



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 13-00596

**Appearances**

For Government: Christopher Morin, Esquire, Department Counsel  
For Applicant: Alan V. Edmunds, Esquire

02/20/2015

**Decision**

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding criminal conduct, drug involvement, alcohol consumption, personal conduct, and financial considerations. Eligibility for a security clearance is granted.

**Statement of the Case**

On January 30, 2009, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP).<sup>1</sup> On an unspecified date, the Defense Office of Hearings and Appeals (DOHA) issued him a set of interrogatories. He responded to those interrogatories on August 11, 2009.<sup>2</sup> On August 5, 2013, he submitted another e-QIP (2<sup>nd</sup> e-QIP).<sup>3</sup> On March 5, 2014, DOHA issued him another set of interrogatories. He responded to those interrogatories on March 26,

<sup>1</sup> GE 3 (e-QIP, dated January 30, 2009).

<sup>2</sup> GE 4 (Answers to Interrogatories, dated August 11, 2009).

<sup>3</sup> GE 1 (2<sup>nd</sup> e-QIP, dated August 5, 2013).

2014.<sup>4</sup> On May 12, 2014, the Department of Defense (DOD) Consolidated Adjudications Facility – Division A (CAF) issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (effective within the Department of Defense on September 1, 2006) (AG) for all adjudications and other determinations made under the Directive.

The SOR alleged security concerns under Guidelines J (Criminal Conduct), H (Drug Involvement), G (Alcohol Consumption), E (Personal Conduct), and F (Financial Considerations), and detailed reasons why the DOD adjudicators could not make an affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant acknowledged receipt of the SOR on May 20, 2014. In a written statement, notarized on June 5, 2014, Applicant responded to the SOR allegations and requested a hearing before an administrative judge. Department Counsel indicated the Government was prepared to proceed on August 20, 2014. The case was assigned to me on August 22, 2014. A Notice of Hearing was issued on August 27, 2014, and I convened the hearing, as scheduled, on September 18, 2014.

During the hearing, 7 Government exhibits (GE 1 through GE 7) and 23 Applicant Exhibits (AE A through AE W) were admitted into evidence, without objection. Applicant and one witness testified. The transcript (Tr.) was received on October 1, 2014. I kept the record open to enable Applicant to supplement it. Applicant took advantage of that opportunity, and he submitted additional documents which were admitted into evidence (AE X through AE Z) without objection. The record closed on October 2, 2014.

### **Findings of Fact**

In his Answer to the SOR, Applicant initially denied a substantial number of allegations, but eventually some of those denials were revised to admissions. He has admitted nearly all of the factual allegations pertaining to criminal conduct (¶¶ 1.a. through 1.k.), drug involvement (¶¶ 2.a. and 2.b.), personal conduct (¶¶ 3.b. and 3.c.), alcohol consumption (¶ 4.a.), and financial considerations (¶¶ 5.a. through 5.d., 5.f., and 5.g.) of the SOR. He denied the remaining factual allegations. Applicant's admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

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<sup>4</sup> GE 2 (Answers to Interrogatories, dated March 26, 2014).

Applicant is a 34-year-old employee of a defense contractor. He has been serving as a senior engineer since July 2008.<sup>5</sup> He has no prior military service.<sup>6</sup> A June 1998 high school graduate, Applicant received a bachelor of science degree *cum laude* in electrical and computer engineering in March 2005,<sup>7</sup> and a master of science degree in May 2008.<sup>8</sup> With his father a college student and his family on food stamps during his youth, Applicant has been working since he was 14 years old. He went through several periods of unemployment: March 2005 through May 2005, June 2005 through November 2005, and April 2008 through May 2008, as well as some periods of underemployment during which he was a laborer, graduate research assistant, tennis court maintenance worker, and stock room associate.<sup>9</sup> Applicant was married in 2012 and separated sometime in August or September 2013.<sup>10</sup>

### **Criminal Conduct, Drug Involvement, and Alcohol Consumption**

Applicant has an extensive criminal history, sometimes involving drugs and alcohol, which commenced in 1999 and continued through 2010. A substantial number of criminal incidents involved police authorities and resulted in court action. He was charged with a variety of crimes, convicted of a substantial number of charges, ordered to pay fines and court costs, and incarcerated for varying periods. In addition to the illegal use of drugs and the intemperate use of alcohol, the SOR alleged 12 separate incidents of criminal conduct:<sup>11</sup>

(SOR ¶ 1.a.): On January 31, 1999, while attending a large university fraternity party, Applicant was suddenly grabbed from behind by someone unknown and unannounced and slammed into the pavement. The assailant, who grabbed Applicant, turned out to be a police officer who broke his own thumb during the encounter. Applicant was charged with disorderly conduct and resisting arrest.<sup>12</sup> During the trial, several fraternity members and police officers testified in Applicant's behalf, and he was found not guilty of the charges.<sup>13</sup>

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<sup>5</sup> GE 1, *supra* note 3, at 14.

<sup>6</sup> GE 1, *supra* note 3, at 28.

<sup>7</sup> GE 1, *supra* note 3, at 13; AE S (Diploma, dated March 20, 2005).

<sup>8</sup> GE 1, *supra* note 3, at 13-14; AE T (Diploma, dated May 11, 2008); AE X (Transcripts, various dates).

<sup>9</sup> GE 1, *supra* note 3, at 14-27; Tr. at 44-46.

<sup>10</sup> GE 2 (Personal Subject Interview, dated September 27, 2013), at 3-4.

<sup>11</sup> It should be noted that there are no police reports or court documents in evidence, and all of the information pertaining to individual criminal incidents comes directly from Applicant or the Federal Bureau of Investigation (FBI), acting as a clearing house for some of the information. Applicant disputed some of the information that appears in the personal subject interviews in evidence, contending that the investigator either misunderstood what Applicant had said, or inaccurately interpreted and recorded Applicant's comments.

<sup>12</sup> GE 5 (FBI Identification Record, dated September 14, 2013), at 3; GE 4 (Personal Subject Interview, dated April 6, 2009), at 5.

<sup>13</sup> GE 4, *supra* note 2, at 80; Applicant's Answer to the SOR, dated June 5, 2014, at 1; GE 2, *supra* note 10, at 7. GE 5, *supra* note 12, is incomplete and does not reflect a disposition of the charges.

(SOR ¶ 1.b.): In December 1999, another student sold Applicant an unspecified quantity of marijuana. Unbeknownst to Applicant, the other student was also a confidential police informant. A few weeks later, the informant asked Applicant to obtain some lysergic acid diethylamide (LSD), a substance Applicant had never before used or possessed. On four different occasions, the informant drove Applicant to a dormitory where Applicant obtained the LSD with the money supplied by the informant. Applicant turned the LSD over to the informant. On or about April 18, 2000, Applicant was indicted and charged with two counts of trafficking in drugs (LSD), 3<sup>rd</sup> degree felonies, and two counts of trafficking in drugs (LSD), 4<sup>th</sup> degree felonies. Other students were similarly charged, and those with attorneys were found not guilty due to entrapment. Applicant's public defender failed to argue in Applicant's behalf, and afraid of prison, Applicant ended up pleading guilty to a lesser offense of trafficking in drugs (LSD), 4<sup>th</sup> degree felonies. He was sentenced to six months at an alternate placement facility where he received drug, alcohol, and responsible living counseling, followed by 18 months of probation.<sup>14</sup> He successfully completed the program and the probation.<sup>15</sup>

(SOR ¶ 1.c.): In August 2000, while riding in the back of a friend's truck on the way to a lake, the driver was pulled over for having too many people in the back of the truck. In his possession, Applicant, who was then 20 years old, had approximately 12 beers and a pack of cigarette rolling papers. He was arrested and charged with unauthorized alcohol possession and possession of drug paraphernalia. Applicant did not have any marijuana on him at the time. He was found guilty of unauthorized alcohol possession, and sentenced to 90 days in jail (suspended) and given one year of probation. The charge of possession of drug paraphernalia was dropped.<sup>16</sup>

(SOR ¶¶ 1.d. and 1.e.): On or about January 18, 2003, at around 2:00 a.m., Applicant's parked car was blocked from behind, and in an effort to extricate the vehicle, Applicant drove between two apartment buildings. While driving through the alley, the vehicle slipped on some ice and made contact with a set of cement steps. The steps were not damaged, but the noise attracted a police officer who observed Applicant's vehicle squeal the tires as it came off the curb onto the roadway. Applicant was pulled over outside his university dormitory and ordered to remain in the vehicle with the engine turned off. Because it was freezing, Applicant exited the vehicle to ask the officer if he could turn on the heater. The officer tackled him, charged him with leaving the scene of an accident, willful or wanton disregard of the safety of persons or property, drive on sidewalk, squealing tires and either resisting arrest or failing to comply with a police order. Applicant was taken to jail. At the police station, Applicant refused to

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<sup>14</sup> GE 4, *supra* note 2, at 79-80, 82; Applicant's Answer to the SOR, dated June 5, 2014, at 2-3; GE 2, *supra* note 10, at 7-8.

