DATE: June 17, 2003

In Re:

SSN: ----------

Applicant for Security Clearance

ISCR Case No. 01-03232

DECISION OF ADMINISTRATIVE JUDGE

ROBERT ROBINSON GALES

APPEARANCES

FOR GOVERNMENT

Robert J. Tuider, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Forty-three-year-old Applicant's finances deteriorated rapidly when the shares of a publicly traded company which purchased his business became worthless because the executives of that company were convicted of illegal stock manipulation. His debts were discharged under Chapter 7 bankruptcy. His lengthy relationship with a suspected drug trafficker, and failure to furnish correct and accurate responses to inquiries in a Security Clearance Application (SF 86), largely because of erroneous advice furnished by his attorney, also raised security concerns. He has mitigated the concerns by the evidence developed herein, and questions and doubts as to his security eligibility and suitability have been satisfied. Clearance is granted.

STATEMENT OF THE CASE

On December 6, 2002, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry,* dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified, issued a Statement of Reasons (SOR) to Applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and recommended referral to an Administrative Judge to determine whether a clearance should be granted, continued, denied, or revoked.

In a sworn written statement, dated December 22, 2002, but notarized December 23, 2002, Applicant responded to the allegations set forth in the SOR, and requested a hearing. The case was initially assigned to another Administrative Judge on February 4, 2003, but due to caseload considerations, was reassigned to, and received by, this Administrative Judge on March 11, 2003. A notice of hearing was issued on March 14, 2003, and the hearing was held before me on arch 27, 2003. During the course of the hearing, nine government exhibits[(1)], and five Applicant exhibits, and the testimony of three Applicant witnesses (including the Applicant), were received. The transcript (Tr.) was received on April 4, 2003.

FINDINGS OF FACT

Applicant has admitted the sole factual allegation pertaining to financial matters under Guideline F (subparagraph 1.a.), as well as one factual allegation pertaining to personal conduct under Guideline E (subparagraph 2.d.). Those admissions are incorporated herein as findings of fact. He denied the remaining allegations pertaining to personal conduct (subparagraphs 2.a. through 2.c.).

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:

Applicant is a 43-year-old employee of a defense contractor seeking to obtain a security clearance.

Applicant worked as a Teamster for a transportation company in the Midwest for about eight years and owned a small percentage of a gymnasium. To satisfy his wife's desire to move closer to her family, they relocated. He started anew as a bouncer and eventually became a bartender. In about May 1987, Applicant invested whatever money he had saved, as well as his share of the proceeds from the sale of his portion of the gymnasium, in another facility. During the period ay 1987 through October 1995, Applicant was a successful small business owner operating a fitness center/gymnasium, and he eventually developed it into a thriving business. By September 1995, Applicant had two children, and his second marriage had deteriorated to the point where it was dissolved by divorce.

At about the same time, Applicant was approached by a publicly traded company and offered a business proposition. In exchange for an unspecified amount of cash and 150,000 shares of the other company, he sold his business. Since the share price of the purchaser at that time was approximately $3.00 per share, the market value of his sale was about $450,000.00.[(2)] A provision of the sale, however, was that Applicant could not sell his shares for two calendar years. Unfortunately for Applicant, before the period had expired, the executives of the publicly traded company were convicted of illegal stock manipulation, the company was de-listed from the exchange, and the portfolio value of the shares diminished to zero and they became worthless.[(3)]

Faced with mounting expenses and limited income from his part-time position as a firefighter, while waiting for his anticipated distribution, Applicant used his credit cards to keep going. He then realized the situation, but it was too late. He kept working to pay his known bills but only succeeded in paying the accrued interest and was not lowering the principal. Furthermore, he had to pay child support following both divorces. In October 1999, he obtained a permanent position as a fire protection officer with his defense contractor/employer, and made unsuccessful attempts to make meaningful payment arrangements.[(4)] Finally, he decided to obtain relief through bankruptcy. In March 2002, while preparing to file a Voluntary Petition under Chapter 7 of the Bankruptcy Code, Applicant obtained a credit check and discovered there were several other creditors about whom he had been unaware.[(5)] Applicant attributed his absence of knowledge about those creditors to never receiving letters or bills from them because they must have been mailed to his ex-wife, as well as a series of misunderstandings.

