



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



In the matter of:)	
)	
-----)	ISCR Case No. 08-01295
SSN: -----)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Eric H. Borgstrom, Esquire, Department Counsel
For Applicant: *Pro se*

March 23, 2009

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on August 24, 2007. On September 24, 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant. The SOR detailed the security concerns under Guideline F and Guideline E that provided the basis for its decision to deny him a security clearance and refer the matter to an administrative judge. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense as of September 1, 2006.

Applicant acknowledged receipt of the SOR on October 13, 2008. He submitted an undated written response to the SOR allegations and requested a hearing. The case was assigned to me on November 17, 2008, to conduct a hearing and to determine whether it is clearly consistent with the national interest to grant or continue a security

clearance for Applicant. On November 21, 2008, I scheduled a hearing for December 18, 2008.

The parties appeared as scheduled. The government offered six exhibits (Ex. 1-6). Exhibits 1-5 were admitted without any objections. Applicant objected to proposed exhibit 6, a Letter of Intent to Revoke Eligibility for Security Clearance, and related documents. I sustained the objection. Three Applicant exhibits (Ex. A-C) were admitted with no objections. A chart prepared by Department Counsel as an aid to his closing argument was accepted as a hearing exhibit (H. Ex. 1). Applicant and three witnesses testified on his behalf, as reflected in a transcript received on December 31, 2008. During his closing argument, Department Counsel moved to amend SOR ¶ 2.b to reflect that Applicant's clearance had been suspended as opposed to revoked. Applicant did not object and I granted the motion.

I held the record open until January 17, 2009, for Applicant to submit additional documentary exhibits. No documents were received. Based on a review of the SOR, Answer, transcript, and documentary exhibits, eligibility for access to classified information is denied.

Findings of Fact

In the SOR as amended, DOHA alleged under Guideline F (Financial Considerations) that Applicant owes a former employer (company X) a past due debt of \$18,176 (SOR ¶ 1.a), a military housing debt of \$865 in collection (SOR ¶ 1.b), and seven delinquent consumer credit debts totaling \$3,012 (SOR ¶¶ 1.c-1.i). Applicant was alleged under Guideline E (Personal Conduct) to have been fired from his employment with company X for substandard performance and for creating a hostile work environment (SOR ¶ 2.a). He was also alleged to have had his security clearance suspended by his command in May 2006 while he was on active duty in the U.S. military after he was charged with possession of marijuana (SOR ¶ 2.b).

In his Answer, Applicant admitted owing the debt balances in SOR ¶¶ 1.a-1.d, and 1.g, \$25 on the account in SOR ¶ 1.e, and \$638.61 on the account in SOR ¶ 1.f. He indicated he had arranged to pay off the debt in SOR ¶ 1.e in November 2008, and to make monthly payments of \$20 per month on his other debts (with his payments on SOR ¶ 1.a to increase over time). He denied SOR ¶ 1.h because the creditor could not confirm a second debt balance in addition to SOR ¶ 1.f (duplicate listing). He also denied SOR ¶ 1.i as that creditor had no record of a past due balance. Concerning the Guideline E allegations, Applicant explained that he had been involuntarily terminated from company X as mandated under corporate policy for a second violation, but he contended "[t]he first offence was a false harassment report." Regarding the suspension of his security clearance, Applicant admitted he had formerly associated with drug-using friends through his spouse, who he has since divorced. To the best of his knowledge, none of his current associates use illegal drugs.

After considering the pleadings and evidence of record, I make the following findings of fact.

Applicant is a 31-year-old engineer technician who has worked for his current employer, a defense contractor, since February 2008 (Ex. C, Tr. 52-53). He requires a secret-level security clearance for access to certain areas to perform his duties (Tr. 66).

The day after he turned 18, Applicant enlisted in the U.S. military, and in September 1996, he entered active duty (Ex. 2). He was granted a secret clearance for his duties in or about December 1996. In January 1999, Applicant married. His spouse (now ex-wife) had a son born in May 1993 from a previous relationship. In September 1999, Applicant and his spouse had a daughter. (Ex. 1)

From March 1999 to July 2006, Applicant and his family lived in military housing, initially in his current geographic area (state A). From September 2001 to November 2003, they lived in Hawaii where Applicant was assigned to a boat home-ported there. In December 2003, they moved back to state A where Applicant remained stationed until he left the military (Ex. 1).

