



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



In the matter of:)
)
) ISCR Case No. 21-00600
)
Applicant for Security Clearance)

Appearances

For Government: John Lynch, Esq., Department Counsel
For Applicant: *Pro se*

05/18/2022

Decision

DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the alcohol consumption, criminal conduct, financial considerations, and personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On July 26, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline G (alcohol consumption). Applicant responded to the SOR on July 28, 2021, and requested a hearing before an administrative judge. After indicating he was ready to proceed on August 30, 2021, Department Counsel amended the SOR on November 17, 2021, by adding allegations under Guidelines J (criminal conduct), F (financial considerations), and E (personal conduct). Applicant responded to the amendment on November 19, 2021. Department Counsel amended the SOR a second time on April 13, 2022, by adding additional allegations under Guidelines E and F. Applicant responded to the second amendment to the SOR on April 13, 2022. The case was assigned to me on February 28, 2022.

The hearing was convened as scheduled on April 27, 2022. Government Exhibits (GE) 1 through 23 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through D, which were admitted in evidence without objection. During preliminary matters, Department Counsel moved to withdraw SOR ¶ 4.bb. There being no objection, the motion was granted and SOR ¶ 4.bb was stricken from the SOR.

Findings of Fact

Applicant is a 35-year-old employee of a defense contractor. He has worked for his current employer since about July 2021. His current employer hired him when it was awarded the government contract of his previous employer for whom he worked since March 2018. There has been no interruption in his employment with a defense contractor since March 2018. He was granted an interim security clearance in 2018. He has an associate's degree. He has never been married and has no children. (Transcript (Tr.) at 30-34; GE 1, 2, 19)

Applicant has a significant history of criminal offenses, including several alcohol-related offenses. In about January 2008, he was charged with driving with a suspended driver's license after being pulled over for speeding. His driver's license was suspended because he had let his insurance coverage lapse. In about August 2008, he failed to appear for his court date for driving on a suspended license and was charged with failure to appear. In September 2009, he pleaded guilty to driving on a suspended license, speeding, and failure to appear and was placed on probation before judgment (PBJ). He completed about three to six months of probation successfully and paid his required fines and court fees. (Tr. at 34-36, Applicant's response to SOR; GE 1, 2, 4, 19)

Applicant was arrested in December 2009 in State A and charged with driving under the influence (DUI), after driving home from a bar despite knowing he was intoxicated. He had a .13 blood alcohol content (BAC) at the time of his arrest. He spent the night in jail. As it was Applicant's first DUI, these charges against him were dropped. (Tr. at 36-37; Applicant's response to SOR; GE 1, 2, 19)

About two months later, in February 2010, Applicant was arrested in State A and charged with driving while intoxicated (DWI). He had been drinking at a bar and decided to drive home despite knowing that he was intoxicated. He had a .19 BAC at the time of his arrest. He spent one or two nights in jail. In October 2010, he pleaded guilty and was sentenced to 60 days in jail, all suspended. His driver's license was suspended for six months, and he had to pay fines and complete 24 hours of community service. (Tr. at 37-42; Applicant's response to SOR; GE 1, 2, 5, 19)

Applicant had enlisted in the U.S. Navy in about February 2010. As a result of his February 2010 DWI, Applicant's accession to the Navy was declined.¹ (Tr. 31, 59; GE 2, 3, 19)

In May 2010, Applicant was charged with driving with a suspended license. His license had been administratively suspended as a result of his February 2010 DWI charge. He pleaded guilty and received PBJ as a result of this charge. (Tr. at 41-43; Applicant's response to SOR; GE 1, 5, 6, 19)

