

DATE: October 31, 2006

In re:

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SSN: -----

Applicant for Security Clearance

ISCR Case No. 05-14868

DECISION OF ADMINISTRATIVE JUDGE

MARK W. HARVEY

APPEARANCES

**FOR GOVERNMENT**

John Bayard Glendon, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Fifty-four-year-old Applicant had ten financial allegations listed in the SOR. He failed to adequately explain, controvert or pay five debts, including a debt of over \$13,000.00 owed to the Internal Revenue Service (IRS) since 2003. In 2001 and 2004, he was arrested for driving while under the influence of alcohol (DUI). Neither arrest resulted in a final conviction, but there was substantial evidence of DUI in the police reports. He has failed to mitigate concerns about financial considerations and alcohol consumption. Clearance is denied.

**STATEMENT OF THE CASE**

On July 28, 2003, Applicant applied for a security clearance and submitted a Security Clearance Application (SF 86).<sup>(1)</sup> On January 19, 2006, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him, 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.<sup>(2)</sup> The SOR alleges security concerns under Guideline F (Financial Considerations) and Guideline G (Alcohol Consumption). The SOR 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 him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.<sup>(3)</sup>

In a sworn, notarized answer, dated February 20, 2006, Applicant responded to the SOR allegations, electing to have his case decided on the written record in lieu of a hearing.<sup>(4)</sup> A complete copy of the file of relevant material (FORM), dated June 16, 2006, was provided to him on June 23, 2006, and he was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation.<sup>(5)</sup> Any such submissions were due by July 23, 2006.<sup>(6)</sup> Applicant requested additional time, and DOHA granted a delay until September 15, 2006. Applicant did not provide additional materials in response to the FORM. The case was assigned to me on October 12, 2006.

## PROCEDURAL RULING

On June 15, 2006, Department Counsel made a motion to amend the SOR, adding an additional allegation (SOR ¶ 1.k). The additional allegation is that a Federal IRS tax lien was filed in September 2005 against Applicant in the amount of \$4,408.00. A notice of IRS tax lien was previously filed against him in October 2003 in the amount of \$13,509.00 (SOR ¶ 1.b.). Department Counsel's motion is denied. Department Counsel has not provided any information about whether the 2005 IRS tax lien of \$4,408.00 is included in the 2003 IRS lien notice, or otherwise explained how the two IRS tax liens relate to each other. The documentation showing the \$4,408.00 IRS tax lien is admitted, and will be considered in connection with SOR ¶ 1.b.

## FINDINGS OF FACT

As to the factual allegations, Applicant made some admissions, and denied other allegations in his response to the SOR. (7) His admissions are incorporated herein as findings of fact. Under Guideline F, Applicant admitted he was aware of and responsible for the bankruptcy in SOR ¶ 1.a., but that the debts resulted from his divorce. For SOR ¶ 1.b., he admitted he owed the IRS for back taxes and wanted to arrange a settlement and payment plan. In regard to SOR ¶ 1.c., he admitted the debt but contended it was discharged by bankruptcy. He denied SOR ¶¶ 1.d., 1.e., 1.f., and 1.j. without elaboration. He was aware of the debts in SOR ¶¶ 1.g. and 1.h., but disputed them. For SOR ¶ 1.i., he admitted the debt, made payments and then settled it. He denied consuming alcohol to excess, as alleged in SOR ¶¶ 2.a., 2.b., and 2.c., but admitted consuming alcohol before an automobile accident (SOR ¶ 2.b.), and consuming beer before making an improper lane change (SOR ¶ 2.c.). After a complete and thorough review of the evidence of record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 54-year-old (8) employee of a defense contractor. (9) The same government contractor employed him for the preceding nine years. (10) Applicant was on active duty in the Navy from July 10, 1969, to June 22, 1979, achieving the grade of E-6. (11) He has a total of 36 years of combined military and support contractor service to the Department of (DoD). (12) Applicant received an award from DoD in 1992 and 1994, a letter of appreciation in 2000, and two very positive emails from customers in 2004 and 2005. (13) From 1981 to 1985, he attended college, and was awarded a Bachelor of Science degree. (14) Applicant was married in November 1970; divorced on May 16, 1975; remarried in February 1977; and divorced on September 28, 1979. (15) His third marriage occurred on May 4, 1980; and he was divorced on July 30, 1990. Applicant's fourth marriage was on May 21, 1994; and he was divorced on February 6, 2000. Applicant has two children, who were born on March 13, 1995, and July 16, 1997. (16)