One debt, in the amount of $151.00 owed to a national bank (more fully identified in subparagraph 2.a.(1) of the SOR) was, according to a Report of Credit, dated April 26, 2000,[(6)] a joint account charged off as a bad debt. Applicant has offered two different scenarios regarding this debt. In March 2002, he stated the charges were erroneous overdraft charges which he did not intend to pay.[(7)] In December 2002, he contended he had closed his checking account with the bank but was not aware of any continuing debt with them.[(8)]

Another debt, in the amount of $187.00 owed to a national cell telephone company (more fully identified in subparagraph 2.a.(2) of the SOR) was, according to the Report of Credit, an individual account, designated as a bad debt, sent to a collection agency in June 1997.[(9)] Applicant has again offered two different scenarios regarding this debt. He initially stated he disputed certain charges which he did not intend to pay.[(10)] He subsequently contended that when he closed the account because of poor service, he was advised he would receive a credit since he was closing it at the beginning of the month.[(11)]

Another debt, in the amount of $204.00 owed to a national credit card company (more fully identified in subparagraph 2.a.(3) of the SOR) was, according to the Report of Credit, an individual revolving account, charged off as a bad debt in November 1989.[(12)] Once again, Applicant offered two different explanations regarding this debt. Applicant initially acknowledged owing the money and could not recall his reasons for not having satisfied the debt.[(13)] He subsequently contended that he closed the account because improper charges were added to his account which were not his charges. After fighting to eliminate the charges for about a month, he was advised the charges would be removed from the account, and Applicant expected that they had been expunged.[(14)]

Another debt, in the amount of $135.00 owed to a healthcare provider (more fully identified in subparagraph 2.a.(4) of the SOR) was, according to the Report of Credit, an individual account, designated as a bad debt, sent to collection in May 1997.[(15)] Once again, Applicant offered two different explanations regarding this debt. Applicant initially explained both he and his insurance company had paid for the professional services when the provider started asking for additional payments. Applicant refused and informed the doctor that he did not intend to make any additional payments.[(16)] Applicant subsequently contended that he had insurance which was to cover the shoulder surgery charges and he was under the impression his insurance had done so. He was surprised when there was an unpaid balance.[(17)]

These four outstanding debts were listed as unsecured nonpriority claims in the Voluntary Petition under Chapter 7 of the Bankruptcy Code,[(18)] and they were subsequently discharged in August 2002.[(19)]

In July 1991, during the period in which he was operating the fitness center/gymnasium, Applicant was also an active competitive bodybuilder. He was scheduled to participate in a bodybuilding competition or seminar in another state and accepted a free ride from an employee/acquaintance who was planning on driving through the city where the competition was scheduled to take place. While Applicant was asleep in the car, the police stopped the driver for speeding. During a search of the vehicle, the police found 20 pounds of marijuana.[(20)] Applicant denied knowing anything about the marijuana, and despite the police being informed by the driver that the marijuana was his, the three occupants of the automobile, including Applicant, were arrested and transported to the local jail for two days before he was released. He was charged with drug violation - possession, and possession of controlled substance, both felonies.[(21)] On September 9, 1991, the charges against Applicant were dismissed.[(22)] The driver of the vehicle was convicted and sentenced to three months in jail.[(23)]

Applicant has been steadfast in denying knowledge or involvement in the possession or transportation of the marijuana, and there is no evidence to rebut his contentions in this regard. Furthermore, he claims he was not aware he was ever "charged" and was of the belief he was merely "arrested,"[(24)] despite having spent two days in jail. He based his position on what he claims was the advice furnished by his attorney,[(25)] but is unable to obtain written confirmation of that advice as the attorney no longer practices law and resides outside the United States.[(26)]

