



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



In the matter of:)	
)	
)	ISCR Case No. 23-01027
)	
Applicant for Security Clearance)	

Appearances

For Government: Andrew H. Henderson, Esq., Department Counsel
For Applicant: Carl Marrone, Esq.

08/29/2024

Decision

COACHER, Robert E., Administrative Judge:

Applicant mitigated the Government’s security concerns under Guideline J, criminal conduct, Guideline F, financial considerations, and Guideline E, personal conduct. Applicant’s eligibility for a security clearance is granted.

Statement of the Case

On June 13, 2023, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines J and F. The DOD acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective June 8, 2017 (AG).

Applicant answered the SOR on June 21, 2023, and he requested a hearing. The case was assigned to me on December 5, 2023. The Defense Office of Hearings and Appeals (DOHA) issued an initial notice of hearing on March 15, 2024. I granted two

continuances because of unforeseen events, and the hearing was held on May 14, 2024. The Government offered exhibits (GE) 1-9, which were admitted into evidence without objection. The Government's exhibit list was marked as hearing exhibit (HE) I and its disclosure letter was marked as HE II. Applicant testified, presented the testimony of three witnesses, and offered exhibits (AE) A-R. These exhibits were admitted without objection. The record remained open until June 14, 2023, and Applicant timely submitted AE S-X, which were admitted without objection. Applicant's witness list and three exhibit lists are marked HE III to VI. DOHA received the hearing transcript (Tr.) on May 24, 2024.

Procedural Issue

During the hearing, Department Counsel moved to amend the SOR to include an allegation under Guideline E, Personal Conduct. He argued that that Applicant's testimony concerning the circumstances leading to his separation from the U.S. Marine Corps (USMC) established the factual background for the amendment. The proposed amendment is as follows:

On or about November 2020, you were administratively separated from the USMC following nonjudicial punishment (NJP) for an affair with a fellow officer.

I informed Applicant's counsel that I would grant him whatever time he needed to respond to the proposed amendment. After taking a short recess to discuss the matter with his client, counsel chose to proceed without asking for a continuance or a delay. Additionally, he stated that Applicant "denied" the proposed amendment. We then took additional testimony on the issue. I granted the motion to amend. (Tr. 122-128)

Findings of Fact

In Applicant's answer, he admitted the allegation under Guideline J, and one allegation under Guideline F. He denied the remaining allegations. I adopt his admissions as findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact.

Applicant is 33 years old. He has worked for his current employer, a federal contractor, since August 2023. He served in the USMC for six and a half years. He attained the rank of first lieutenant. He resigned his commission in lieu of facing a Board Officers in an involuntary separation action. He received a General Under Honorable Conditions discharge in November 2020. After his discharge he changed locations and worked for two government contractors before taking his current position. (Tr. 22-26; GE 1; AE W)

He is married for the second time. His first marriage was from 2016 to April 2021, although they had physically separated in June 2019. He has a six-year-old child from this marriage for whom he pays monthly child support. He also pays alimony to his ex-

wife (W1). His total monthly support payments to W1 and his child are \$1,864. He married for the second time in July 2022. He has a six-year-old stepdaughter and a biological daughter with his wife (W2). He holds a bachelor's degree and is enrolled in a masters' program. (Tr. 40, 42, 87-88, 113-115; AE L)

The SOR alleged, under Guideline J, that on August 25, 2021, Applicant was arrested and charged with third-degree assault and harassment. He pled guilty to a lesser charge of harassment-strike/shove/kick. He was sentenced to 24 months of supervised probation and ordered to attend domestic violence counseling. (SOR ¶ 1.a)

The SOR alleged, under Guideline F, that Applicant was delinquent on six charged-off accounts totaling approximately \$58,253. (SOR ¶¶ 2.a-2.f)

The Guideline E allegation was previously noted above and was the amendment to the SOR stated on the record. (Tr. 122-128)