## **Financial Considerations**

The ten financial allegations in the SOR, and their current status, are described below:

SOR ¶	TYPE DEBT	AMOUNT	CURRENT STATUS
¶ 1.a.	Bankruptcy	\$74,207.00	discharged as of January 19, 2001 (17)
¶ 1.b.	IRS Debt	\$13,509.00	delinquent as of October 2003 (18)
¶ 1.c.	Car Lease-Judgment	\$10,842.00	discharged by bankruptcy (19)
¶ 1.d.	Loan	\$2,287.00	delinquent as of March 2002 (20)
¶ 1.e.	Loan	\$872.00	delinquent as of May 2002 <sup>20</sup>
¶ 1.f.	Loan	\$2,783.00	delinquent as of May 2002 <sup>20</sup>
¶ 1.g.	Cable Television Debt	\$593.00	resolved (21)
¶ 1.h.	Loan	\$1,091.00	resolved (22)
¶ 1.i.	Medical Debt	\$1,064.00	resolved through settlement (23)

¶ 1.j.	Loan	\$1,098.00	delinquent as of April 2005 <sup>20</sup>
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In February 2000, Applicant was divorced from his fourth wife.<sup>(24)</sup> On January 19, 2001, bankruptcy discharged \$74,207.00 in unsecured, nonpriority debts that had accrued to Applicant and his spouse.<sup>(25)</sup> The Bankruptcy Summary of Schedules indicates the following asset values: real property (\$189,172.00), personal property (\$22,795.00), and the following liability values: secured claims (\$205,000.00), unsecured priority claims (\$2,600.00), and unsecured nonpriority claims (\$74,207.00).<sup>(26)</sup> The \$2,600.00 unsecured priority claim pertained to federal taxes owed for 1995 to 1997.<sup>(27)</sup> The schedules filed with the bankruptcy list six unsecured liabilities in amounts ranging from \$23,000.00 owed to one bank, to \$623.00 owed for medical care.<sup>(28)</sup>

On September 25, 2003, Applicant provided a personal financial statement (PFS) to a security investigator.<sup>(29)</sup> The PSF indicates that his gross salary was \$7,070.00 per month, and net salary was \$2,444.00 per month. After making all payments, including rent (\$900.00), groceries (\$400.00), car expenses (\$700.00), utilities (\$100.00), and miscellaneous (\$85.00), \$359.00 per month remained. The debt section of the PSF included, "None." It did not include any of the debts that were ultimately listed on the SOR.

SOR ¶¶ 1.c. and 1.i. require additional explanation beyond that provided by the table on page 4, *infra*. Applicant and his wife leased a car.<sup>(30)</sup> The car was repossessed.<sup>(31)</sup> On January 16, 2000, a judgment against Applicant was entered for \$10,841.56.<sup>(32)</sup> Schedule F of Applicant's Bankruptcy lists \$10,841.56 for a creditor with a different name than the one who obtained the judgment, and who is listed in SOR ¶ 1.c.<sup>(33)</sup> Applicant credibly states that the debt in SOR ¶ 1.c. of \$10,842.00 was discharged by his 2001 bankruptcy.<sup>(34)</sup>