In January 2006, Applicant lent his vehicle to his spouse's friend, who was helping them move her mother across town. This friend took a break to smoke marijuana, and placed stems and seeds in the ashtray of Applicant's vehicle. A month later, Applicant was pulled over for a random vehicle inspection on entering the military base. He was charged with two counts of wrongful use, possession, etc. of controlled substances in violation of Article 112.a of the Uniform Code of Military Justice,¹ after the marijuana residue was discovered. Applicant apparently continued to associate with the person who put the marijuana in his vehicle thereafter in an effort to clear his name (Tr. 30-31). The command suspended Applicant's security clearance in May 2006 after he was placed on report for possession of illegal drugs (Ex. 5). The charges were dropped at an Executive Officer's inquiry during which Applicant presented a statement from his spouse's friend confirming he had placed the marijuana residue in the ashtray without Applicant's knowledge or consent (Ex. 2). The Executive Officer declined to apply for reinstatement of Applicant's security clearance because of his questionable judgment in associating with drug users (SOR ¶ 2.b) (Tr. 35-36). In July 2006, Applicant was granted an honorable discharge with reduction in force being the reason for the separation (Ex. 2).

When Applicant separated from the military, he owed some costs for military housing and for cleaning the premises after he vacated. In January 2007, a delinquent balance of \$865 was placed for collection (SOR ¶ 1.b) (Ex. 4, Tr. 42-43). In July 2006, Applicant stopped paying on a credit account opened in October 1997 with a home furnishings/electronics retailer. A \$953 balance was charged off as of February 2007 (SOR ¶ 1.g) (Exs. 2, 3). An unpaid balance of \$90 owed to a cable television provider since February 2006 was placed for collection in November 2007 (SOR ¶ 1.d) (Exs. 3, 4).

¹Applicant indicated on his August 24, 2007, e-QIP that he was apprehended in February 2005 and that his clearance was suspended as a result in April 2005 (Ex. 1). The incident took place in 2006 (Exs. 2, 5, Tr. 34).

In July 2006, Applicant went to work as an equipment technician in the civilian sector in state B (Ex. 1). He accepted a substantial relocation allowance (about \$16,000) from his new employer (company X) (SOR ¶ 1.a) with the understanding that if he did not stay with the company for two years, he would have to repay the monies (Tr. 31-32, 41). Applicant's spouse got a job with company X as well, and she developed a friendship with a coworker whose husband also worked for the company. The couples socialized together (Tr. 37). In March 2007, Applicant was involuntarily terminated from his employment following two incidents (Ex. 1, Tr. 37). His spouse and her coworker had a "falling-out." Thereafter, as Applicant passed his spouse's coworker in the hallways, he made what he terms "friendly eye contact" with this coworker in an effort to keep their friendship going (Tr. 37-38). She interpreted the gestures as harassing and intimidating, and complained to their employer (SOR ¶ 2.a). Then in an unrelated incident, a female coworker accused him of lying and falsifying equipment records. Applicant responded in a rude manner with an obscene gesture (Tr. 38). In March 2007, he was fired for substandard performance and creating a hostile work environment (being a disruptive member to the team) (Tr. 39).

Applicant was without a job until June 2007, when he started working as an electronic technician for a defense contractor at \$18 an hour (Tr. 55). This meant a relocation from state B back to state A (Ex. 1). He took a "huge pay cut" from what he had earned at company X,² and had trouble paying his cellular phone bill, or his electric bill from his previous locale. In February 2007, a cellular phone provider had placed a \$102 debt balance for collection (SOR ¶ 1.e). After making a payment in March 2007, he still owed \$18 (Ex. 2), and that went unpaid. As of October 2008, the balance of the debt was \$25 (Answer, Tr. 43). In August 2007, a credit card lender charged off a delinquent balance on an account opened since February 2005 (SOR ¶ 1.f). As of October 2008, the unpaid balance was \$638.61.³ A \$288 delinquent debt was placed for collection by his former utility provider in April 2008 (SOR ¶ 1.c) (Exs. 2, 3). He also made no effort to repay the military housing debt (SOR ¶ 1.b) or the relocation costs paid on his behalf by company X (SOR ¶ 1.a). As of December 2008, the debt to company X had increased to about \$18,176 (Answer).