Criminal Conduct and Personal Conduct

Applicant admitted the allegation under Guideline J and denied the allegation under Guideline E. Because the two allegations are tangentially related, they will be discussed together. Appellant admitted that in September 2019, after he and W1 physically separated, with her moving to a different state, he began a sexual relationship with a fellow USMC officer. At some point, W1 became aware of the relationship and informed his command. Once informed, his command took action against both parties in the form of administering NJP under Uniform Code of Military Justice (UCMJ), Article 15, for the offense of Adultery. His punishment consisted of a \$4,000 fine. In addition to the NJP, Appellant was facing an involuntary separation action from the USMC. In lieu of facing a board of officers in an administrative separation action, he offered his resignation. His resignation was accepted and in November 2020, he was discharged from the USMC with a General Discharge, under Honorable Conditions. (Tr. 23, 48, 88, 116, 125-127; AE W)

After his discharge, Appellant pursued jobs with government contractors. He was hired in late 2020 and moved to a different state. At that time, he remained in the relationship with the former officer (Ms. X) with whom he had an affair leading to both of their discharges. Ms. X moved with him to the new location and lived together in an apartment. They split the rent and all other expenses. They became engaged. In August 2021, he was on a work trip that was scheduled to last two weeks. The trip ended early, and he returned home on Wednesday, August 18th. Upon entering his apartment, he noticed two packed bags by the doorway. Ms. X was surprised to see him. She claimed the bags were her workout gear. They then had sex. Afterward, Appellant was not convinced about Ms. X's story explaining the bags and continued questioning her. She admitted that she was on her way to another city to meet a former boyfriend at a hotel. They had a heated argument. Appellant admitted slapping her once in anger and pushing her face. He did not see any red marks on her face. Ms. X would later tell the police that he slapped her five times and pushed her face into the bed without restricting

her breathing. On cross-examination, he denied striking her five times. After the physical contact, Ms. X separated from Appellant and later slept in the garage while he slept in the bedroom. She left the apartment permanently shortly thereafter and never returned. She sent a friend over to pick up her belongings. (Tr. 29-32, 88-89; GE 7)

Appellant testified that after Ms. X left the house, she refused to communicate with him in any fashion. He wanted her to pay her share of rent, which was due. He texted her about the rent, but she did not respond. The following Monday, he decided to go to her gym and ask her about the rent money. Upon arriving at the gym, he saw her and she saw him. She turned away and went in a different direction. He did not approach her or talk to her there. He just left. The next day, August 24th, around midnight, the police came to Appellant's apartment and arrested him for the incident occurring on August 18th. He was charged with third degree assault (a class one misdemeanor) and harassment (a class three misdemeanor). (Tr. 32-34; GE 7)

Other aspects of the police investigation into the complaint filed by Ms. X included that when an officer contacted Ms. X on August 24th, after her complaint, he did not see any redness or bruising on her face or neck. The investigation also revealed threatening texts that Appellant sent to Ms. X in August 2019. The officer asked Ms. X why she had not reported them at the time, and she said because she was "stupid." Ms. X was also concerned that Appellant had placed an electronic tracking device on her car so he could follow her. While an empty box for a tracking device was found at Appellant's residence, no device was found on Ms. X's car. When asked about this, Appellant stated that the device was for his child so he and W1 could place it into the child's backpack for her safety and security. No charge resulted from this concern by Ms. X. [I will not consider any incidents not specifically alleged in the SOR, for disqualification purposes, but I may use it for credibility, mitigation, and whole-person considerations] (Tr. 89-90; GE 7)

Appellant pleaded guilty to the class three misdemeanor harassment charge and the class one charge was dismissed. He was sentenced to 24 months supervised probation and ordered to attend a domestic violence course. Upon successful completion of his sentencing requirements, the charge he pleaded to would be dismissed. He successfully completed his probation on November 29, 2023, with no violations. He also successfully completed the domestic violence course, and his case was dismissed. A protective order had been issued when Appellant was charged and that was dismissed when his probation ended. He had no contact with Ms. X after seeing her at the gym. She attended one court hearing, but since that time he has not seen her or had contact with her. (Tr. 34, 36-39, 91-92; GE 8)