In November 2012, Applicant was arrested and charged with DWI and Failure to Stop After Accident Involving Damage to Attended Vehicle/Property. Prior to his arrest, Applicant had been drinking alone at home for three to four hours and had consumed about two bottles of wine. He decided to drive despite knowing he was impaired because he had to go to work. On his way to work, he collided with a pick-up truck, left the scene of the accident, and drove the additional two to three miles to work at a restaurant where he was employed as a bartender. While investigating the hit and run involving the aforementioned pick-up truck, the police determined that Applicant was responsible and arrested him at work. Applicant had a .21 BAC when he was arrested. He pleaded guilty to both charges and was sentenced to 365 days in jail with all but 45 days suspended, probation for three years, and two months of alcohol classes. He claimed that he completed all the requirements of his sentence. In his January 2018 subject interview (SI), he did not tell his investigator about the hit and run aspect of his arrest. He only discussed a version of events involving the DWI that did not include colliding with another vehicle. (Tr. at 43-49; Applicant's response to SOR; GE 1, 2, 7, 8, 19, 20)

Applicant attended court-ordered alcohol classes from February 2013 until April 2013. Prior to attending these court-ordered classes, he voluntarily began attending some Alcoholics Anonymous (AA) meetings. He attended AA meetings from January 2013 until about July 2013. He completed a couple of the AA steps but did not have a sponsor. (Tr. 57-58; GE 19)

In late June 2017, Applicant was arrested in State A and charged with intoxicated endangerment. Applicant was walking back to the location where he was staying after drinking at a bar for seven or eight hours. A bouncer at the bar where Applicant had been drinking alerted the police that Applicant had too much to drink, so police began following him. Applicant tried to steal a bike that was locked to a bench and pushed it over when he realized he could not take it. Police lost him for a couple of minutes, but then relocated him when they saw him vomiting in a bush. When he noticed police were following him, Applicant ran to evade them, but they apprehended him. Applicant spent the night in jail. Applicant pleaded guilty to intoxicated endangerment in August 2017. (Tr. 49; Applicant's response to SOR; GE 9, 19, 21)

¹ Any adverse information not alleged in the SOR, such as Applicant's issues with joining the Navy, cannot be used for disqualification purposes. It may be considered when assessing Applicant's rehabilitation, in the application of mitigating conditions, and for the whole-person analysis.

In November 2017, Applicant was charged with Failure to Control Vehicle Speed on a Highway to Avoid Collision after he was involved in a car accident. In January 2018, he pleaded guilty to this charge and prepaid a fine. The vehicle that he was driving was totaled as a result of this accident. (Tr. 49-50, 52; Applicant's response to SOR; GE 10)

In March 2018, Applicant was charged with Driver Using Hands to Use Hand-Held Telephone while Motor Vehicle was in Motion. This charge resulted from his involvement in an accident because he was looking at his mobile phone and rear-ended another vehicle. He pleaded guilty and paid a fine. (Tr. 49-52; Applicant's response to SOR; GE 11)

In March 2020, Applicant was cited for speeding when he was caught traveling 64 mph in a 55 mph zone. He pleaded guilty and paid a fine. (Tr. 52-53; Applicant's response to SOR; GE 12)

Sometime in 2021, Applicant was cited for speeding after a speed camera caught him exceeding the speed limit. He pleaded guilty and paid a fine online. (Tr. 53-54)

Applicant admitted that his drinking has caused problems with his family, his finances, and his health. Applicant has a paternal history of kidney disease. Beginning when he was about 25 years old in 2012, Applicant showed symptoms of chronic kidney disease. As early as January 2018, he recognized that his alcohol consumption had exacerbated his kidney disease. However, he continued to consume alcohol to excess, acknowledging that, at that time, he was consuming four to five drinks once or twice per month and drinking to the point of intoxication about once every two months. (Tr. 29, 55-56; GE 2, 3, 19; AE B, C)

As a result of a referral by the Department of Defense Consolidated Adjudication Facility (DOD CAF), in February 2021, with a follow-up in June 2021, Applicant underwent a psychological evaluation by a licensed clinical psychologist (Psychologist). The Psychologist was contracted by the DOD CAF. In order to make her psychological evaluation, the Psychologist reviewed background information submitted by the DOD CAF, the results of a clinical interview, testing observations, and the results of the Personality Assessment Inventory. (Tr. 59; GE 2, 3)