<sup>15</sup> GE 4, *supra* note 2, at 80; GE 4, *supra* note 12, at 2.

<sup>16</sup> Applicant's Answer to the SOR, *supra* note 14, at 4. It should also be noted that the cigarette rolling paper in Applicant's possession at the time of the arrest did not, without more, qualify under state law under the circumstances described as "an object, instrument, or device" for illegally ingesting or inhaling a drug.

permit the police to search his anal cavity.<sup>17</sup> He was subsequently found guilty of resisting arrest or failing to comply with a police order, a misdemeanor, and sentenced to two days in jail (suspended) and fined \$100. He was also found guilty of leaving the scene of an accident, also a misdemeanor, and sentenced to 30 days in jail (2 days suspended), 366 days of probation, and fined.<sup>18</sup> Although Applicant stated that one of the charges was driving under the influence (DUI), and the SOR alleged that excessive alcohol consumption was a factor, there is no evidence that any alcohol-related offense was charged or was actually a factor contributing to the incident.

(SOR ¶ 1.f.): On November 11, 2004, after they had returned from a bar, Applicant and his girlfriend were engaged in a verbal dispute regarding her continuing contact with her ex-boyfriend. The argument escalated to the point that she struck him several times. Because of the noise coming from their apartment, a neighbor had alerted the police, and when the police arrived and heard the commotion, they kicked in the apartment door and observed Applicant sitting on top of his girlfriend's legs, pinning her arms down, attempting to calm her down. He was arrested and charged with domestic violence and assault, both misdemeanors.<sup>19</sup> He was convicted of domestic violence and sentenced to 180 days in jail (178 days suspended) and two years of probation. The assault charge was dismissed.<sup>20</sup>

(SOR ¶ 1.g.): On December 24, 2004, at about 2:00 a.m., Applicant and some friends departed a bar to smoke marijuana in the back alley. A police officer observed them and searched them. Small amounts of marijuana were discovered in a friend's jacket pocket and in Applicant's vehicle. Applicant was issued a citation charging him with disorderly conduct, criminal trespass, and possession of marijuana. He was convicted of disorderly conduct and possession of marijuana. The court sentenced him to minimum fines and costs, and his driver's license was suspended for six months. The criminal trespass charge was dismissed.<sup>21</sup>

(SOR ¶ 1.h.): On February 19, 2005, after drinking earlier in the evening, Applicant was in his apartment listening to music before turning in for the night. Unbeknownst to him, one of his neighbors had called the police because of the loud music. Applicant was asleep in his darkened apartment when the police arrived at his door. When he was asked to step outside, he replied he would do so as soon as he could put on his shoes and turn on the porch light because there was ice on the stoop and Applicant was only wearing his underwear. The moment he started for the light

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<sup>17</sup> GE 4, *supra* note 2, at 79; Applicant's Answer to the SOR, *supra* note 14, at 4-5; GE 4, *supra* note 12, at 4-5; GE 2 (Personal Subject Interview, dated December 6, 2013), at 2-3; GE 5, *supra* note 12, at 3. GE 5 is incomplete and does not reflect all of the charges.

<sup>18</sup> Applicant's Answer to the SOR, *supra* note 14, at 4-5.

<sup>19</sup> GE 4, *supra* note 2, at 79; GE 4, *supra* note 12, at 4; Applicant's Answer to the SOR, *supra* note 14, at 5-6; GE 2, *supra* note 10, at 8; GE 5, *supra* note 12, at 3.

<sup>20</sup> GE 4, *supra* note 2, at 79; Applicant's Answer to the SOR, *supra* note 14, at 5; GE 5, *supra* note 12, at 3.

<sup>21</sup> GE 4, *supra* note 2, at 79; GE 4, *supra* note 12, at 4; Applicant's Answer to the SOR, *supra* note 14, at 6.

switch the police knocked down his door, entered his apartment (without a warrant), and tackled, hand-cuffed, and beat Applicant on the head with night sticks. He reflexively defended himself as he was taken to the ground. He was transported first to the hospital where he received seven stitches, and then to jail where he remained for six days. Applicant was also arrested and charged with felony assault and disturbing the quiet. The felony assault charge was reduced to misdemeanor assault. He was convicted of misdemeanor assault and sentenced to 30 days in jail (with 3 days credit for pretrial confinement, and 15 days served on weekends) and ordered to pay costs. The disturbing the quiet charge was dismissed.<sup>22</sup>

(SOR ¶ 1.i.): On March 24, 2005, two or three days after his undergraduate graduation, at about 2:00 a.m., Applicant and a friend were still socializing at a local bar, but no longer buying drinks, when the bar owner had them escorted out of the bar. Applicant's arm was grabbed and he was pushed out the door, falling to the ground. He issued some "choice swear words." As other patrons started chasing him, Applicant grabbed a hand-full of rocks and challenged them to back away from him. Instead, they pursued him. While running away, he threw some rocks. One rock struck a car window and another, a patron's ankle. Applicant was tackled by a pursuing bar patron, who held him for the police. Applicant was arrested and charged with misdemeanor assault, aggravated menacing, and misdemeanor criminal damaging. The misdemeanor criminal damaging charge was reduced to criminal mischief. Applicant was denied bail and was ordered to remain in pre-trial confinement. On August 18, 2005, he was convicted of misdemeanor assault and criminal mischief, and sentenced to 240 days in jail, ordered to pay restitution, receive mental health counseling, and attend Alcoholics Anonymous (AA) meetings. Applicant completed all of the required counseling and AA meetings. He was placed on probation until January 20 2008. The aggravated menacing charge was dismissed.<sup>23</sup>

(SOR ¶ 1.j.): On April 25, 2006, while driving to work at about 7:00 a.m., Applicant was cut off by another driver. The occupants of both vehicles exchanged gestures and a passenger in the other vehicle threw an empty beer bottle out of their sun roof at Applicant's vehicle. As they were pulling into a restaurant parking lot, the other vehicle driver "brake-checked" Applicant's vehicle, causing Applicant to lightly strike the other vehicle. The passenger of the other vehicle exited the vehicle, and, according to Applicant, he was clearly drunk. As he approached Applicant in a threatening manner, Applicant chose to avoid the confrontation and departed without reporting the incident to the police. Later that same morning, Applicant was arrested and charged with driving under suspension/revocation, no operator license, and leaving the scene of an accident. Two months later, he was found guilty of leaving the scene of

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<sup>22</sup> GE 4, *supra* note 2, at 78; GE 4, *supra* note 12, at 4; Applicant's Answer to the SOR, *supra* note 14, at 7; GE 2, *supra* note 10, at 9; GE 5, *supra* note 12, at 4.