In October 1999, Applicant completed an SF 86,[(27)] and in response to a finance-related inquiry, responded "no." That inquiry was: Number 38 (*"In the last 7 years, have you been over 180 days delinquent on any debt(s)?"*).[(28)] He certified his response was true, complete, and accurate. It was obviously false. Applicant attributed his response to a lack of knowledge and awareness about the four debts in question by offering a third scenario and claimed any such bills or collection efforts must have been addressed to his former residence and she never furnished him with any mail.[(29)]

In completing his SF 86, Applicant also responded to a police record-alcohol/drug offenses inquiry, by responding "no." That inquiry was: Number 24 (*"Have you ever been charged with or convicted of any offense(s) related to alcohol or drugs? For this item, report information regardless of whether the record in your case has been "sealed" or otherwise stricken from the record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607."*).[(30)] He certified his response was true, complete, and accurate. It too was obviously false. Applicant denied attempting to falsify his response, and attributed his reasons to that already discussed above, as well as the belief he could later explain his response.[(31)] Additionally, he thought the actions of his attorney constituted an

"expungement."[(32)]

The third relevant inquiry to which Applicant responded "no," was Number 21, pertaining to a police record-felony offenses (*"Have you ever been charged with or convicted of any felony offense? (Include those under the Uniform Code of Military Justice.) For this item, report information regardless of whether the record in your case has been "sealed" or otherwise stricken from the record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607."*).[(33)] He certified his response was true, complete, and accurate. It too was obviously false. Applicant denied attempting to falsify his response, and attributed his reasons to those already discussed above pertaining to question Number 24.[(34)]

Shortly after Applicant moved into town, and before he purchased control of the fitness center/gymnasium in May 1987, he struck up a personal and professional relationship with the "prominent business owner" of another fitness center in the same town. Their relationship initially commenced through their joint promotion of gyms, body building and weightlifting shows, and because of their mutual interest in fitness operations and financial gain. While they did not "hang out" together because the other individual was considered a "party-person," they played on the other center's softball team as well as in pickup games of basketball.[(35)] They were present at the births of each other's children, and the other individual was present and the birth of Applicant's youngest child and was named that child's godfather.[(36)] Applicant considered the other individual a good friend.[(37)] At some point in their relationship, Applicant became aware of his friend's substance abuse, and, despite Applicant's efforts, he could not persuade his friend to abstain. Their relationship eventually cooled over the continuing substance abuse, and, in the past eight years, Applicant has limited their friendship to receiving periodic telephone calls from the friend.[(38)]

Applicant and his ex-wife share custody of their 9-year-old daughter, and since his ex-wife works nights and he works days, the child sleeps at his residence five nights per week. His ex-wife considers Applicant a trustworthy and truthful person.[(39)]

Applicant has been employed as a fire protection officer, and currently the training captain, with the same government contractor since October 1999. The quality of his performance, according to co-workers, is outstanding. Despite being linked by association to his friend-an alleged drug trafficker-Applicant received high compliments and a good character reference from a Special Agent of the U.S. Drug Enforcement Administration (DEA) who has known Applicant for approximately 17 years.[(40)]

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (Disqualifying Conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (Mitigating Conditions).

An Administrative Judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the Adjudicative Process provision in Section E2.2., Enclosure 2, of the Directive, are intended to assist the Administrative Judge in reaching fair and impartial common sense decisions.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. The Adjudicative Process factors which an Administrative Judge should consider are: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other

pertinent 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.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guidelines most pertinent to an evaluation of the facts of this case:

[Guideline F - Financial Considerations]: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

[Personal Conduct - Guideline E]: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, pertaining to both adjudicative guidelines are set forth and discussed in the Conclusions section below.

Since the protection of the national security is the paramount consideration, the final decision in each case must be arrived at by applying the standard the issuance of the clearance is "clearly consistent with the interests of national security,"[(41)] or "clearly consistent with the national interest." For the purposes herein, despite the different language in each, I have concluded both standards are one and the same. 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.