Based upon these measuring tools, the Psychologist diagnosed Applicant with alcohol use disorder (moderate-severe). She found the risk of future alcohol-related incidents to be moderate with a guarded prognosis. She noted her concern that, despite all of the adverse effects alcohol has had on him, Applicant continued to consume it without undergoing any alcohol-related treatment. She also noted that, in about 2019, Applicant's doctor recommended that he abstain from alcohol entirely. (Tr. 59; GE 2, 3)

Applicant claimed that, in the Fall of 2021, he turned over a new leaf and stopped drinking. This decision was spurred partly by knowing that his kidneys were "basically all the way gone," and a May 2021 medical emergency that put him in the hospital after "throwing up 10 pints of blood" and nearly dying. He also credits his decision to change

his lifestyle on a subsequent medical issue in about July 2021 when his right lung collapsed. He testified that he has not had a drink since Fall 2021, and that he plans to continue to abstain from alcohol entirely. (Tr. 29, 55-56; GE 2, 3, 19; AE B, C)

The SOR alleges that Applicant has 32 delinquent debts totaling approximately 23,400. Many of these delinquent debts are medical debts resulting from Applicant's aforementioned chronic kidney issues. However, Applicant also has other debts, such as a delinquent credit-card debt, a delinquent debt to State A, a delinquent student-loan debt, and a delinquent telecommunications debt. Applicant attributed his financial issues to his youth, his disorganization, and a lack of income. He also attributed them to his past and ongoing health conditions. He has been covered by health insurance through his employer as of March 2018 at the latest. (TR. 63-83, 110-121; Applicant's response to SOR; GE 13-19; AE A-D)

The \$1,916 judgment entered in 2011 alleged in SOR ¶ 4.a has not been resolved. Applicant claimed that he has paid this debt through garnishments, however, he did not provide any documentation establishing it was paid. He testified that he may have had documentation showing the debt was paid at one time, but he no longer does. (Tr. 63-65; Applicant's response to SOR; GE 13)

The \$848 medical judgment entered in 2013 alleged in SOR ¶ 4.b has not been resolved. Applicant believes that he paid this debt because he has not heard from the creditor or any collection agencies about the debt. However, he did not provide any documentation establishing that it was paid. (Tr. 65-68; Applicant's response to SOR; GE 14, 19)

The \$2,461 judgment entered in 2017 in favor of State A alleged in ¶ 4.c has not been resolved. Applicant does not know the nature of this debt. He presented no evidence that he has made a payment, disputed this debt, offered or negotiated a payment agreement, or taken any significant actions to resolve this debt. (Tr. 68-70; Applicant's response to SOR; GE 16; AE C)

The \$9,231 educational loan judgment entered in 2018 alleged in ¶ 4.d has not been resolved. Applicant presented no evidence that he has made a payment, disputed this debt, offered or negotiated a payment agreement, or taken any significant actions to resolve this debt. (Tr. 70-71; Applicant's response to SOR; GE 15)

The \$119 telecommunications debt alleged in ¶ 4.i has not been resolved. Applicant testified that he paid this debt sometime in 2019 but did not provide any documentation establishing it was paid. The debt appears on Applicant's 2018 credit report but not on his 2021 credit report. (Tr. 76; Applicant's response to SOR; GE 17, 19)

The remainder of Applicant's delinquent debts listed in the SOR are medical debts (¶¶ 4.e through 4.h, ¶¶ 4.j through 4.aa, and ¶¶ 4.cc through 4.gg). Applicant initially testified that he has paid only the debts listed in ¶¶ 4.e, 4.f, 4.h, 4.n, and 4.p. He provided documentation establishing that the debts listed in ¶¶ 4.e, 4.h, and 4.p were

paid in March and April 2022. The debts in ¶¶ 4.e, 4.h, and 4.p have been resolved. (Tr. 76-83; Applicant's response to SOR; GE 17-19; AE A, B)