The domestic violence course that Appellant attended issued an end-of-course evaluation. It noted that he demonstrated knowledge and internalization in the 18 core competencies covered by the course. He also completed an autobiography, a personal change plan, an apology letter, and an aftercare plan. He testified that he learned the **P.A.U.S.E.** technique from the course, which stands for **P**ay attention, **A**cknowledge, **U**nderstand, **S**eek clarification, and **E**laborate. By using this technique, he is able to

control anger and better communicate with others. He denied ever having a domestic violence incident with W1 or W2 and there is no evidence to the contrary. (Tr. 92, 117-119; AE A)

Financial Considerations

Appellant's financial difficulties began in approximately 2019, when his marriage broke up and he started the relationship that led to his discharge. He was assigned to his first duty station in approximately 2018. His first child was born in April 2018. At this duty station, W1 was away from her family and Appellant was working long hours. W1 seemed to have no energy to take care of the house or baby. Appellant believed she suffered from postpartum depression. In the summer of 2019, they decided it would be best if W1 and the baby went to live with W1's mother in another state. Initially, this was to be a temporary arrangement. Later, in the summer, they decided to make the separation permanent and pursue divorce. It was about this same time that he started his involvement with Ms. X. (Tr. 40, 42-45)

At the time of the initial separation, Appellant was living in an apartment close to the base. His monthly rent and related expenses were approximately \$2,460. He was also voluntarily paying W1 \$600 per month. He felt that because she was living with her mother rent free, this was enough to pay the expenses for W1 and his child. W1 contacted his command seeking additional financial support from him. His command ordered him to pay her approximately \$2,000 per month to cover both spousal and child support. He paid this amount until he was discharged in November 2020. This is when he was unable to make all his financial commitments. He had to take out loans to pay all his bills. He tried several avenues to improve his financial situation. He sought permission from the USMC to move onto base as a geographic bachelor, which would allow him not to pay rent any longer. This request was denied. He also went to the Marine Corps Relief Society seeking financial assistance, which was also denied. (Tr. 45-47, 49, 51)

After Appellant's discharge and before his divorce was finalized, he voluntarily paid W1 \$800 monthly. His income between 2020 and 2022 started at \$90,000 and rose to \$113,000. When the divorce was finalized in April 2021, he was ordered to pay W1 \$1,864 monthly for child support and alimony. By this time, he had moved to a different state and had secured a job. The state where the divorce took place required that the payment mechanism be through Appellant's employer in the form of a wage garnishment. He complied with this order and the support was paid through his employer and remains that way. His rent at his new location was approximately \$2,000 monthly, which he split with Ms. X, whom he lived with until August 2021. Thereafter, he paid the full rent. He incurred attorney's fees from the divorce. He discovered that W1 was still using some of their credit cards during their separation and divorce pendency, for which he remained responsible. (Tr. 25, 52-55)

In August 2021, he was unable to make his car payments. He contacted a debt relief company (DRC) in May 2022. This company would collect money from their

clients then when a certain amount was accumulated, they would negotiate settlements with the creditors. It also recommended that the client stop making payments on the enrolled debts so that would give the company leverage with the creditors. Based on this advice, Appellant stopped making payments to his creditors in May 2022 and contracted with the DRC. He enrolled his debts in a payment plan. He documented making payments toward the settlement of two SOR debts beginning in June 2023 and October 2023. He paid between \$400-\$600 monthly to the DRC. (Tr. 61-62, 103-104; AE M)

Appellant's mother passed away in March 2024 and left him an inheritance from an insurance policy in the amount of approximately \$101,000. He immediately used some of the proceeds to pay five of the SOR debts in May 2024, and he also set up a payment plan for the sixth debt. He did not use some of the remaining inheritance funds to totally pay the sixth debt because he and W2 decided it was better to leave some money to start an emergency account to have available so that they would not find themselves in a similar position in the future. He disenrolled from the DRC when the inheritance funds became available to him. He also documented paying two non-SOR debts. (Tr. 64, 77, 103, 105-106; AE B-C, V)

The current status of the SOR debts is as follows:

SOR ¶ 1.a-\$14,634. Appellant admitted this debt was for a loan he took out during his divorce. Much of the loan was for the payment of attorney's fees. In May 2024, he documented entering into a payment agreement by making an initial payment of \$2,500 and then by setting up 26 monthly payments of \$400. This debt is being resolved. (Tr. 75-76; AE R)

SOR ¶ 1.b-\$3,054. Appellant admitted this debt was for a loan he took out during his divorce. It was used to pay a retainer for his attorney. He documented paying this debt in May 2024, using some of his inheritance. This debt is resolved. (Tr. 64-65; AE Q, U)

SOR ¶ 1.c-\$1,224. Appellant admitted this debt was for a loan in the fall of 2019 to pay bills. He documented settling this debt in May 2024, using some of his inheritance. In 2022, he also received funds back from this creditor for charging illegal interest. This debt is resolved. (Tr. 68-70; AE E, O)

SOR ¶ 1.d-\$658. Appellant admitted this debt was for a credit card he opened in order to buy tires for his car. He documented paying this debt in May 2024, using some of his inheritance. This debt is resolved. (Tr. 70-72; AE P)

SOR ¶ 1.e-\$5,404. Appellant admitted this debt was for a credit card that he took out when he first joined the USMC. He never used it. W1 found this card and started using it and accrued the balance. He documented paying this debt in May 2024, using some of his inheritance. This debt is resolved. (Tr. 72-73; AE N)

SOR ¶ 1.f-\$34,342. Appellant admitted this debt was for a loan he took out to refinance his car that lowered his interest rate. He made regular payments of \$687 from January to December 2023, reducing the overall balance to approximately \$26,000. He documented paying the remaining balance In May 2024, using some of his inheritance. This debt is resolved. (Tr. 74-75; AE D, N, S-T)

Appellant stated that his current finances have improved considerably. Before, receiving his inheritance, he was living paycheck to paycheck. He credits W2 for helping him with his finances. When they got married, they had a simple civil ceremony and did not take a honeymoon. He prepared a financial statement that reflected a net monthly income remainder, after expenses and debt payments, of \$1,552. His current yearly gross income is \$142,000. W2 does not currently work outside the home, thereby saving them considerable child-care expenses. As noted above, they now have funded an emergency account containing approximately \$30,000 to help them with any unexpected expenses. (Tr. 27, 58, 77, 81-82, 96; AE G)

Character Evidence

Appellant presented the testimony of two former coworkers, and his wife, W2. He also offered a statement by another former coworker. Both testifying coworkers indicated that they had a general knowledge of the allegations, but admitting that they had not read the police report involving the harassment charge. Neither had witnessed any type of aggressive behavior from him. One witness indicated that his observations were that Appellant was financially frugal. One witness described him as “very professional.” Both opined that he is reliable, trustworthy, and exercises good judgment. One witness emphasized this point when he stated that Appellant immediately reported the circumstances of the arrest involving Ms. X to his supervisors. Both recommended that he retain his security clearance. (Tr. 130-136, 139-145)

A female former coworker wrote that she was aware of the harassment charge and of Appellant’s financial difficulties. She knows him professionally and personally. She never witnessed any aggressive behavior that caused her concerns. She is also impressed with the progress he was making with his finances. She stated, “I trust him wholeheartedly.” (AE X)

W2 testified that she met Appellant online. They married in July 2022. He told her about the arrest involving Ms. X on their first date. She has no concerns about her safety around Appellant. She stated, “He has never done anything to make me feel anything but respected and comfortable and safe.” (Tr. 149-151)

When asked if she ever felt intimidated, threatened, or harassed by him, she stated:

Not at all. He has never even really yelled at me, let alone raised a finger at me. I have always been very safe, very secure, and he’s always been

so respectful, so considerate. I've never felt threatened or uncomfortable by him. (Tr. 150)

W2 stated that they use a monthly budget for their finances. They are current on all their bills. She said they used a large portion of his inheritance to get out of debt. Some of the debts paid included paying off their cars, debts related to Appellant's divorce, and credit cards, both his and hers from before their marriage. They both handle their finances. She stated that they incurred \$6,000 in medical expenses, not covered by insurance, for their infant daughter. They set up a payment plan for those debts that is reflected in their financial statement. (Tr. 151-153, 155; AE G)