<sup>23</sup> GE 4, *supra* note 2, at 78; GE 4, *supra* note 12, at 3; Applicant's Answer to the SOR, *supra* note 14, at 7-8; GE 5, *supra* note 12, at 4; GE 2, *supra* note 17, at 1-2.

an accident, sentenced to 30 days in jail (suspended), and ordered to pay a fine and costs. The remaining charges were dismissed.<sup>24</sup>

(SOR ¶ 1.k.): On August 15, 2008, Applicant consumed alcohol “heavily” with friends during the day before falling asleep at a friend’s home. On the following day, after sleeping from about 4:00 p.m. until 11:00 p.m., he woke up and drove home. While doing so, he was followed by a police officer for about two or three minutes because Applicant’s vehicle matched the description of another vehicle that had been observed driving aggressively. Although Applicant had not been driving in an unacceptable manner, he was pulled over. The officer could still smell the beer that Applicant contended he had spilled the previous day. Applicant was administered field sobriety tests and a breathalyzer. The breathalyzer registered 0.08 blood alcohol content. Applicant did not consider himself to be intoxicated. He was arrested and charged with driving while impaired (DWI) and misdemeanor probation violation. He was eventually found guilty of DWI, a misdemeanor. He was sentenced to 120 days in jail (118 suspended); he was placed on 18 months of probation (ending in September 2011); his driver’s license was suspended for one year; and he was ordered to attend an alcohol safety class; and he was fined.<sup>25</sup>

(SOR ¶ 1.l.): On March 14, 2010, upon arriving home after a night of drinking, Applicant was confronted with a kitchen sink or dining room table full of his roommate’s dirty dishes. In a state of frustration over her repeated collecting dirty dishes in her room and then placing them elsewhere without cleaning them, Applicant knocked some of the dirty dishes to the floor. The roommate, who at the time was entertaining her boyfriend, heard the noise and called the police. When the police arrived at the residence, Applicant refused to grant them entry, and he said if they attempted to enter his home he would “blow their heads off.” Additional police cars arrived at the house. Applicant was eventually arrested and charged with communicating threats, assault on a female, injury to personal property, and probation violation. He denied that he had ever struck his roommate or physically touched her. Nevertheless, in May 2010, he was found guilty of assault and was ordered to pay \$3,290.47 in restitution, placed on probation until November 2012, ordered to complete a substance abuse assessment, and attend a 28-day alcohol treatment program. The remaining charges were dismissed. He acknowledged that he had acted irresponsibly.<sup>26</sup>

(SOR ¶¶ 2.a. and 4.a.): As noted above, Applicant’s illegal use of drugs and his intemperate use of alcohol resulted in substantial incidents with law enforcement and judicial authorities. He started drinking alcohol when he was 14 years old. From 1994 to August 1998, when he started college, his alcohol consumption occurred one weekend a month, and consisted of eight beers. From August 1998 until November 2000, the frequency increased to every weekend, during which he consumed two to three six-

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<sup>24</sup> GE 4, *supra* note 2, at 78; GE 4, *supra* note 12, at 2-3; Applicant’s Answer to the SOR, *supra* note 14, at 8-9.

<sup>25</sup> GE 4, *supra* note 2, at 77; GE 4, *supra* note 12, at 2; Applicant’s Answer to the SOR, *supra* note 14, at 9; GE 2, *supra* note 10, at 5; GE 5, *supra* note 12, at 5.

<sup>26</sup> Applicant’s Answer to the SOR, *supra* note 14, at 10; GE 2, *supra* note 10, at 6; Tr. at 121.

packs of beer. From November 2000 until April 2002, he abstained because he was on probation. In April 2002, his consumption soared to 12 to 18 beers three times per week. Once again, while on probation from February 2005 until February 2006, he abstained. From February 2006 to February 2010, he resumed consuming 12 to 18 beers three times per week, or a glass of wine before dinner on a weekend. He modified his alcohol consumption in February 2010, and until June 2011, he only drank four beers every other month.

Applicant enjoyed consuming alcohol in social settings as it made him feel happy and social. He did not realize that his drinking was excessive or that he had a problem with alcohol, despite attending a variety of alcohol-related programs associated with several court sentences. That ceased in June 2011 when he was ordered to seek an assessment and treatment. He successfully completed a 10-hour DUI program and a 20-hour outpatient program stemming from his 2008 incident. Applicant now understands the negative impact alcohol had on his relationships with former girlfriends. He has successfully abstained from further consumption of alcohol since June 2011. He has eliminated alcohol from his life, and he intends to remain alcohol free.<sup>27</sup>

(SOR ¶¶ 2.a. 2.b., and 3.d.): Applicant's relationship with illegal drugs also started in 1994 as a freshman in high school when he was 14 years old. Based on Applicant's estimates, the frequency of such use changed over time, and it was interrupted by periods of abstinence. From 1994 until 1996, he smoked marijuana once every other month. He abstained from 1996 until September 1998. He used it two or three days per week until November 2000 when he was convicted of trafficking LSD while in college. He abstained from further marijuana use until April 2002 when he resumed using it. During the period April 2002 until March 2005, Applicant estimated he used marijuana either three times per week or 20 to 30 times. He again abstained from March 2005 until September 2007, but once again, resumed using marijuana two times per month or 10 to 15 times until January 2008. Applicant smoked marijuana in both cigarettes and pipes, generally in social situations with friends. He believed that marijuana was a harmless drug. He purchased the marijuana on the street, but never cultivated or sold it.<sup>28</sup>

Applicant has abstained from using marijuana since January 2008, in part, because he outgrew the desire to use it or to associate with those who do, and in part, because he was preparing for a job search. He contends that his lifestyle has changed tremendously since he is no longer a student from a poor family who could be lured or exposed to unacceptable activities, including drugs. He is more active in his nephews' sports, science projects, and church activities as well as his own sports and exercising. He acknowledged that he exercised "a very poor lack of judgment and choice of friends," and he regrets his past behavior. He avoids associating with those who use

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<sup>27</sup> GE 4, *supra* note 12, at 1; GE 2, *supra* note 10, at 11-12; Tr. at 69.

<sup>28</sup> GE 4, *supra* note 12, at 1; GE 4, *supra* note 2, at 82; GE 2, *supra* note 10, at 10; GE 2, *supra* note 4, at 7; Applicant's Answer to the SOR, *supra* note 14, at 11.



drugs and does not go to places where drug activity takes place. Applicant does not intend to use marijuana in the future.<sup>29</sup>

In February 2011, following his May 2010 conviction for assault, Applicant was sent by the department of probation and parole for an evaluation by a forensic psychotherapist. The mental status examination noted:

Certainly no suicidal ideation or homicidal ideation in evidence but he did acknowledge having a short fuse and indeed he has been involved in some interventions to help him keep that at bay. He states that especially since he has abandoned [alcohol] that he is successfully able to control that difficulty and so that it has not really presented any problems with him interpersonally. We really do not have any difficulty with impulsivity, paranoia, threat, interpersonal conflict, irritability, aggression per se outside of him acknowledging that he does tend to get rather short tempered when it comes to imperfections which of course is a function of his personality. He was certainly of superior intelligence. He had insight into his difficulty, was motivated to be here by court order. His range of affect was not limited. There were no signs of organicity with recent and remote memory intact and his judgment appeared to be grossly intact.<sup>30</sup>

Applicant's Axis I diagnosis (clinical disorders) was Adult Antisocial Behavior (V71.01), and his Axis II diagnosis (personality disorders) was Deferred (799.9).<sup>31</sup> There were no diagnoses made of any alcohol use disorders such as Alcohol Dependence (303.90) or Alcohol Abuse (305.00), or cannabis use disorders such as Cannabis Dependence (304.30) or Cannabis Abuse (305.20).

(SOR ¶ 3.d.): When Applicant was ordered to complete a 28-day treatment program following his May 2010 conviction for assault, he was unable to gain admission into any inpatient treatment program. During his telephone interviews with 10 to 15 prospective treatment centers, Applicant acknowledged that he had not been drinking heavily, was no longer using drugs, and had already been on probation for a year. His insurance company refused to cover his treatment because there was no medical necessity. Because of his inability to gain admission to a program, when Applicant informed his probation officer, it was determined that Applicant would violate the terms of his probation if he failed to gain acceptance to a program. At that point, Applicant decided that to gain admission to a program, he had to do what was necessary, such as exaggerate his drug and alcohol use, to do so. The decision had nothing to do with insurance, because Applicant had the funds to pay for the program without insurance.