Applicant and his mother also testified that they believe that most of the medical debts listed in SOR ¶ 4 have been paid. Applicant claimed that he could not match up his payment receipts with the debts listed in the SOR because creditors combined the debts into one statement. He was unable to identify which documents he provided corroborated the payments he alleged he made on the remaining SOR debts. Many of Applicant's documents relate to medical services that were provided to him in March 2021 and later. The SOR debts listed in ¶¶ 4.j through 4.aa and 4.cc through 4.gg are all contained in the April 2018 credit report, so those debts were incurred prior to March 2021. As evidenced by information in the July 2021 credit report, the SOR debts listed in ¶¶ 4.f and 4.g were also incurred prior to March 2021. Any of Applicant's documents purporting to show payments for medical services provided to him after March 2021 cannot show payments for the debts listed in ¶¶ 4.f, 4.g, 4.j through 4.o, 4.q through 4.aa, and 4.cc through 4.gg. (Tr. 76-83,108-121; Applicant's response to SOR; GE 17-19; AE A-D)

Applicant's documents show that he has made some payments on medical debts, but he has failed to show that he has made payments on the aforementioned SOR debts. Applicant largely began his efforts to pay these medical debts at the beginning of 2022. Most of the funds that he used to pay these debts were gifts from friends and family, often raised through his mother's fundraising efforts in February and March 2022. As Applicant did not provide documentation corroborating his alleged payments, the debts listed in SOR ¶¶ 4.f, 4.g, 4.j through 4.aa and 4.cc through 4.gg are unresolved. (Tr. 76-83,108-121; Applicant's response to SOR; GE 17-19; AE A-D)

Applicant testified that, at some time between 2005 and 2008, his aunt gave her permission to add her name to his loan application from Bank A for a student loan. He testified that his aunt told him she would be responsible for paying back this debt. He applied for this loan in his name and added his aunt as a co-signor. The debt became delinquent by 2017 and Bank A filed a lawsuit against Applicant and his aunt to recover the balance. Applicant's aunt hired an attorney and defended herself against Bank A's lawsuit, claiming that Applicant had forged her signature to the loan application without her permission. Bank A dismissed Applicant's aunt from the lawsuit with prejudice, but obtained a judgment against Applicant as described in SOR ¶ 4.d. (Tr. 70-76, 99-100; Applicant's response to SOR; GE 15, 17, 22, 23)

Applicant claimed that his aunt changed her mind about their agreement with respect to this loan years after he applied for it because she needed money. Applicant has no documentation evidencing his aunt's consent to sign her name to loan applications, but claimed that his mother is aware of the arrangement. Applicant's aunt passed away in late 2018. (Tr. 70-76, 99-100; Applicant's response to SOR; GE 15, 17, 22, 23)

In order to assist him with his debts and investments, Applicant consulted a financial advisor beginning in February 2021 that his mother recommended. He did not

provide evidence as to what his financial advisor has done to assist him with his finances. (Tr. 92-94)

As a result of his chronic kidney disease, Applicant is in need of a kidney transplant and is on a kidney donor list. However, he claimed that in order to be approved for a transplant, he has to improve his credit-to-debt ratio. Applicant plans to continue to pay down his delinquent debts in order to improve this ratio. He also plans to continue his education and is eight to ten classes shy of earning his bachelor's degree. He provided a transcript from his school showing that he has earned good grades. (Tr. 32-33, 80, 118-119; AE A-D)

Policies

This case is adjudicated under Executive Order (EO) 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 (AG), which became effective on June 8, 2017.

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 to be 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, administrative judges apply the guidelines 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 national security eligibility will be resolved in favor of the national security."

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 the 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 EO 10865 provides that adverse 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 G, Alcohol Consumption

The security concern for alcohol consumption is set out in AG ¶ 21:

Excessive alcohol consumption 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 22. The following are potentially applicable in this case:

- (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;
- (b) alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, drinking on the job, or jeopardizing the welfare and safety of others, regardless of whether the individual is diagnosed with alcohol use disorder;
- (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder; and
- (d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder.