Training, Certification, Cash Award, and Volunteer Work

Appellant present evidence of courses he took while a Marine. He also presented a certification he earned in his current career field and a cash award he received from his employer as recognition for being a top performer. He was also recognized for his volunteer work doing trail restoration in his community. (AE I-K)

Policies

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

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

Analysis

Guideline J, Criminal Conduct

The security concern relating to the guideline for criminal conduct is set out in AG ¶ 30:

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 ¶ 31 describes conditions that could raise a security concern and may be disqualifying in this case. Potentially applicable conditions include:

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

In August 2021, Applicant was arrested for assaulting and harassing Ms. X. He pleaded guilty to the harassment charge, was sentenced to 24 months’ probation, and was ordered to attend domestic violence classes. He completed his probation with no violations and attended and completed a domestic violence course. Once these sentencing conditions were satisfied, the harassment charge against him was dismissed. AG ¶ 31(b) applies.

I have also considered all of the mitigating conditions for criminal conduct under AG ¶ 32 and considered the following relevant:

(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.

Appellant's criminal action happened approximately three years ago and there is no evidence of similar action since then. W2, who has been married to Appellant since July 2022, testified that he has never threatened or harassed her, but rather he has shown her total respect. Appellant no longer has contact with Ms. X. He successfully completed a domestic violence course and took away the tool of **P.A.U.S.E.** to help him deal with the stressors of his relationships. He complied with all the conditions of his probation. He is successful at his job and volunteers in his community. All these factors point toward successful rehabilitation and an unlikeliness of recurrence. This incident no longer casts doubt on Appellant's reliability, trustworthiness, and judgment. Both of the mitigating conditions substantially apply.

Guideline E, Personal Conduct

AG ¶ 15 expresses the personal conduct security concern:

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.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. Potentially applicable conditions include:

(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.

Applicant resigned from the USMC in lieu of facing an administrative separation action. This action resulted because he received NJP from his command for committing adultery with a fellow officer, a criminal offense under the UCMJ. His actions showed questionable judgment and an unwillingness to comply with rules and regulations. AG ¶

16(c) is not perfectly applicable because the alleged conduct is sufficient and could have been covered for an adverse determination under the criminal conduct. However, the general concerns about questionable judgment and an unwillingness to comply with rules and regulations contained in AG ¶¶ 15 and 16(c) are established.

I have also considered all of the mitigating conditions for personal conduct under AG ¶ 17 and considered the following relevant:

(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.

Applicant is no longer a Marine. The alleged conduct was not minor, but it was a one-time incident in 2020 and no similar incidents have occurred since then. AG ¶ 17(c) substantially applies.

Guideline F, Financial Considerations

AG ¶ 18 expresses the security concerns for 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. 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶ 19. Potentially applicable conditions include:

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

The record evidence supports that Applicant incurred the six delinquent debts alleged in the SOR. I find the above disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

(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;

(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's financial circumstances occurred during a period in his life that is unlikely to recur. He was administratively separated from the USMC and went through a separation, then a divorce with his first wife. He was able to secure a good job shortly after his discharge, but it still did not pay enough to cover all his financial obligations. He engaged a DRC to start to address his delinquent debts. Although his mother's death was certainly an unfortunate event, it did provide him with an inheritance that he immediately used to pay five of the SOR debts, set up a payment plan for the sixth debt, pay W2's credit cards, and establish an emergency fund for the future. While it would have been ideal if he started resolving the debts earlier than he did, sometimes life will not allow that. He did the best he could under the circumstances and his debts are now on track. AG ¶¶ 20(a)-20(c) all substantially apply.

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 guideline 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 his character evidence.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under Guideline J, criminal conduct, Guideline E, personal conduct, and Guideline F, financial considerations.

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 J:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline F:	FOR APPLICANT
Subparagraphs 2.a-2.f:	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

Conclusion

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

Robert E. Coacher
Administrative Judge