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<sup>29</sup> GE 4, *supra* note 12, at 1; GE 4, *supra* note 2, at 77; GE 2, *supra* note 10, at 10; GE 2, *supra* note 4, at 7, 10; Applicant's Answer to the SOR, *supra* note 14, at 11; Tr. at 69. See also AE E (Drug Screen Result Form, dated September 12, 2014), reflecting a negative drug screen; AE F (Narcotics Anonymous (NA) and AA Sobriety Coins, undated), reflecting Applicant's lengthy period of attendance at NA and AA meetings.

<sup>30</sup> AE Y (Evaluation, dated February 9, 2011), at 2.

<sup>31</sup> See, *Diagnostic and Statistical Manual of Mental Disorders Fourth Edition Revised* (DSM-IV-TR), at 29, 740.

The decision was simply to be admitted. Accordingly, during his intake interview, Applicant told the interviewer that he consumed alcohol and smoked marijuana every day.

After he was accepted into the program, Applicant was interviewed by the attending physician for about one hour. He stated that he had used the following substances: marijuana daily, with the most recent such use the day before the interview; alcohol two to three times per week, with the most recent such use two days before the interview; cocaine rarely, most recent such use a year and one-half before the interview; and opiates pills, benzodiazepine, LSD, PCP, MDMA, and spray paint, with the most recent such use during his teen years. He attended two group education lectures on alcoholism (post-treatment pharmacology of alcoholism) and domestic violence. He was administered a urinalysis test, and the result came back negative for the presence of drugs.<sup>32</sup> With the absence of any medical necessity, Applicant was successfully discharged from the program after 15 days.<sup>33</sup>

Applicant's discharge diagnoses were: Axis I diagnoses (clinical disorders): Cannabis Dependence, Alcohol Dependence, Cocaine Abuse, Opiate Abuse, Hallucinogen Abuse (partial remission), Benzodiazepine Abuse (sustained full remission), Inhalant Abuse (sustained full remission), and Nicotine Dependence; Axis II: no diagnosis; Axis V: Current GAF (Global Assessment of Functioning Scale): 45.<sup>34</sup> Despite the relatively low GAF, Applicant was discharged "in stable condition with ad-lib activities and diet." He was instructed to attend 90 meetings of AA in 90 days, obtain a sponsor, and associate closely with the 12-Step Recovery Program. No medications were prescribed.<sup>35</sup> His prognosis was "fair to good" as long as he remained with the continuing care plan.<sup>36</sup> Applicant complied with all aspects of the plan even after completing his period of probation. He completed the 12-Step Recovery Program and has served as a sponsor for others in the AA program. He recited the Serenity Prayer from memory.<sup>37</sup>

## Personal Conduct

(SOR ¶ 3.a.): On January 30, 2009, when Applicant completed his e-QIP, he responded to a question pertaining to drug use. The question in Section 24 asked

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<sup>32</sup> AE U (Medical Discharge Summary, dated August 1, 2011), at 1.

<sup>33</sup> GE 2, *supra* note 4, at 37; Applicant's Answer to the SOR, *supra* note 14, at 12, 14; Tr. at 71, 107.

<sup>34</sup> AE U, *supra* note 32, at 1-2; *DSM-IV-TR*, *supra* note 31, at 32-34, 195-196. The GAF scale is divided into ten ranges of functioning, each with two components. The first component covers symptom severity, and the second part covers functioning. Applicant's GAF of 45 falls within the range where his symptom severity is described as "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting," and his functioning includes "any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job)." *DSM-IV-TR*, *supra* note 31, at 32-34.

<sup>35</sup> AE U, *supra* note 32, at 1.

<sup>36</sup> AE U (Continuing Care Discharge Summary, dated July 11, 2011).

<sup>37</sup> Tr. at 116-117.

essentially if, in the last seven years, he had illegally used any drugs or controlled substances. Applicant answered the question with “yes,” and added that he had between 20 and 30 occasions from April 2002 to March 2005.<sup>38</sup> He certified that the response was “true, complete, and correct” to the best of his knowledge and belief. His response to the question was incomplete, for Applicant omitted or concealed his marijuana use during the period September 2007 to January 2008. He answered the same question in his 2<sup>nd</sup> e-QIP in 2013 with a “yes” and acknowledging having used marijuana on 10 to 15 occasions during the period September 2007 to January 2008.<sup>39</sup> In his Answer to the SOR, Applicant denied intending to falsify his response, claiming that he mistakenly and inadvertently forgot the infrequent marijuana use while he was in graduate school. He characterized the omission as an accidental mistake and oversight which he did not realize until he completed his 4<sup>th</sup> step inventory with his AA sponsor in March 2012.<sup>40</sup>

(SOR ¶ 3.b.): During Applicant’s interview with the investigator from the U.S. Office of Personnel Management (OPM) in April 6, 2009, he acknowledged that he had used marijuana between 20 and 30 occasions from April 2002 to March 2005. The SOR alleged that Applicant “falsely stated [he] last used marijuana in March 2005,” but that interpretation is not supported by the evidence. Applicant did not say his last use was in March 2005, he merely indicated that he had used it during that period, as well as earlier periods, and that he had no intentions of using it in the future.<sup>41</sup> In his Answer to the SOR, Applicant denied intending to falsify his response, claiming that he mistakenly and inadvertently forgot the infrequent marijuana use because the earlier use was much more pronounced and ingrained in his memory. He characterized the omission as an accidental mistake and oversight which he did not realize until he completed his 4<sup>th</sup> step inventory with his AA sponsor in March 2012.<sup>42</sup>

(SOR ¶ 3.c.): In his response to interrogatories on August 11, 2009, Applicant acknowledged that he had used marijuana between 20 and 30 occasions from April 2002 to March 2005, and about 100 to 300 times from August 1994 until November 2000. The SOR alleged that Applicant “falsely reported that [he] last used marijuana in March 2005,” but that interpretation is also not supported by the evidence. Applicant did not say his last use was in March 2005; he merely indicated that he had used it during those periods; that he decided to stop using illegal substances after he graduated in 2005; and that he did not plan on smoking marijuana in the future.<sup>43</sup> In his Answer to the SOR, Applicant denied intending to falsify his response, claiming that he mistakenly and

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<sup>38</sup> GE 3, *supra* note 1, at 50. Also in the e-QIP, Applicant referred to his incidents involving use and possession of marijuana and trafficking LSD. See GE 3, *supra* note 1, at 46-51.

<sup>39</sup> GE 1, *supra* note 3, at 51.

<sup>40</sup> Applicant’s Answer to the SOR, *supra* note 14, at 13; Tr. at 68-69.

<sup>41</sup> GE 4, *supra* note 12, at 1.

<sup>42</sup> Applicant’s Answer to the SOR, *supra* note 14, at 14; Tr. at 70.

<sup>43</sup> GE 4, *supra* note 2, at 85.

inadvertently forgot the infrequent marijuana use because the earlier use was much more pronounced and ingrained in his memory. He characterized the omission as an accidental mistake and oversight which he did not realize until he completed his 4<sup>th</sup> step inventory with his AA sponsor in March 2012.<sup>44</sup>

## Financial Considerations

It is unclear when Applicant initially started experiencing financial difficulties, although it appears that in mid-2008, following his graduation from graduate school, some financial difficulties arose because of Applicant's brief period of unemployment and substantial periods of underemployment. At various points thereafter, he owed rent to his brother; was paying high-interest payday loans; had experienced unexpected, and unspecified, medical emergencies; was paying unspecified out-of-pocket medical expenses; had to pay court-order restitution; posted bond for criminal incidents; was paying attorney's fees associated with his criminal incidents; and was paying for various drug and alcohol assessments, evaluations, and treatment programs. In addition, Applicant attributed some of his problems to poor financial advice in dealing with old debts. He was advised to pay his debts one at a time rather than setting up a plan with a uniform approach. He was financially naïve and inexperienced.<sup>45</sup> As a result, Applicant was unable to continue making his routine monthly payments, and some accounts became delinquent. The SOR identified seven purportedly continuing delinquencies as reflected by credit reports from September 2013<sup>46</sup> and August 2014,<sup>47</sup> totaling approximately \$55,113. Those debts and their respective current status, according to the credit reports, other evidence in the case file, and Applicant's admissions regarding the same, are described below.