For SOR ¶ 1.i., Applicant provided a Stipulation to Judgment and Stay of Entry, dated December 10, 2003, stating Applicant is required to pay \$50.00 per month until \$1,064.04 is paid.<sup>(35)</sup> He credibly stated that he made regularly scheduled payments and this debt was eventually settled via company/insurance settlement."<sup>(36)</sup>

### Alcohol Consumption

For Applicant's arrest for DUI on July 26, 2001 (SOR ¶ 2.b.), he drank 3-4 beers in a bar.<sup>(37)</sup> On the way home he was in an accident.<sup>(38)</sup> He failed a field sobriety test. He consented to a preliminary (alcohol) breath test (PBT), which yielded a result of .15. He was arrested for DUI. He refused a breath alcohol content test (BAT) for alcohol use. In January 2002, he appeared in court and was sentenced to 12 months' probation and 40 hours' community service.<sup>(39)</sup> He attended a drug and alcohol awareness program, and a Mothers Against Drunk Driving (MADD) meeting. The court fined him \$232.00. He returned to court in February 2003, and the charge was dismissed. According to his 2003 statement, he now drinks about two beers during a television program, and has not had any previous alcohol-related incidents.

In regard to SOR ¶ 2.c., on August 6, 2004, a police officer stopped Applicant after he changed lanes twice without using a turn signal. The police officer noticed the odor of alcohol on his breath.<sup>(40)</sup> He was unable to complete the field sobriety test due to a gout inflammation.<sup>(41)</sup> He received a PBT, and after he failed the finger dexterity test, the police arrested him. His BAT result was .12.<sup>(42)</sup> On October, 25, 2004, the charges were "nolle prosequi."<sup>(43)</sup> The findings of fact from his license revocation hearing indicate the police officer who made the arrest appeared, requested not to testify, and was unavailable to address an issue Applicant identified.<sup>(44)</sup> There is no evidence that the Administrative Judge who made the decision not to revoke his license reached the merits of the DUI charge. Despite the state's inaction against him for the 2004 DUI, and his statement about not being impaired by alcohol, I find there is substantial evidence that he drove while impaired by alcohol. I base this finding primarily on the BAT result of .12. **POLICIES**

In an evaluation of an applicant's security suitability, an administrative judge must consider Enclosure 2 of the Directive, which sets forth adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into Disqualifying Conditions (DC) and Mitigating Conditions (MC), which are used

to determine an applicant's eligibility for access to classified information.

These adjudicative guidelines are not inflexible ironclad rules of law. Instead, recognizing the complexities of human behavior, an administrative judge should apply these guidelines in conjunction with the factors listed in the adjudicative process provision in Section E2.2., Enclosure 2, of the Directive. An administrative judge's overarching adjudicative goal is a fair, impartial and common sense decision.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," an administrative judge should consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision. Specifically, an administrative judge should consider the nine adjudicative process factors listed at E2.2.1 of the Directive: (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:

**Financial Considerations - Guideline F: 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. Directive ¶ E2.A6.1.1.**

**Alcohol Consumption - Guideline G: Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness. Directive ¶ E2.A7.1.1.**

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, pertaining to this adjudicative guideline 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 is arrived at by applying the standard that the issuance of the clearance is "clearly consistent with the interests of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

In the decision-making process, facts must be established by "substantial evidence."<sup>(45)</sup> The government initially has the burden of producing evidence to establish a case which demonstrates, in accordance with the Directive, that 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 initial burden, applicant then has the burden of persuasion, that is to present evidence in refutation, explanation, extenuation or mitigation sufficient to overcome the doubts raised by the government's case, and ultimately to demonstrate it is clearly consistent with the national interest to grant or continue applicant's clearance.<sup>(46)</sup>

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.

The scope of an administrative judge's decision is limited. 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 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.

## CONCLUSIONS

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

### **Guideline F (Financial Considerations)**

The government has met its initial burden under Guideline F. Applicant's failure to pay his debts is of concern, especially in light of his desire to have access to the nation's secrets. The Directive clearly expresses the government's concern regarding financial considerations in ¶ E2.A6.1.1. (*An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.*). A person who fails or refuses to pay long-standing debts or is financially irresponsible may also be irresponsible or careless in his or her duty to protect classified information.