On August 24, 2007, Applicant executed an e-QIP on which he disclosed his termination from company X, the drug possession charge in the military which was dropped, and the suspension of his security clearance by the military command as a result of the charge. Concerning his financial record, he indicated that he owed about \$16,000 to company X for relocation assistance, and that he had been past due on other accounts in the past (Ex. 1). While his clearance was pending, Applicant was laid off by his employer in November 2007 (Tr. 53).

²Applicant testified that he was on track to earn \$100,000 in his previous job. His hourly wage was only \$24 but he worked a lot of overtime (Tr. 55).

³SOR ¶¶ 1.f and 1.h appear to be the same debt based on the account numbers, with an updated balance of \$638.61 rather than \$305 as alleged in SOR ¶ 1.f or \$570 as alleged in SOR ¶ 1.h.

In February 2008, Applicant began working for his current employer at an hourly wage of \$18.26 (Ex. 52-53). At DOHA's request, Applicant completed a personal financial statement on or about March 24, 2008. He reported a net monthly remainder of \$122.20 after paying monthly expenses and nothing on his debts. He also denied any ongoing association with known illicit drug users (Ex. 2).

In July 2008, Applicant and his spouse divorced (Answer, Tr. 36). He has "reasonable visitation" with his daughter, who lives in state B with his ex-wife (Tr. 50). He was ordered to pay child support and alimony of \$230 a week (Tr. 45, 54) and \$50 a week to assist with day care costs (Tr. 47). To supplement his income, Applicant started working a second job as a security guard (Tr. 46).

In about October 2008, Applicant contacted his creditors to make payment arrangements. He arranged to make payments of \$20 per month on each of the debts in SOR ¶¶ 1.a-1.g, with his payment amount to increase over time on the debt in SOR ¶ 1.a, and to settle the \$25 balance of his wireless phone debt (SOR ¶ 1.e) in November 2008. In October 2008, Applicant's roommate ran up \$600 in telephone charges on Applicant's account. Applicant paid the telephone bill so he could keep in contact with his ex-wife and children (Tr. 45), and he was unable to honor the payment arrangements on his old debts. Applicant moved in with a friend of his from the military. Due to other financial obligations, Applicant had yet to pay his full \$570 monthly obligation (shares of rent and Internet costs) to his current roommate. He paid about a "couple hundred" each month but also covered some of the food costs (Tr. 80-81).

On December 10, 2008, Applicant learned that his offer to pay \$20 per month on the debt in SOR ¶ 1.a is no longer acceptable to company X (Ex. A, Tr. 29, 53). Similarly, the utility owed the debt in SOR ¶ 1.c is no longer amenable to \$20 monthly payments (Ex. A, Tr. 29). The creditors owed the debts in SOR ¶¶ 1.d and 1.g have accepted the \$20 per month repayment term (Tr. 29). Applicant arranged for the first \$20 checks to be posted on January 16, 2009, to the assignee of the debt in SOR ¶ 1.g, and on January 23, 2009, to the assignee of the debt in SOR ¶ 1.b. He plans to pay the \$25 wireless phone debt (SOR ¶ 1.e) in January 2009 as well (Ex. A, Tr. 42-43).

Applicant's weekly take-home pay from both jobs totals \$615. His monthly expenses total between \$2,160 and \$2,210 (\$80 for car insurance, \$150 to \$200 for cellular phone service for himself, his nine-year-old daughter, and his 15-year-old stepson, \$70 for cable/Internet, \$500 for rent and utilities, \$200 for groceries, \$40 for gasoline) (Tr. 46-49). He has about \$17 in his checking account and nothing in savings (Tr. 49). He does not have any active credit card accounts (Tr. 49). Applicant has not had any contact with any known drug users since 2006 (Tr. 31).

Applicant's current manager has been professionally acquainted with Applicant for the past five or six years, since Applicant was in the military. Applicant was "a good conscientious counterpart" when served as this manager's contact or liaison with the military. He has rated Applicant's performance as satisfactory since coming to work for the company in a civilian capacity ("He comes to work. He does his job. That's an average employee.") (Tr. 59-61). In terms of professionalism and judgment, he

considers Applicant to be “outstanding,” better than most of his coworkers (Tr. 62). Applicant’s facility security officer has also found him to be professional and courteous at work (Tr. 70). An engineering technician familiar with Applicant’s work since February 2008 described Applicant’s character at work as “stable and mature” (Ex. B). Likewise, an engineer has observed Applicant’s progression to becoming a “valuable and reliable employee” (Ex. C).