(SOR ¶ 5.a.): There is an automobile loan account with a high credit of \$19,219 that was past due when the balance of \$10,836 was charged off in February 2010.<sup>48</sup> Applicant stated that he was working with the creditor who changed the payment-due dates, but he was behind in his payments 91 days, with the anticipated payment in hand, when the vehicle was repossessed in December 2009.<sup>49</sup> He subsequently arranged a settlement with the collection agent in the amount of \$5,852, and on September 15, 2014, made two payments of \$2,852.47 and \$2,999.99, including fees.<sup>50</sup> The account has been resolved.

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<sup>44</sup> Applicant's Answer to the SOR, *supra* note 14, at 14; Tr. at 70-71.

<sup>45</sup> Applicant's Answer to the SOR, *supra* note 14, at 16; Tr. at 85.

<sup>46</sup> GE 6 (Combined Experian, TransUnion, and Equifax Credit Report, dated September 14, 2013).

<sup>47</sup> GE 7 (Equifax Credit Report, dated August 19, 2014).

<sup>48</sup> GE 6, *supra* note 46, at 5; AE K (TransUnion Credit Report, dated September 11, 2014), at 4; The charged-off account is also listed in the subsequent Equifax credit report reflecting a high credit of \$10,846. See GE 7, *supra* note 47, at 3.

<sup>49</sup> Applicant's Answer to the SOR, *supra* note 14, at 16; Tr. at 85-86.

<sup>50</sup> AE G (Online Banking Activity, undated); AE G (E-mail, dated September 11, 2014); AE V (Online Banking Activity, undated); Tr. at 72-73.

(SOR ¶ 5.b.): There is a bank credit card account with a high credit of \$1,647 that was past due when the balance of \$1,646 was charged off in January 2009.<sup>51</sup> Applicant subsequently arranged a settlement with the collection agent in the amount of \$987, and on September 14, 2014, made a payment of \$987.73.<sup>52</sup> The account has been resolved.

(SOR ¶ 5.c.): There is a credit card account with a high credit of \$2,337 that was past due (90 days) \$108 with an unpaid balance of \$1,592 when the account was closed by the grantor in September 2009.<sup>53</sup> It was transferred or sold to a collection agent. Applicant subsequently arranged a settlement with the collection agent in the amount of \$892, and on September 16, 2014, made a payment of \$892.<sup>54</sup> The account has been resolved.

(SOR ¶ 5.d.): There is a bank credit card account with a credit limit of \$325 and a high credit of \$608 that was past due when the balance of \$599 was charged off in November 2009.<sup>55</sup> Applicant subsequently paid the collection agent \$599.09 on September 11, 2014.<sup>56</sup> The account has been resolved.

(SOR ¶ 5.e.): There is a mobile telephone account with an unpaid balance of \$1,097 that was placed for collection in October 2008.<sup>57</sup> It was transferred or sold to a collection agent. Applicant denied making a three-hour phone call that led to a \$500 charge with additional fees and charges.<sup>58</sup> He successfully disputed the account with the credit reporting agencies, and the negative report was removed from all of his credit reports.<sup>59</sup> The account has been resolved.

(SOR ¶ 5.f.): There is a medical account with a balance of \$715 that was placed for collection by the inpatient treatment program facility that Applicant attended following

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<sup>51</sup> GE 6, *supra* note 46, at 7; AE K, *supra* note 48, at 5-6; GE 7, *supra* note 47, at 2.

<sup>52</sup> AE Z (Online Banking Activity, undated); Tr. at 73, 86.

<sup>53</sup> GE 6, *supra* note 46, at 7.

<sup>54</sup> AE V, *supra* note 50; Tr. at 74, 87.

<sup>55</sup> GE 6, *supra* note 46, at 7; AE K, *supra* note 48, at 3-4; GE 7, *supra* note 47, at 1.

<sup>56</sup> AE V, *supra* note 50; AE W (Letter, dated September 11, 2014); AE G (E-mail), *supra* note 50; Tr. at 74.

<sup>57</sup> GE 6, *supra* note 46, at 12.

<sup>58</sup> Tr. at 87.

<sup>59</sup> Tr. at 75; See AE K, *supra* note 48 (the account is no longer listed); See AE L (Experian Credit Report, dated September 10, 2014)( the account is no longer listed); See AE M (Experian Credit Report, dated May 30, 2014)( the account is no longer listed); See GE 7, *supra* note 50 (the account is no longer listed).

his May 2010 conviction for assault.<sup>60</sup> Applicant subsequently paid the collection agent \$715 on September 15, 2014.<sup>61</sup> The account has been resolved.

(SOR ¶ 5.g.): There are student loans totaling approximately \$38,628 that were purportedly “outstanding.” The SOR does not specify which accounts are “outstanding,” or what the term means. There is no evidence that the student loans are in any status but current. Furthermore, Applicant steadfastly denied that any of his student loans were delinquent.<sup>62</sup> Applicant has a number of student loans that were reported in his September 2013 credit report as “pays as agreed,” or “payment deferred,” or even “transferred: account closed,” but there are no student loans reported as being delinquent, or in forbearance, or in default.<sup>63</sup> The same is true for his most recent credit reports.<sup>64</sup> The student loan accounts are current, without the necessity of resolving them.

Applicant’s current annual salary is \$84,000. On the hearing date, he estimated having \$1,800 in his checking account and \$5,000 in his savings account. His 401(k) retirement account, as of September 11, 2014, was worth \$52,312.<sup>65</sup> As of July 15, 2014, Applicant’s credit scores from the three major credit reporting agencies were reflected as 624, 637, and 606.<sup>66</sup> In addition to resolving all of his SOR-related accounts, Applicant resolved a variety of accounts that were not alleged in the SOR.<sup>67</sup>

### **Character References and Work Performance**

The chief executive officer of Applicant’s employer has known Applicant since he was hired in July 2008, and they have daily contact with each other. He is effusive in support of Applicant and referred to him as a creative, intelligent engineer and scientist who has come up with very novel process and ideas. Applicant’s work performance has been outstanding, and he has been promoted and received several significant pay increases over the past four years. Applicant generally arrives at the office around 8:00-8:15 am each morning, and rarely leaves the office without his laptop computer to work additional hours from home on evenings and weekends. Applicant has never come to work intoxicated or smelling of alcohol. He noted that Applicant had engaged a personal

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<sup>60</sup> GE 6, *supra* note 46, at 12; AE K, *supra* note 48, at 4; GE 7, *supra* note 47, at 1; Tr. at 87-88.

<sup>61</sup> AE V, *supra* note 50; Tr. at 76.

<sup>62</sup> Applicant’s Answer to the SOR, *supra* note 14, at 18; Tr. at 76.

<sup>63</sup> See GE 6, *supra* note 46.

<sup>64</sup> See GE 7, *supra* note 47; See AE K, *supra* note 48; See AE L, *supra* note 59; See AE M, *supra* note 59.

<sup>65</sup> Tr. at 80-81; AE O (401(k) Employee Benefits Summary, dated September 11, 2014). See also AE P (401(k) Employee Benefits Summary, dated June 30, 2014); AE Q (401(k) Employee Benefits Summary, dated September 30, 2010).

<sup>66</sup> AE N (Credit Score and Analysis, dated July 15, 2014).

