, but it does not show for security clearance purposes a good-faith effort to resolve debts. Applicant filed a bankruptcy action in 2016 and his debts were discharged in 2017. The available evidence shows that Applicant filed a Chapter 13 bankruptcy in July 2016 that was converted to a Chapter 7 bankruptcy in November 2016. Applicant's debts were discharged in March 2017. Applicant's bankruptcy action in 2016/2017 does not equate to a security concern.

The information provided by Applicant shows that he has now filed the tax returns and his tax debt is being resolved. However, there is a more fundamental issue for security clearance purposes in not timely filing tax returns. Applicant admits he did not timely file his federal tax returns because he did not have the funds to pay the taxes. The lack of funds to pay taxes does not relieve a person from timely filing tax returns. Applicant's lack of action to file the returns resulted in his financial problems being ongoing and recent, and not incurred under circumstances making recurrence unlikely.

Applicant has shown his recent good-faith efforts to meet his tax and financial obligations by agreeing to a payment plan with the IRS. Good faith means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty and obligation. Applicant must act responsibly given his circumstances, and show that he has a reasonable plan to resolve financial problems, and that he has taken significant action to implement that plan. Applicant's plan must show a systematic method of handling financial obligations, and a meaningful track record of filing tax returns and resolving debts. A meaningful track record of tax return filing and resolving debt can be established by evidence of actually filing tax returns and establishing a plan to pay debts. A promise to file tax returns and pay debts is not a substitute for a track record of filing returns in a timely manner and acting in a financially responsible manner.

Applicant provided sufficient evidence that he filed his federal tax returns for tax years 2009 through 2015 in 2016. All of these tax returns were filed late and not when due. Failure to timely file tax returns suggests that an applicant has a problem complying with well-established governmental rules and systems. It is well known that federal tax returns for a particular tax year are to be filed by April 15 of the following year. Voluntary compliance with government rules and systems is essential for protecting classified and sensitive information. A person who fails to fulfill his or her legal obligation to timely file tax returns does not demonstrate the high degree of good judgment and reliability required for a grant of access to classified or sensitive information. An applicant's failure to timely file tax returns is a strong indication that the individual may not follow the rules and guidance concerning safeguarding classified and sensitive information.

Applicant is now paying his past-due taxes, so AG ¶ 20(g) applies. Even though Applicant has corrected the tax return problem and is paying his past-due taxes, there

must still be careful consideration of Applicant's trustworthiness in view of his longstanding prior behavior evidencing irresponsibility by failing to timely file income tax returns. Applicant did not timely file his tax returns because he did not have the funds to pay the taxes due. There are procedures available to a taxpayer to file tax returns even if they do not have the funds available to pay the taxes. Applicant did not follow the established government rules and procedures and contact federal tax authorities for help to understand the actions he must take. He just simply failed to file the tax returns. By failing to timely file federal tax returns for at least six years, Applicant did not demonstrate the high degree of good judgment and reliability required of persons granted access to classified or sensitive information

It is a requirement of good citizenship to timely file income tax returns. The fact that he did not timely file returns indicates that Applicant was not acting responsibly and reliably. Applicant did not provide sufficient assurance that his tax filing problems are resolved, under control, and will not recur in the future. His lack of reasonable and responsible actions towards his tax returns are a strong indication that he may not protect and safeguard classified or sensitive information. Under all these circumstances, Applicant failed to mitigate financial security concerns.

Alcohol Consumption

Excessive alcohol consumption is a security concern because it often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness. (AG ¶ 21)

Applicant was arrested for two incidents of firing a weapon after consuming alcohol in dangerous circumstances within four years. Available evidence shows Applicant continues to consume alcohol. Applicant's alcohol-related arrests, and his continued consumption of alcohol are sufficient to establish the following Alcohol Consumption Disqualifying Condition under AG ¶ 22(a) (Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder).

I considered the following Alcohol Consumption Mitigating Conditions under AG ¶ 23:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of action taken to overcome this problem, and has

demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations; and

(c) the individual is participating in counseling or treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program.

While there is no "bright line" rule for determining when conduct is recent or sufficient time has passed since the incidents, a determination whether past conduct affects an individual's present reliability and trustworthiness must be based on a careful evaluation of the totality of the evidence. If the evidence shows a significant period of time has passed without evidence of an alcohol issue, there must be an evaluation whether that period of time demonstrates changed circumstances or conduct sufficient to indicate a finding of reform or rehabilitation.

Applicant was convicted of two incidents of criminally firing a weapon after consuming alcohol in 2011 and 2015. Applicant stated that he entered a VA substance abuse program the day before the hearing. He also admitted that he continues to consume alcohol.

Applicant has not presented sufficient evidence to establish a pattern of abstinence and has not shown sufficient evidence of action taken to overcome his alcohol consumption problems. He did not present any evidence of participation in on-going programs such as Alcoholics Anonymous. He admits that he has and continues to consume alcohol. Accordingly, Applicant has not presented sufficient evidence to show a change of circumstance. He has not established that he can now control his alcohol consumption impulses. The evidence does not show that Applicant has been reformed or rehabilitated. I find that Applicant has not mitigated security concerns for alcohol consumption.

Criminal Conduct

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations (AG ¶ 30). Applicant's admitted criminal convictions were verified by criminal justice reports. Applicant admits that alcohol consumption was a cause of his criminal activity gun offenses. These criminal acts raise the following Criminal Conduct Disqualifying Conductions under AG ¶ 31:

(a) a single serious crime or multiple lesser offenses; and

(b) allegations or admissions of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted.

I considered the following Criminal Conduct Mitigating Conditions under AG ¶ 32:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation, including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement.

None of the mitigating conditions apply. Applicant has been involved in weapons-related criminal activity in 2011 and 2015. These offenses did not happen under unusual circumstances, and the last offense happened only approximately three years ago. Since Applicant still is consuming alcohol, the offenses may likely recur. There was no pressure to commit any of the offenses, and they appear to be voluntary. The only evidence of rehabilitation is the potential passage of a few years and Applicant no longer having a gun. The evidence of criminal conduct adversely affects Applicant's judgment, reliability, and trustworthiness and leads to the conclusion that he cannot or will not comply with laws, rules, and regulations. Applicant has not presented sufficient information to mitigate criminal conduct security concerns.

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 commonsense 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. I considered the opinion of Applicant's friend that Applicant faced many challenges in recent years leading to his alcohol issues and financial problems. Applicant admitted his alcohol-related offenses and his delinquent debts. Applicant's conduct in failing to timely file his income tax

returns coupled with two criminal incidents of the wrongful discharge of a firearm after consuming alcohol show irresponsible conduct and poor judgment. Overall, these facts leave me with questions and doubts about Applicant's judgment, reliability, trustworthiness, and eligibility and suitability for access to classified information. For all these reasons, I conclude that Applicant has not mitigated alcohol consumption, criminal conduct and financial considerations security concerns. Eligibility for access to classified information is denied.

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:	AGAINST APPLICANT
Subparagraphs 1.a – 1.b:	For Applicant
Subparagraphs 1.c – 1.d:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a – 2.b:	Against Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraphs 3.a:	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 eligibility for a security clearance. Eligibility for access to classified information is denied.

THOMAS M. CREAN
Administrative Judge