Policies

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor 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. Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the 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. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern about finances is set out in AG ¶ 18 of the adjudicative guidelines:

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 evidence establishes that Applicant owes unpaid delinquent debt totaling about \$21,035.61 of the debt originally alleged in the SOR (SOR ¶¶ 1.a-1.f and 1.g).⁴ SOR ¶¶ 1.f and 1.h appear to be the same debt based on the account numbers, with an updated balance of \$638.61 rather than \$305 as alleged in SOR ¶ 1.f or \$570 as alleged in SOR ¶ 1.h. Disqualifying conditions AG ¶ 19(a), "inability or unwillingness to satisfy debts," and ¶ 19(c), "a history of not meeting financial obligations," apply. Moreover, AG ¶ 19(f), "financial problems that are linked to drug abuse, alcoholism, gambling problems, or other issues of security concern," is implicated as well. As a consequence of his involuntary termination from company X for, in part, creating a hostile work environment (see Guideline E, *infra*), Applicant has to repay his former employer for the relocation costs expended on his behalf (SOR ¶ 1.a). This debt obligation to his former employer is of primary concern, given the financial pressures caused by the amount of the debt (\$18,176) and the company's unwillingness to accept the repayment terms proposed by Applicant.

While a September 28, 2007, consolidated credit report listed a \$704 debt balance placed for collection by a telephone services provider in February 2004 (SOR ¶ 1.i) (Ex. 4), Applicant denied the debt, apparently based on the creditor's inability to confirm it (Answer), and there is no mention of that debt on the September 2007 or September 2008 (Ex. 3) credit reports. The evidence is not sufficient to establish the debt in SOR ¶ 1.i (see AG ¶ 20(e), "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").

Concerning the potentially mitigating conditions, AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment," does not apply. Available credit records show that his accounts became delinquent in the past few years, and they have not been paid.

⁴Equifax was also reporting as of March 21, 2008, an additional debt of \$232 owed the creditor in SOR ¶ 1.e on a second account (Ex. 2), but the basis for that debt listing was not explored at the hearing.

Applicant attributes the \$638 credit card delinquency (SOR ¶ 1.f/1.h) to his unemployment in March 2007, and the \$288 utility debt in SOR ¶ 1.c to a significant decrease in pay once he returned to work. AG ¶ 20(b), “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances,” does not extenuate delinquencies that can be traced to his own behavior. Even if I accept his denials of any intentional harassment, he does not deny that he made an obscene gesture to a female coworker. His unemployment was a direct consequence of his failure to conform his behavior to acceptable standards of the workplace. However, AG ¶ 20(b) applies in part, in that his divorce and the obligations of alimony and child support have strained his finances and impaired his ability to repay his delinquent debt.

After the SOR was issued, Applicant contacted his creditors and offered to make \$20 monthly payments until the debts are satisfied. He took on a second job for the income to make those payments. While these are credible first steps toward resolving his debts, I am unable to fully apply either AG ¶ 20(c), “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,” or AG ¶ 20(d), “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.” He had not made any payments to his creditors as of mid-December 2008, because he had to pay unexpected telephone costs of \$600 incurred by a former roommate. Regardless of ability or willingness, he failed to satisfy even the most minor of his debts (SOR ¶ 1.e). Applicant testified that he arranged for \$20 payments to be made electronically in January 2009 to the creditors in SOR ¶¶ 1.b and 1.g. The record was held open for four weeks so that he could submit proof of those payments, as well as satisfaction of the debt in SOR ¶ 1.e. To date, no documentation has been received. Company X and the utility company are no longer willing to accept his offer of repayment at \$20 per month, and even with a second job, he does not have the finances to pay the full amount of his rental obligation. With a reported \$17 in his checking account, and zero savings, his financial problems are unlikely to be resolved in the near future.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in Guideline E, ¶ 15 of the adjudicative guidelines:

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.