<sup>67</sup> See AE I (Letter, dated February 18, 2013).

coach to assist him in understanding his intensity and to improve his personal decision-making.<sup>68</sup>

Two co-workers are also very supportive of Applicant's application. They have characterized him as a creative and intelligent engineer whose work ethic is focused and dedicated. He is generally cheerful and optimistic with a personal desire to improve, and he is extremely reliable and professional.<sup>69</sup> One of them discussed a noted maturation in Applicant's "non-work self."<sup>70</sup> Another individual, who has known Applicant for 30 years, is well aware of Applicant's early circumstances as well as his subsequent travails, and he has been impressed with Applicant's ability to grow from a young kid making mistakes to "an incredible person that is an asset to his community and his company that he works for." Applicant was characterized as loyal, intelligent, and hard-working.<sup>71</sup>

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance."<sup>72</sup> As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so."<sup>73</sup>

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

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging 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. The entire process is a conscientious scrutiny of a number of

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<sup>68</sup> AE A-1 (Character Reference, dated June 6, 2014); Tr. at 28-39.

<sup>69</sup> AE A-2 (Character Reference, dated June 6, 2014); AE A-4 (Character Reference, undated).

<sup>70</sup> AE A-4, *supra* note 69.

<sup>71</sup> AE A-3 (Character Reference, undated).

<sup>72</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>73</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

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 meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.”<sup>74</sup> The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government.<sup>75</sup>

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those 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 as to potential, rather than actual, risk of compromise of classified information. Furthermore, “security clearance determinations should err, if they must, on the side of denials.”<sup>76</sup>

Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.”<sup>77</sup> Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. 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.

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<sup>74</sup> “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994).

<sup>75</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>76</sup> *Egan*, 484 U.S. at 531.

<sup>77</sup> See Exec. Or. 10865 § 7.



## Analysis

### Guideline J, Criminal Conduct

The security concern under 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.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 31(a), a “single serious crime or multiple lesser offenses” is potentially disqualifying. Also, a security concern may be raised under AG ¶ 31(c), when there is an “allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted.” As noted above, Applicant’s criminal history is lengthy and varied. In addition to the illegal use of marijuana and the intemperate use of alcohol, there were 12 separate incidents of criminal conduct involving police activities and court action over an 11-year period. He was charged with a variety of crimes, convicted of a substantial number of charges, ordered to pay fines and court costs, and incarcerated for varying periods. AG ¶¶ 31(a) and 31(c) have been established.

The guideline also includes examples of conditions that could mitigate security concerns arising from criminal conduct. Under AG ¶ 32(a), the disqualifying condition may be mitigated where “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.” Similarly, AG ¶ 32(d) may apply where “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.”

AG ¶¶ 32(a) and 32(d) apply. Commencing in 1999, when he was 19 years old, and continuing until 2010, when he was 29 years old, Applicant was involved in a number of incidents that resulted in arrests, criminal charges, convictions, and sentencing. He was also acquitted of some charges and other charges were dismissed. Some of the incidents involved alcohol, some involved marijuana and LSD, and others were a combination of alcohol and a hot temper. Applicant grew up in poverty, and never developed an appreciation for self-control. While he was apparently book-smart, his social skills were associated with naivety, and he used alcohol or marijuana with his peers. Influenced by too much alcohol, Applicant soon found himself in a spiral of self-destruction becoming involved both innocently and actively in an extensive array of criminal conduct. Nothing fazed him, for arrests, convictions, jail, probation, and fines, had no positive impact on him. His environment – undergraduate and graduate school – was generally the environment of alcohol and marijuana.

Because of the proliferation of Applicant's criminal conduct, it cannot be characterized as isolated criminal conduct. However, once Applicant escaped his university environment and entered his current professional environment, things changed. A new paradigm was established when Applicant cast aside his criminal behavior, ceased using marijuana, and stopped consuming alcohol. In the past, Applicant could not exist for three years without some criminal conduct taking place. However, once he decided to abstain from marijuana in January 2008, there have been no marijuana-related criminal conduct, and once he embraced abstinence from alcohol in June 2011, there have been no alcohol-related criminal incidents. With the assistance of accumulated education and therapy from the various programs, as well as his newly-developed maturity, Applicant has not been involved in criminal conduct since March 2010 – a period of nearly five years. Given his appreciation of life without the burdens of alcohol and marijuana, his good employment record, and his repeatedly stated remorse for his past actions, Applicant has been successfully rehabilitated, and his criminal conduct is unlikely to recur. It no longer casts doubt on Applicant's reliability, trustworthiness, or good judgment.

### **Guideline H, Drug Involvement**

The security concern relating to the guideline for Drug Involvement is set out in AG ¶ 24:

Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

(a) Drugs are defined as mood and behavior altering substances, and include:

(1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens), and

(2) inhalants and other similar substances;

(b) drug abuse is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 25(a), "any drug abuse (see above definition)," is potentially disqualifying. Similarly, under AG ¶ 25(c), "illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia," may raise security concerns. Also, a "diagnosis by a duly qualified medical professional (e.g., physician, clinical psychologist, or psychiatrist) of drug abuse or drug dependence" may raise security concerns under AG ¶ 25(d).

Applicant started using marijuana in 1994 and continued using it, interrupted by periods of abstinence, until January 2008. In the absence of a detailed ledger, based on Applicant's guesstimates, the frequency of such use changed over time. He smoked marijuana in both cigarettes and pipes, generally in social situations with friends. He purchased the marijuana on the street, but never cultivated or sold it. In November 2000 he was convicted of trafficking LSD while in college. In December 2005, he was convicted of possession of marijuana. In February 2011, Applicant was sent by the department of probation and parole for an evaluation by a forensic psychotherapist. The diagnoses were: Axis I: Adult Antisocial Behavior (V71.01); Axis II: Deferred (799.9). There were no diagnoses made of any alcohol use disorders such as Alcohol Dependence (303.90) or Alcohol Abuse (305.00), or cannabis use disorders such as Cannabis Dependence (304.30) or Cannabis Abuse (305.20).

However, because of Applicant's embellishment of his drug history to enable him to gain admission into the 28-day inpatient treatment program, upon his discharge from that treatment program, Applicant's diagnoses were: Axis I: Cannabis Dependence, Alcohol Dependence, Cocaine Abuse, Opiate Abuse, Hallucinogen Abuse (partial remission), Benzodiazepine Abuse (sustained full remission), Inhalant Abuse (sustained full remission), and Nicotine Dependence. AG ¶¶ 25(a), 25(c), and 25(d) have been established.

The guideline also includes examples of conditions that could mitigate security concerns arising from drug involvement. Under AG ¶ 26(a), the disqualifying conditions may be mitigated where "the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment." Under AG ¶ 26(b), drug involvement concerns may also be mitigated where there is:

a demonstrated intent not to abuse any drugs in the future, such as: (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; (3) an appropriate period of abstinence; (4) a signed statement of intent with automatic revocation of clearance for any violation.

In addition, where there is a "satisfactory completion of a prescribed drug treatment program, including but not limited to rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional," AG ¶ 26(d) may apply.

AG ¶¶ 26(a), 26(b), and 26(d) apply. Applicant's drug involvement can be divided into three distinctly separate groupings. The first group, related to marijuana involved his lengthy history of marijuana possession and use that commenced in 1994, but ceased in January 2008 – seven years ago. The second group is related to LSD. Applicant's explanation – the only one in evidence – was that he was ensnared in a sting operation by another student who was confidential police informant. The informant asked Applicant to obtain some LSD, a substance Applicant had never before used or possessed. On four different occasions, the informant drove Applicant to a dormitory

where Applicant obtained the LSD with the money supplied by the informant. Applicant turned the LSD over to the informant. In April 2000, Applicant was indicted and charged with trafficking in drugs (LSD). He was subsequently convicted. There is no evidence that Applicant ever used LSD. In the ensuing 15 years since Applicant's indictment, there is no evidence that he has had any more recent involvement with LSD.