In the decision-making process, the burden of producing evidence initially falls on the Government to establish a case which demonstrates, in accordance with the Directive, it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. If the Government meets its burden, the heavy burden of persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation or mitigation sufficient to overcome the doubts raised by the Government's case, and to ultimately demonstrate it is clearly consistent with the national interest to grant or continue the applicant's clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship 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 under this Directive include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

One additional comment is worthy of note. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides industrial security clearance 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." Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this Decision should be construed to suggest I have based this decision, in whole or in part, on any express or implied decision as to Applicant's allegiance, loyalty, or patriotism.

CONCLUSIONS

Upon consideration of all the facts in evidence, an assessment of the witness credibility, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to each allegation set forth in the SOR:

I had ample opportunity to evaluate Applicant's demeanor, observe his manner and deportment, appraise the way in which he responded to questions, assess his candor or evasiveness, read his statements, listen to his testimony, and watch the interplay between himself and those around him. It is my impression that his explanations pertaining to both the financial and personal conduct issues are consistent and simplistic, and hence, considering the quality of the other evidence, have the resonance of truth. His ex-wife's favorable testimony, and the DEA Special Agent's favorable comments about Applicant comprise substantial positive evidence of good character, honesty, trustworthiness, and integrity. Accordingly, in weighing the evidence before me, for the reasons set forth below, I find that Applicant did not knowingly or intentionally falsify, lie, or omit material facts pertaining to the inquiries in the SF 86, as alleged in the SOR, or as to any other issue raised or discussed during the hearing.

With respect to Guideline F, the Government has established its case. Applicant's financial difficulties commenced in about 1997 through no fault of his own. While waiting for his anticipated distribution from the sale of his business, Applicant was faced with mounting expenses and limited

income from his part-time position as a firefighter, and he resorted to using his credit cards to keep going. When the distribution fell through because of the illegal stock manipulation of the purchasing company's executives, and the company was de-listed from the exchange, Applicant's financial difficulties had already mounted. Those difficulties continued to the point when he was unable to extricate himself from them without some type of bold step. That conduct gave rise to Financial Considerations Disqualifying Condition (DC) E2.A6.1.2.1. (*history of not meeting financial obligations*); and DC E2.A6.1.2.3. (*inability or unwillingness to satisfy debts*).

Nevertheless, as to all his other bills but those particular debts, Applicant kept working to pay them but only succeeded in paying the accrued interest and was not lowering the principal. And when the futility of the situation became obvious, all his outstanding debts were listed as unsecured nonpriority claims and discharged under Chapter 7 of the Bankruptcy Code in August 2002-before the issuance of the SOR. Applicant's marital discord and divorce, as well as the loss of his business, fall within Financial Considerations Mitigating Condition (MC) E2.A6.1.3.3. (*the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business turndown, unexpected medical emergency, or a death, divorce or separation*)). His earlier fruitless efforts and his subsequent bankruptcy come within MC E2.A6.1.3.6. (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). Under these circumstances, I find substantial evidence of positive action on his part to resolve his outstanding debts before this security clearance review process commenced.

Applicant's current finances are presently in much better shape-a marked improvement over the way they had been prior to his period of financial difficulties. His persistent problem was primarily the result of conditions beyond his control. Under these circumstances, I believe Applicant has, through evidence of extenuation and explanation, successfully mitigated or overcome the Government's case. Accordingly, allegation 1.a. of the SOR is concluded in favor of Applicant.

With respect to Guideline E, the Government has established its case. Examination of Applicant's actions pertaining to his incorrect responses to the SF 86 police record inquiries reveals a consistent pattern of conduct. His declared intentions in this regard are unrebutted. As noted above, Applicant claimed he was not aware he was ever "charged" and was of the belief he was merely "arrested." That understanding was based on what he claimed was the advice previously furnished by his attorney. Unfortunately, Applicant was unable to obtain written confirmation of that advice. Considering the explanation under the circumstances herein, the evidence as to Applicant's reputation for honesty and truthfulness, as well as my assessment of the reasonableness of the explanation coming from a person not well-versed in the subtleties of the law, I find the incorrect responses to Questions 21 and 24 of SF 86 to have been unwitting unintentional error, and not a concerted or intentional effort to furnish false information.