Applicant's actions in failing to satisfy his outstanding financial obligations give rise to Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1. (*history of not meeting financial obligations*) and FC DC E2.A6.1.2.3. (*inability or unwillingness to satisfy debts*). These two disqualifying conditions are established by Applicant's initial failure to meet his financial obligations, and inability or unwillingness to satisfy SOR debts ¶¶ 1.a. to 1.f., and 1.j. He failed to provide any documentation to show what he was doing to dispute or resolve the five debts in SOR ¶¶ 1.b., 1.d., 1.e., 1.f., and 1.j. However, he provided credible information disputing or showing payment for SOR debts ¶¶ 1.g. to 1.i., and these two disqualifying conditions are not established for these three debts.

Once the government produced substantial evidence of a disqualifying condition, the burden shifted to Applicant to produce evidence and prove a mitigating condition under E3.1.15. (*to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision*). The burden of disproving a mitigating condition never shifts to the government.<sup>(47)</sup>

I considered Financial Considerations Mitigating Condition (FC MC) E2.A6.1.3.1. (*the behavior was not recent*) and FC MC E2.A6.1.3.2. (*it was an isolated incident*). However, these two mitigating conditions do not apply because five SOR debts (SOR ¶¶ 1.b., 1.d., 1.e., 1.f., and 1.j.) are recent and not isolated. These five debts are all currently delinquent and are not being resolved.

The information Applicant provided about his divorce in 2000 supported consideration of FC 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 downturn, unexpected medical emergency, or a death, divorce or separation)*). FC MC E2.A6.1.3.3. applies to his bankruptcy in 2001 (SOR ¶ 1.a.), and the bankruptcy discharge of the \$10,842.00 debt in SOR ¶ 1.c. The dissolution of his marriage and his bankruptcy the next year are closely linked in time and circumstances. However, his financial difficulties after the 2001 bankruptcy remain largely unexplained. There is little evidence to explain why the debts alleged in SOR ¶¶ 1.b., 1.d., 1.e., 1.f., and 1.j. became or remained delinquent. Applicant remained gainfully employed throughout the last six years. He had more than sufficient time after his 2001 bankruptcy to avoid delinquent debts and thereafter to demonstrate progress towards payment of these five delinquent debts. His failure to demonstrate progress towards payment of these five SOR debts reflect an inability or unwillingness to pay or resolve his debts. FCMC E2.A6.1.3.3. does not apply to SOR debts ¶¶ 1.b., 1.d., 1.e., 1.f., and 1.j.

I considered FC MC E2.A6.1.3.4. (*the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*) and FC C E2.A6.1.3.6. (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*). Applicant did not receive and is not receiving debt counseling. FC MC E2.A6.1.3.4. does not apply to any debts. Applicant has not provided evidence establishing that

he acted in good faith with respect to the debts in SOR ¶¶ 1.b., 1.d., 1.e., 1.f., and 1.j., and FC MC E2.A6.1.3.6. does not apply.

### **Guideline G (Alcohol Consumption)**

The government has met its initial burden under Guideline G. Examination of Applicant's actions reveals conduct involving excessive alcohol consumption. The Directive clearly expresses the government's concern regarding excessive alcohol consumption in provision E2.A7.1.1. (*excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness*). Excessive alcohol consumption could indicate that the Applicant may negligently fail to properly safeguard classified information. Applicant's 2001 and 2004 DUIs are actions falling within Alcohol Consumption Disqualifying Condition (AC DC) E2.A7.1.2.1. (*alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, or other criminal incidents related to alcohol use*).