Applicant was arrested for DUI or DWI in 2009, 2010, and 2012. The 2012 DWI involved Applicant being arrested at work while he was intoxicated. He was arrested for

intoxicated endangerment in 2017. A clinical psychologist diagnosed him with alcohol use disorder. The above disqualifying conditions are applicable.

Conditions that could mitigate alcohol consumption security concerns are provided under AG ¶ 23. The following are potentially applicable:

(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 judgment; and

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Alcohol use has been causing Applicant legal and health problems for most of the last 13 years. Sometime in 2019, his doctor told him to abstain from alcohol entirely. Despite this warning, he continued to consume alcohol. In February 2021, a psychologist diagnosed Applicant with alcohol use disorder (moderate-severe) and was concerned that he was still consuming alcohol without treatment. He continued to consume alcohol after this diagnosis.

Applicant had a couple of medical emergencies in May and July 2021, yet he continued to consume alcohol until sometime later that Fall. He has never completed an alcohol treatment program and is not in one now. While I believe Applicant was sincere at his hearing about his commitment to abstain from alcohol, his decision to keep drinking until relatively recently despite all the warning signs over the years leaves me with doubts about his reliability and judgment. Moreover, while he testified that he has not consumed alcohol since the Fall of 2021, when compared to his lengthy history with alcohol, I do not believe that he has demonstrated a clear and established pattern of abstinence.

Guideline J, Criminal Conduct

The security concern for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about an Applicant'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 ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant's three alcohol-related driving offenses and his intoxicated endangerment charge were cross-alleged under criminal conduct. He has also been charged with hit and run and driving on a suspended license. The above disqualifying condition is applicable.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following are potentially applicable:

(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, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant had three DUIs, the last of which involved an accident. He had an alcohol-related criminal charge in 2017, and he has continued to violate traffic laws as evidenced by his 2017, 2018, 2020, and 2021 moving violations. For these reasons and the ongoing concerns I have related to Applicant's alcohol consumption, I do not believe there has been sufficient evidence of rehabilitation or that the criminal behavior is unlikely to recur. None of the mitigating conditions apply.

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud, filing deceptive loan statements and other intentional financial breaches of trust.

Applicant has a history of financial delinquencies that includes medical debt, credit-card debt, student-loan debt, and debt to State A. The evidence is sufficient to raise AG ¶¶ 19(a) and 19(c), thereby shifting the burden to Applicant to provide evidence in mitigation.

The evidence is insufficient to raise AG ¶ 19(d). Applicant credibly testified that his aunt had given him her express permission to sign her name as a co-signor for his student loans while he was in school, including the loan listed in ¶ 4.d. I believe that he was sincere in his belief that he had her consent to include her name on the loan documents. Applicant further testified that his aunt later changed her mind when she needed money. I note that she first made her unwillingness to be a co-signor on this loan clear when the creditor filed a lawsuit some ten years after the loan was obtained.

Applicant's aunt may have only learned about her responsibility for the loan in 2017 when Bank A filed a lawsuit against her, but there is no evidence of this possibility. These factors undermine the veracity of her claim of Applicant's forgery. As Applicant's aunt passed away in 2018, I was unable to observe her testimony in order to gauge her credibility. Given these considerations, I find that Applicant reasonably believed that he had his aunt's consent and therefore did not engage in deceptive or illegal financial practices.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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; and

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

Applicant attributed his financial problems to his youth and disorganization. These causes were not beyond his control. He also attributed his financial problems to his chronic health conditions. This cause was beyond his control.

There is documentary corroboration that the debts alleged in SOR ¶¶ 4.e, 4.h, and 4.p have been paid. SOR ¶¶ 4.e, 4.h, and 4.p are concluded for Applicant.

Applicant provided no documentary evidence of payments or favorable resolution of the remaining SOR debts. Applicant stated that he intends to pay the remaining SOR debts. However, intentions to pay debts in the future are not a substitute for a track record of debt repayment or other responsible approaches. See ISCR Case No. 11-14570 at 3 (App. Bd. Oct. 23, 2013). Applicant could not identify any documents he submitted that showed a favorable resolution of the remaining SOR debts. After careful scrutiny of his documents, I could find no such evidence, either. It is reasonable to expect Applicant to present documentation about the resolution of specific debts. See, e.g., ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016).