Examination of Applicant's actions pertaining to his incorrect response to the SF 86 financial delinquency inquiry, though a bit less clear, reveals a similarly consistent pattern of conduct. Although he offered differing scenarios as to why the four cited debts had not been resolved earlier-the source of some minor concern-and it is unclear if they were disputed charges which he refused to pay; disputed charges which he (or another entity such as his insurance company) either had paid or was excused from paying; or he simply had no prior knowledge of the debt(s) because his mail was not forwarded to him following his divorce-considering the combined financial amount involved, $677.00, it is difficult to understand why this issue is considered significant. Furthermore, as far as the $151.00 "charged off" debt identified in subparagraph 2.a.(1) of the SOR is concerned, there is no evidence to indicate when that account was opened or the debt went into a past due or "charged off" status. Likewise, there is no evidence to support the allegation that particular debt was 180 days delinquent at the time Applicant completed his SF 86. With respect to the remaining three debts, the evidence of an inaccurate response, coupled with Applicant's explanations and denial of the allegation, are sufficient to overcome the mere allegation in the SOR unsupported by any evidence of intentional falsification, omission, or concealment of those debts.

Complete honesty and candor on the part of applicants for access to classified information is essential to make an accurate meaningful security clearance determination. Without all the relevant and material facts, a clearance decision is susceptible to error, thus jeopardizing the nation's security. In this instance, under the evidence herein, and with the absence of intent, I find that Applicant's overall personal conduct in this regard clearly does not fall within Personal Conduct DC E2.A5.1.2.2. (*the deliberate omission, concealment, or falsification of relevant and material 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*).

Nevertheless, even if it were concluded that the omission pertaining to the SF 86 financial delinquency inquiry was intentional, because it was both a stale and isolated incident, the conduct would fall within Personal Conduct MC E2.A5.1.3.2. (*the falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily*). And as far as the SF 86 police record inquiries, Applicant's conduct is clearly exonerated by Personal Conduct MC E2.A5.1.3.4. (*omission of material facts was caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided*).

The final issue remaining is Applicant's continued association with a reputed drug trafficker. The evidence is clear that Applicant struck up a personal and professional relationship with the "prominent business owner" of another fitness center in the same town, and their relationship initially consisted of joint promotion of gyms and body building and weightlifting shows and because of their mutual interest in fitness operations and financial gain. While they did not "hang out" together, they participated in sports and became friends. At some point in their relationship, the substance abuse of the other individual came to the attention of Applicant, and despite Applicant's efforts, he could not persuade

his friend to abstain. At that point, Applicant's continuing relationship with his friend come within Personal Conduct DC E2.A5.1.2.6. (*association with persons involved in criminal activity*).

However, while the Government may have alleged the friend to be involved in substance abuse, illegal gambling, and drug trafficking, there has been no evidence whatsoever to indicate Applicant's involvement in any of those activities, or that Applicant had knowledge of his friend's illegal activities other than substance abuse. Applicant has satisfactorily explained the nature or the relationship and how it eventually cooled over the continuing substance abuse. That withdrawal from the relationship says much about Applicant's values, and activates Personal Conduct MC E2.A5.1.3.7. (*association with persons involved in criminal activities has ceased*).

In light of the evidence before me, I conclude that Applicant neither lied, willfully falsified, omitted, or concealed the nature of his SF 86 responses or his relationship with his friend. Under these circumstances, I believe Applicant has, through evidence of extenuation and explanation, successfully mitigated or overcome the Government's case. Accordingly, allegations 2.a. through 2.d. of the SOR are concluded in favor of Applicant.

For the reasons stated, I conclude Applicant is eligible for access to classified information.