I considered Alcohol Consumption Mitigating Condition (AC MC) E2.A7.1.3.1. (*the alcohol-related incidents do not indicate a pattern*), AC MC E2.A7.1.3.2. (*the problem occurred a number of years ago and there is no indication of a recent problem*), and AC MC E2.A7.1.3.3. (*positive changes supportive of sobriety*). However, none of these mitigating conditions apply because there were two incidents (in 2001 and 2004). The two incidents constitute a pattern because they are in close temporal proximity to each other. They are recent. There is no evidence about reduction of factors leading to the incidents, or facts supporting a change in Applicant's life circumstances, counseling or other rehabilitative measures supportive of sobriety. No mitigating conditions are applicable to the conduct alleged in SOR ¶¶ 2.a. to 2.c.

### **"Whole Person" Analysis**

In addition to the enumerated disqualifying and mitigating conditions, I have considered the general adjudicative guidelines related to the whole person concept under Directive provision E2.2.1. As noted above, Applicant's failure to make progress resolving five SOR debts, including a debt of over \$13,000.00 to the IRS is a serious ongoing, long-term problem. His history of alcohol abuse and unwillingness to maintain sobriety, resulting in judicial intervention, probation for 12 months, a fine, and community service are sufficiently serious to be a security concern. E2.2.1.1. His actions were knowledgeable and voluntary. E2.2.1.2. He is 54 years old, sufficiently mature to be fully responsible for his conduct. E2.2.1.4. The likelihood of recurrence cannot yet be determined because insufficient time has passed since the last alcohol-related incident and the corroborating evidence of a change is sparse. E2.2.1.9. His 36 years of honorable service to DoD, including his two AEGIS awards and laudatory comments about his job performance, as well as the absence of evidence of prior security violations, show he is a DoD asset, highlight the possibility of rehabilitation, and weigh against security concerns. After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude he has not mitigated the security concerns pertaining to financial considerations and alcohol consumption.

The evidence leaves me with grave questions and doubts as to Applicant's security eligibility and suitability. I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my "careful consideration of the whole person factors"<sup>(48)</sup> and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under Enclosure 2 of the Directive. Applicant has failed to mitigate or overcome the government's case.

For the reasons stated, I conclude Applicant is not 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: AGAINST APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: Against Applicant

Subparagraph 1.c.: For Applicant

Subparagraph 1.d.: Against Applicant

Subparagraph 1.e.: Against Applicant

Subparagraph 1.f.: Against Applicant

Subparagraph 1.g.: For Applicant

Subparagraph 1.h.: For Applicant

Subparagraph 1.i.: For Applicant

Subparagraph 1.j.: Against Applicant

Paragraph 2., Guideline G: AGAINST APPLICANT

Subparagraph 2.a.: Against Applicant

Subparagraph 2.b.: Against Applicant

Subparagraph 2.c.: Against Applicant

### **DECISION**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Mark W. Harvey

Administrative Judge

1. Item 4 (Electronic Security Clearance Application (SF 86)), is dated July 28, 2003 on page 1. There is no signature and the date is blank on page 9 of Item 4. There is no allegation of falsification of the SF 86.
2. Item 1 (Statement of Reasons (SOR), dated January 19, 2006) at 1-3.
3. *Id.*
4. Item 3 (Applicant's response to SOR with 15 Attachments, notarized February 20, 2006, but dated on the first page, February 17, 2006).
5. Defense Office of Hearings and Appeals (DOHA) transmittal letter, dated June 16, 2006.
6. *Id.* The DOHA transmittal letter informed Applicant that he had 30 days after receipt to submit information.
7. Item 3, *supra* note 4, is the source for all factual assertions in this paragraph.
8. Item 4, *supra* note 1, question 1., at 1.
9. From October 13, 1997 to July 28, 2003 (the date of his SF 86), Applicant has been employed as a senior program manager for a defense contractor. Item 4, *supra* note 1, question 6.1., at 2.