To the extent that Applicant has made a favorable resolution of any of the remaining SOR debts, he did so beginning in 2022. The first amendment to the SOR, which listed his debts as a security concern, was issued in November 2021. An applicant who begins to resolve security concerns only after having been placed on notice that his or her clearance is in jeopardy may lack the judgment and willingness to follow rules and regulations when his or her personal interests are not threatened. ISCR Case No. 17-04110 at 3 (App. Bd. Sep. 26, 2019).

In February 2021, Applicant engaged the services of a financial advisor. However, as evidenced by the lack of favorable resolution of many of the SOR debts, there is insufficient indication that his financial problems are being resolved or are under control.

Overall, I am unable to find that the conditions that resulted in the financial problem were largely beyond Applicant's control, that he acted responsibly under the circumstances, or that he made a good-faith effort to pay his SOR debts. His financial issues are ongoing and continue to cast doubt on his current reliability, trustworthiness, and good judgment. The financial considerations security concern is not mitigated.

Guideline E, Personal Conduct

The security concern for personal conduct is set out 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following are potentially applicable in this case:

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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; and

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for 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.

As evidenced by his issues with alcohol, his numerous arrests and citations, and his financial delinquencies, Applicant has a lengthy history of failing to abide by rules and regulations. These problems also show Applicant's questionable judgment. AG ¶ 16(c) is not perfectly applicable because Applicant's conduct is sufficient for an adverse determination under the alcohol consumption, criminal conduct, and financial considerations guidelines. Likewise, AG ¶ 16(d) is not perfectly applicable because Applicant's conduct is covered under the aforementioned guidelines. However, the general concerns about questionable judgment and an unwillingness to comply with rules and regulations contained in AG ¶¶ 15, 16(c), and 16(d) are established.

For the reasons I indicated in my analysis of the financial considerations guideline, Applicant's conduct in signing his aunt's name to his loan application does not establish a security concern under AG ¶¶ 15 or 16.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following mitigating conditions potentially apply in Applicant's case:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Applicant has committed himself to abstaining from alcohol and has done so for about six months. Hopefully, his drinking and his illegal drinking activities are a thing of the past. His intention to remain sober is a positive step. As evidenced by his recent payments on some of his medical debt, he has made tentative positive strides there, as well. However, his conduct that has been alleged under Guideline E, such as drinking and driving, does not qualify as “minor.” Only about a year has passed since his last speeding ticket and he has established a pattern of getting a moving violation at least once per year. As I discussed in my analysis of the other applicable guidelines, given the relatively short period of time that has elapsed since Applicant “turned over a new leaf,” I have lingering doubts that his frequently repeated unreliable or inappropriate behavior is unlikely to recur. AG ¶ 17(c) does not apply. AG ¶ 17(d) partially, but does not fully apply. Personal conduct security concerns are not mitigated.

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 relevant 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 have incorporated my comments under Guidelines G, J, F, and E in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant’s eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the alcohol consumption, criminal conduct, 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, Guideline G:	AGAINST APPLICANT
Subparagraphs 1.a-1.f:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a-2.d:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a-3.d:	Against Applicant
Subparagraph 3.e:	For Applicant
Paragraph 4, Guideline F:	AGAINST APPLICANT
Subparagraphs 4.a-4.d:	Against Applicant
Subparagraph 4.e:	For Applicant
Subparagraphs 4.f-4.g:	Against Applicant
Subparagraph 4.h:	For Applicant
Subparagraphs 4.i-4.o:	Against Applicant
Subparagraph 4.p:	For Applicant
Subparagraphs 4.q-4.aa:	Against Applicant
Subparagraphs 4.cc-4.gg	Against Applicant
Subparagraph 4.hh:	For Applicant

Conclusion

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.

Benjamin R. Dorsey
Administrative Judge