The third group is related to his purported use of cocaine, opiates pills, benzodiazepine, LSD, PCP, MDMA, and spray paint. The forensic psychotherapist found no current drug-related diagnosis. The only evidence of such purported use arose from Applicant's embellishment of his drug history to enable him to gain admission into the 28-day inpatient treatment program. He had never actually used the substances he listed. The stated diagnoses are internally inconsistent, and there is no evidence that they comply with the analysis required under the *DSM-IV-TR*. For example, Applicant told the treatment program intake interviewer that he had used marijuana the day before the interview and alcohol two days before the interview. Yet, when the urinalysis results came back, the results were negative. Applicant claimed he had rarely used cocaine, with the most recent such use a year and one-half before the interview. He also stated he had used opiates pills, benzodiazepine, LSD, PCP, MDMA, and spray paint, with the most recent such use during his teen years. Nevertheless, despite only a one-hour interview and the negative urinalysis, Applicant's Axis I discharge diagnoses were: Cannabis Dependence, Alcohol Dependence, Cocaine Abuse, Opiate Abuse, Hallucinogen Abuse (partial remission), Benzodiazepine Abuse (sustained full remission), Inhalant Abuse (sustained full remission), and Nicotine Dependence.

Applicant satisfactorily completed the treatment program and was instructed to attend 90 meetings of AA in 90 days, obtain a sponsor, and associate closely with the 12-Step Recovery Program. No medications were prescribed. His prognosis was "fair to good" as long as he remained with the continuing care plan. Applicant complied with all aspects of the plan even after completing his period of probation. He completed the 12-Step Recovery Program and has served as a sponsor for others in the AA program. Applicant has demonstrated a clear intent not to abuse any drugs in the future. He has avoided his former drug-using associates and contacts; he has avoided the campus environment where he used marijuana; he has vowed never to use illegal drugs in the future; and most significantly, he has abstained from any drug abuse for seven years. Applicant's former drug involvement is unlikely to recur and no longer casts doubt on his reliability, trustworthiness, or good judgment.

### **Guideline G, Alcohol Consumption**

The security concern relating to the guideline 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(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 whether the individual is diagnosed as an alcohol abuser or alcohol dependent” is potentially disqualifying. In addition, “habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent,” may apply under AG ¶ 22(c). Similarly, a “diagnosis by a duly qualified medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence” is of security significance under AG ¶ 22(d). Applicant started drinking alcohol when he was 14 years old. From 1994 to June 2011, the frequency and quantity of his alcohol consumption varied. It was periodically interrupted by periods of abstinence. From August 1998 until November 2000, the frequency increased to every weekend, during which he consumed two to three six-packs of beer. From November 2000 until April 2002 he abstained because he was on probation. In April 2002, his consumption once again soared to 12 to 18 beers three times per week. Once again, while on probation from February 2005 until February 2006, he abstained. From February 2006 to February 2010, he resumed consuming 12 to 18 beers three times per week. Applicant enjoyed consuming alcohol in social settings as it made him feel happy and social. Applicant was also involved in a number of alcohol-related incidents that resulted in alcohol-related charges, including unauthorized possession of alcohol, DUI, DWI, criminal mischief, assault, and domestic violence. During the 28-day inpatient treatment program, Applicant was diagnosed with alcohol dependence. AG ¶¶ 22(a), 22(c), and 22(d) have been established.

The guidelines also include examples of conditions that could mitigate security concerns arising from alcohol consumption. Under AG ¶ 23(a), the disqualifying condition may be mitigated where “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.” In addition, when “the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser)”, AG ¶ 23(b) may apply. In addition, AG ¶ 23(d) may be established where:

the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

AG ¶¶ 23(a), 23(b), and 23(d) apply. While Applicant’s relationship with alcohol was a long-standing one, he did not realize that his drinking was excessive or that he

had a problem with alcohol despite attending a variety of alcohol-related programs associated with several court sentences. That ceased in June 2011 when he was ordered to seek an assessment and treatment. He successfully completed a 10-hour DUI program and a 20-hour outpatient program stemming from his 2008 incident. In July 2011, when he enrolled in a 28-day treatment program following his May 2010 conviction for assault, Applicant was diagnosed with Alcohol Dependence.

Applicant satisfactorily completed the treatment program, and was instructed to attend 90 meetings of AA in 90 days, obtain a sponsor, and associate closely with the 12-Step Recovery Program. No medications were prescribed. His prognosis was “fair to good” as long as he remained with the continuing care plan. Applicant complied with all aspects of the plan even after completing his period of probation. He completed the 12-Step Recovery Program and has served as a sponsor for others in the AA program. Applicant now understands the negative impact alcohol had on his relationships with former girlfriends. Applicant has demonstrated a clear intent not to consume alcohol in the future. He has successfully abstained from further consumption of alcohol since June 2011 – over three and one-half years. He has eliminated alcohol from his life, and he intends to remain alcohol free. Applicant’s alcohol abuse is unlikely to recur and no longer casts doubt on his reliability, trustworthiness, or good judgment.

#### **Guideline E, Personal Conduct**

The security concern relating to the guideline 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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 16(a), it is potentially disqualifying if there is a

deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

Similarly, under AG ¶ 16(b), “deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative” may raise security concerns. Additionally, security concerns may be raised under AG ¶ 16(c) if there is

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 person may not properly safeguard protected information.

Applicant's omissions and concealments in his responses to inquiries during the completion of his e-QIP, during his OPM interview, and in his responses to the interrogatories, of information pertaining to his substance abuse, provide sufficient evidence to examine if Applicant's answers and comments were deliberate falsifications pertaining to critical information, as alleged in the SOR, or were the result of confusion, forgetfulness, or misunderstanding on his part. I had ample opportunity to evaluate the demeanor of Applicant, observe his manner and deportment, appraise the way in which he responded to questions, assess his candor or evasiveness, read his statements, and listen to his testimony. Applicant did not say his last use of marijuana was in March 2005, he merely indicated that he had used it during certain periods, and that he had no intentions of using it in the future. Applicant denied intending to falsify his responses, claiming that he mistakenly and inadvertently forgot the infrequent marijuana use while he was in graduate school. Applicant furnished very detailed frequency estimates regarding his marijuana use which commenced in 1994. In the absence of a ledger or notes upon a calendar which might memorialize his actual marijuana use, the fact that he gave substantial notice of substance abuse, albeit somewhat faulty descriptions of that abuse, should not be considered, without more, to be deliberate falsifications. He characterized the omissions as accidental mistakes and oversight which he did not realize until he completed his 4<sup>th</sup> step inventory with his AA sponsor in March 2012. He answered the same question in his 2<sup>nd</sup> e-QIP in 2013 with a "yes," and acknowledged that he had used marijuana on 10 to 15 occasions during the period in question. Applicant's explanations regarding those answers support his position that he was not attempting to conceal or falsify the true facts. AG ¶¶ 16(a) and 16(b) (relating to the OPM investigator) have not been established.<sup>78</sup>

In June 2011, when Applicant was ordered to complete a 28-day treatment program following his May 2010 conviction for assault, he was unable to gain admission into any inpatient treatment program. During his telephone interviews with prospective treatment centers, Applicant acknowledged that he had not been drinking heavily, was

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<sup>78</sup> The Appeal Board has explained the process for analyzing falsification cases, stating:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant's intent or state of mind at the time the omission occurred. [Moreover], it was legally permissible for the Judge to conclude Department Counsel had established a prima facie case under Guideline E and the burden of persuasion had shifted to the applicant to present evidence to explain the omission.

no longer using drugs, and had already been on probation for a year. His insurance company refused to cover his treatment because there was no medical necessity. Applicant was faced with a **dilemma**. Because his inability to gain admission to a program, when Applicant informed his probation officer, it was determined that Applicant would violate the terms of his probation if he failed to gain acceptance to a program. He then decided that to gain admission, he had to do what was necessary, such as exaggerate his drug and alcohol use, to do so. The decision had nothing to do with insurance, because Applicant had the funds to pay for the program without insurance. The decision was simply to be admitted to the treatment program or face a probation violation. AG ¶ 16(b) (relating to the competent medical authority) has not been established.

The SOR did not allege Applicant's criminal conduct, alcohol consumption, general substance abuse involvement (as opposed to the marijuana abuse during September 2007 to January 2008), or his financial considerations under the personal conduct guideline. Accordingly, AG ¶ 16(d) has not been established.

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. . . .