10. *Id.*, questions 6.1., at 2.
11. *Id.*, question 11., at 5.
12. Item 3, *supra* note 4, at 1.
13. *Id.* at 1 and Attachments 2-7.
14. *Id.*, question 5., at 2.
15. *Id.*, question 8., at 2-3, contains the information in this paragraph about Applicant's marriages and divorces.
16. *Id.*, questions 9.4. and 9.5., at 4.
17. *See* Items 1 (SOR), and 3 (Applicant's response to SOR with 15 attachments). The SOR includes the amount of the debt and the date the debt was placed for collection or the judgment was entered. This table includes the SOR amounts and where delinquent, the date of delinquency. The amounts of the debts and the dates in this table are also listed in Applicant's credit reports. *See* Items 6-8, Credit Reports dated June 5, 2006, December 2, 2005, and August 7, 2003, respectively.
18. Applicant's Bankruptcy filing indicates Applicant owes the IRS \$2,600.00 for taxes from 1995 to 1997. *See* Item 3, Applicant's response to the SOR, Attachment 9. Item 20 is an IRS tax lien, dated September 22, 2005, in the amount of \$4,408.00. A credit report indicates a federal tax lien for \$13,509.00.
19. Item 11 (notice of judgment entered on January 16, 2000, for \$10,841.56). The judgment was based on a vehicle lease agreement, signed by Applicant and his wife, Items 9 and 10. More information about this debt is provided on page 5, *infra*.
20. Credit reports establish this debt as indicated in the SOR. Applicant's response to the SOR denies this debt without elaboration. Applicant has not provided evidence contradicting his credit reports.
21. Applicant contested the debt to the cable television company, contending that this was a debt for equipment he had already returned. He provided a receipt showing he returned the equipment, dated May 2, 2003. I accept Applicant's description as credible, and find that he had controverted or resolved this debt.
22. Applicant credibly explained that his bank account erroneously did not receive a credit, and checks subsequently bounced. He paid the checks, and was assured his account was corrected. A bank merger delayed correction of his credit report.
23. Item 3, *supra* note 4, at 5. More information about this debt is provided on pages 5-6, *infra*.
24. *See* note 15, *supra*.
25. Item 3, Attachment 9 (Bankruptcy Court Summary of Schedules).
26. *Id.*
27. *Id.* at Schedule E.
28. *Id.*
29. Item 11, Form 154, Personal Financial Statement (PSF), dated September 25, 2003. This PSC is the source for all the information in this paragraph.
30. Item 3, Response to SOR, at 3-4.



31. *Id.*
32. Item 11.
33. *See* Item 3, Attachment 9.
34. Item 3, Response to SOR, at 3-4.
35. *Id.* at Attachment 11.
36. *Id.* at 5.
37. Applicant said in his response to the SOR that he drank approximately two beers at a bar over a two or three hour period. *See* Item 3, *supra* note 4. The Police report indicates he drank 3-4 beers before driving. I find the account in the police report to be more credible as it is temporally closer to the DUI incident. *See* Item 16 (Police Report, dated July 26, 2001), at 2.
38. *See* Item 16 (Police Report, dated July 26, 2001), at 2. Item 16 is the source for the next four sentences.
39. Item 5 (Applicant's statement to a Defense Security Service Contract Investigator on September 25, 2003) is the source for the remainder of this paragraph.
40. Item 18 (Police Report, dated August 6, 2004) at 1.
41. Item 3, *supra* note 4.
42. Item 18 (Police Report, dated August 6, 2004). The type of BAT the police administered is not described in the police report.
43. Item 3, Attachments 13-15.
44. Item 3, Attachment 12.
45. "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620(1966). "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).
46. "The Administrative Judge [] consider[s] the record evidence as a whole, both favorable and unfavorable, evaluate[s] Applicant's past and current circumstances in light of pertinent provisions of the Directive, and decide[s] whether Applicant ha[s] met his burden of persuasion under Directive ¶ E3.1.15." ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).
47. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).
48. *See* ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).