FORMAL FINDINGS

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1. Guideline F: FOR THE APPLICANT

Subparagraph 1.a.: For the Applicant

Paragraph 2. Guideline E: AGAINST THE APPLICANT

Subparagraph 2.a.: For the Applicant

Subparagraph 2.a.(1): For the Applicant

Subparagraph 2.a.(2): For the Applicant

Subparagraph 2.a.(3): For the Applicant

Subparagraph 2.a.(4): For the Applicant

Subparagraph 2.b.: For the Applicant

Subparagraph 2.c.: For the Applicant

Subparagraph 2.d.: For the Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant.

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Robert Robinson Gales

Chief Administrative Judge

1. One proposed Government Exhibit-an unsigned memorandum issued by the Federal Bureau of Investigation, dated July 17, 2000, marked as Government Exhibit 6 for identification-was excluded by me upon the objection of Applicant.

2. *See* unsigned Letter from Financial Consultant, dated August 28, 2001, attached to Response to SOR, dated December 22, 2002.

3. *Id.*

4. *See* Response to SOR, *supra* note 2, at 1.

5. *Id.* at 2; *see also* Tr. at 30.

6. *See* Government Exhibit 4, at 4.

7. *See* Government Exhibit 2 (Statement, dated March 19, 2002), at 4.

8. *See* Response to SOR, *supra* note 2, at 2.

9. *See* Government Exhibit 4, *supra* note 6, at 4.

10. *See* Government Exhibit 2, *supra* note 7, at 4.

11. *See* Response to SOR, *supra* note 2, at 2.

12. *See* Government Exhibit 4, *supra* note 6, at 5.

13. *See* Government Exhibit 2, *supra* note 7, at 4.

14. *See* Response to SOR, *supra* note 2, at 2.

15. *See* Government Exhibit 4, *supra* note 6, at 6.

16. *See* Government Exhibit 2, *supra* note 7, at 4.

17. *See* Response to SOR, *supra* note 2, at 2.

18. *See* Government Exhibit 9 (Schedule E, Voluntary Petition, signed March 7, 2002), at 2-4.

19. *See* Government Exhibit 8 (Discharge of Debtor(s), dated August 21, 2002.

20. *See* Government Exhibit 2, *supra* note 7, at 2. The marijuana was located in the driver's suitcase. Tr. at 35.

21. *See* Government Exhibit 5 (Federal Bureau of Investigation Information Record, dated April 30, 2000), at 2.

22. *Id.*; *see also* Government Exhibit 2, *supra* note 7, at 2.

23. Tr. at 37.

24. *See* Response to SOR, *supra* note 2, at 2.

25. *Id.*; *see also* Tr. at 32

26. *Id.*, Response to SOR.

27. *See* Government Exhibit 1 (SF 86, dated October 25, 1999).

28. *Id.*, at 8.

29. *See* Response to SOR, *supra* note 2, at 2.

30. *See* Government Exhibit 1, *supra* note 27, at 6.

31. Tr. at 38.

32. *Id.*

33. *See* Government Exhibit 1, *supra* note 27, at 5.

34. Tr. at 38.

35. *Id.* at 40-41.

36. *Id.* at 42.

37. *Id.*

38. *Id.* at 44.

39. *Id.* at 64.

40. *See* Applicant Exhibit A (Letter from DEA Special Agent, dated February 18, 2003.

41. *See* Exec. Or. 12,968, *"Access to Classified Information;"* as implemented by Department of Defense Regulation 5200.2-R, *"Personnel Security Program,"* dated January 1987, as amended by Change 3, dated November 8, 1995, and further modified by memorandum, dated November 10, 1998. However, the Directive, as amended by Change 4, dated April 20, 1999, uses both "clearly consistent with the national interest" (*see* Sec. 2.3.; Sec.2.5.3.; Sec. 3.2.; and Sec. 4.2.; Enclosure 3, Sec. E3.1.1.; Sec. E3.1.2.; Sec. E3.1.25.; Sec. E3.1.26.; and Sec. E3.1.27.), and "clearly consistent with the interests of national security" (*see* Enclosure 2, Sec. E2.2.3.); and "clearly consistent with national security" (*see* Enclosure 2, Sec. E2.2.2.)