Applicant exhibited poor judgment within the context of AG ¶ 15 by knowingly associating with drug users while he held a security clearance as a member of the U.S. military. The record is not clear about the extent of his contacts with known drug users.

A high school friend of his ex-wife's left marijuana residue (stems and seeds) in Applicant's vehicle in January 2006, and it was discovered during a search of Applicant's car on a U.S. military base in February 2006. The evidence does not show that Applicant knew the marijuana was in his vehicle, but he also testified as follows:

As for my continued association with users of illegal drugs. Those were old high school friends of my ex-wife's. We had no reason to believe they were still using marijuana at that time. The only reason that we were still—I was still in contact with these people was to try and figure out exactly how the remnants got into my car, so that I could not have to worry about it still being mine, so to speak. (Tr. 30-31)

He argued in closing that he had not known that his ex-wife's friends were drug users, but explained that he continued to associate with them "to clear [his] own name within [his] command" (Tr. 92). In response to DOHA interrogatories, Applicant admitted he had been in situations where he had been offered illegal drugs ("I told the people offering that I would wait for them to be done in a different location." Ex. 2). He was not specific about the time frame, but his statement has to be read in context with his negative response to whether he associates with persons who use illegal drugs or frequents places where he has reason to believe drugs are being used. Apparently, he was referring to situations in the past where he was offered marijuana and not to any ongoing association with drug users as of March 2008.

Judgment concerns are raised by his inappropriate conduct in the workplace that led to his involuntary termination in March 2007. Applicant denies any validity to the charge of harassment, claiming that he made "friendly eye contact" with the female coworker in an effort to keep the friendship between them. Yet, his employer did not consider the claims of intimidation baseless. As for the second incident, Applicant does not deny that he made an obscene gesture to a female coworker. AG ¶ 16(d), "credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of: . . . (2) disruptive, violent, or other inappropriate behavior in the workplace" applies.

Applicant disclosed his job termination from company X and the suspension of his security clearance following the drug charge when he applied for his secret clearance in August 2007 for his duties with a previous employer. This candor does not excuse his previous poor judgment, but it does lead me to accept as credible his denials of any knowing associations with drug abusers since 2006, especially where there is no evidence to the contrary. AG ¶ 17(g), "association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations" applies.

As for mitigation of his inappropriate behavior at the workplace, several coworkers, including supervisory personnel, attest to Applicant's professional demeanor in his current job. Yet, Applicant's denials of any harassment of his former coworker are difficult to reconcile with his employment termination from company X. AG ¶ 17(d), "the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur," applies only in part.

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 conduct and all the circumstances in light of 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.

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 (see AG ¶ 2(c)).

Applicant continued to associate with at least one known drug user while he was facing possible nonjudicial punishment in the spring of 2006. This poor judgment was inconsistent with the obligations of his military service and his security clearance, but he was granted an honorable discharge, and he has not had any contacts with drug abusers since 2006. Similarly, there apparently has been no recurrence of the inappropriate behavior that led to his involuntary termination in March 2007. His current coworkers all attest to his professionalism on the job. But he has not fully mitigated the judgment concerns raised by the loss of his job at company X for reasons unrelated to his work performance. He continues to maintain that all he did in the first instance was make eye contact. After being given an opportunity to explain his version of events, company X considered it "strike one" against him (Tr. 38-39). He acknowledged that he made an obscene gesture in the second instance, for which he apologized (Tr. 38), but he initially rationalized his conduct in describing it as a misunderstanding ("Both incidents at [company X] were misunderstandings that I did cause. But, they have been worked out. The incident that ended up with my termination, I still converse friendly with the person that that happened to." Tr. 31).

Nor has Applicant fully mitigated the financial concerns. Applicant knew as of March 2007 that he would have to repay the sizable relocation allowance to company X.

He made no effort to contact any of his creditors until October 2008, and had made no payments as of December 2008. Two of his creditors, including company X, are not willing to accept only \$20 per month, and he is so stretched financially that he cannot afford to pay his full share of the rent. His financial problems are not likely to be resolved in the near future.

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:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	(Duplicate of ¶ 1.f)
Subparagraph 1.i:	For Applicant

Paragraph 2, Guideline E: AGAINST APPLICANT

Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	For Applicant

Conclusion

In light of the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

ELIZABETH M. MATCHINSKI
Administrative Judge