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), "an inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly, under AG ¶ 19(c), "a history of not meeting financial obligations" may raise security concerns. Also, "financial problems that are linked to drug abuse, alcoholism, gambling problems, or other issues of security concern" are potentially disqualifying under AG ¶ 19(f). As noted above, Applicant had to pay court-ordered restitution; posted bond for criminal incidents; was paying attorney's fees associated with his criminal incidents; and was paying for various drug and alcohol assessments, evaluations, and treatment programs. Some of his accounts were placed for collection, and a vehicle was repossessed. AG ¶¶ 19(a), 19(c), and 19(f) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where "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." Under AG ¶ 20(b), financial security concerns may be mitigated where "the conditions that resulted



in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances." Evidence that "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control" is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts."<sup>79</sup> When "the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue," AG ¶ 20(e) may apply.

AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) apply. In mid-2008, following his graduation from graduate school, Applicant began experiencing some financial difficulties because of his brief period of unemployment and substantial periods of underemployment. At various points thereafter, he owed rent to his brother; was paying high-interest payday loans; had experienced unexpected, and unspecified, medical emergencies; was paying unspecified out-of-pocket medical expenses; had to pay court-ordered restitution; posted bond for criminal incidents; was paying attorney's fees associated with his criminal incidents; and was paying for various drug and alcohol assessments, evaluations, and treatment programs. Some of those issues were largely beyond Applicant's control, but those expenses that arose because of his drug involvement, excessive consumption of alcohol, and his other criminal incidents involving police authorities and the courts can be in some measure both within and beyond his control. To an extent, Applicant's drug involvement and excessive alcohol consumption may have reduced his ability to avoid his criminal conduct. However, Applicant's incremental approach to his various problems led him to abstain from drug involvement in January 2008, from criminal conduct in March 2010, and from alcohol consumption in June 2011. He was then free to focus on his financial issues. Applicant attributed some of his problems to poor financial advice in dealing with old debts. He was advised to pay his debts one at a time rather than setting up a plan with a uniform approach. Applicant was financially naïve and inexperienced.

The SOR identified seven purportedly continuing delinquencies as reflected by credit reports from 2013 and 2014, totaling approximately \$55,113. Of that figure there

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<sup>79</sup> The Appeal Board has previously explained what constitutes a "good-faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good-faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term 'good-faith.' However, the Board has indicated that the concept of good-faith 'requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.' Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy [or statute of limitations]) in order to claim the benefit of [the "good-faith" mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

are student loans totaling approximately \$38,628 that were purportedly “outstanding.” The SOR does not specify which accounts are “outstanding,” or what the term means. There is no evidence that the student loans are in any status but current. Furthermore, Applicant steadfastly denied that any of his student loans were delinquent. His student loans were reported in his credit reports as “pays as agreed,” or “payment deferred,” or even “transferred: account closed,” but there were no student loans reported as being delinquent, or in forbearance, or in default. The student loan accounts are current, without the necessity of resolving them. One account was successfully disputed, and that account is no longer listed in Applicant’s credit report. Applicant contacted the creditors or collection agents for the remaining delinquent accounts and resolved them. He no longer has any delinquent accounts. Applicant acted responsibly under the circumstances.<sup>80</sup>

### **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(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual’s age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

There is significant disqualifying evidence against mitigating Applicant’s conduct. Applicant’s criminal history is lengthy and varied. Commencing in 1999, when he was 19 years old, and continuing until 2010, when he was 29 years old, Applicant was involved in a number of incidents that resulted in arrests, criminal charges, convictions, and sentencing. He was also acquitted of some charges and other charges were dismissed. Some of the incidents involved alcohol, some involved marijuana and LSD, and others were a combination of alcohol and a hot temper. Influenced by too much alcohol, Applicant soon found himself in a spiral of self-destruction becoming involved in an extensive array of criminal conduct. Nothing fazed him. His arrests, convictions, jail,

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<sup>80</sup> “Even if Applicant’s financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties.” ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)).

probation, and fines had no positive impact on him. His environment – undergraduate and graduate school – was generally the environment of alcohol and marijuana. In addition, he encountered financial difficulties.

The mitigating evidence under the whole-person concept is more substantial. Applicant grew up in poverty, and never developed an appreciation for self-control. While he was apparently book-smart, his social skills were associated with naivety, and he used alcohol or marijuana as part of his relationship with his peers. Once Applicant escaped his university environment and entered his current professional environment, things changed. A new paradigm was established when Applicant cast aside his criminal behavior, ceased using marijuana, and stopped consuming alcohol. He decided to abstain from marijuana in January 2008, and there has been no subsequent marijuana-related criminal conduct. Once he embraced abstinence from alcohol in June 2011, there have been no alcohol-related criminal incidents. With the assistance of accumulated education and therapy from the various programs, as well as his newly-developed maturity, Applicant has not been involved in criminal conduct since March 2010 – a period of nearly five years. Given his appreciation of life without the burdens of alcohol and marijuana, his good employment record, and his repeatedly stated remorse for his past actions, Applicant appears to have been successfully rehabilitated, and his criminal conduct is unlikely to recur. It no longer casts doubt on Applicant's reliability, trustworthiness, or good judgment. He has resolved all of his delinquent debts, and there are clear indications that his financial problems are under control.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>81</sup>

In evaluating Guideline F cases, the Board has previously noted that the concept of “‘meaningful track record’ necessarily includes evidence of actual debt reduction through payment of debts.” However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has “. . . established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan.” The Judge can reasonably consider the entirety of an applicant's financial situation and his [or her] actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) (“Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.”) There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

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<sup>81</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Applicant has demonstrated a “meaningful track record” of debt reduction and elimination efforts. After a dismal period of criminal conduct, substance abuse, and alcohol abuse, he has also established a positive paradigm of abstinence, and good conduct, in addition to an outstanding employment record. Nevertheless, this decision should serve as a warning that his failure to continue his drug and alcohol abstinence, or his renewed involvement in criminal conduct, or the actual accrual of new delinquent debts, will adversely affect his future eligibility for a security clearance.<sup>82</sup> Overall, the record evidence leaves me without substantial questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the security concerns arising from his criminal conduct, drug involvement, alcohol consumption, personal conduct, and financial considerations. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

### 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
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	For Applicant
Subparagraph 1.k:	For Applicant
Subparagraph 1.l:	For Applicant
Paragraph 2, Guideline H:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT

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<sup>82</sup> While this decision should serve as a warning to Applicant, the decision, including the warning, should not be interpreted as being contingent on future monitoring of Applicant’s conduct, substance or alcohol abstinence, or financial condition. The Defense Office of Hearings and Appeals (DOHA) has no authority to attach conditions to an applicant’s security clearance. See, e.g., ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012) (citing ISCR Case No. 10-03646 at 2 (App. Bd. Dec. 28, 2011)). See also ISCR Case No. 06-26686 at 2 (App. Bd. Mar. 21, 2008); ISCR Case No. 04-03907 at 2 (App. Bd. Sep. 18, 2006); ISCR Case No. 04-04302 at 5 (App. Bd. Jun. 30, 2005); ISCR Case No. 03-17410 at 4 (App. Bd. Apr. 12, 2005); ISCR Case No. 99-0109 at 2 (App. Bd. Mar. 1, 2000).

Subparagraph 3.a:	For Applicant
Subparagraph 3.b:	For Applicant
Subparagraph 3.c:	For Applicant
Subparagraph 3.d:	For Applicant

Paragraph 4, Guideline G:	FOR APPLICANT
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Subparagraph 4.a:	For Applicant
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Paragraph 5, Guideline F:	FOR APPLICANT
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Subparagraph 5.a:	For Applicant
Subparagraph 5.b:	For Applicant
Subparagraph 5.c:	For Applicant
Subparagraph 5.d:	For Applicant
Subparagraph 5.e:	For Applicant
Subparagraph 5.f:	For Applicant
Subparagraph 5.g:	For Applicant

### **Conclusion**

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

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ROBERT ROBINSON GALES  
Administrative Judge