



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



In the matter of:)	
)	
)	ISCR Case No. 08-06019
SSN:)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Eric Borgstrom, Esquire, Department Counsel
For Applicant: *Pro Se*

August 24, 2009

Decision

HENRY, Mary E., Administrative Judge:

Based upon a review of the case file, pleadings, exhibits, and testimony, I conclude that Applicant's eligibility for access to classified information is denied.

Applicant submitted his Security Clearance Application (SF 86) on August 22, 2006. The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guidelines E, F and J on November 23, 2008. 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 for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on November 24, 2008. He answered the SOR in writing on December 8, 2008, and requested a decision on the

record in lieu of a hearing. Department Counsel requested a hearing pursuant to Enclosure 3, E3.1.7, DoD Directive 5220.6. Department Counsel was prepared to proceed on March 30, 2009, and I received the case assignment on May 15, 2009. DOHA issued a notice of hearing on June 4, 2009, and I convened the hearing as scheduled on June 25, 2009. The government offered 13 exhibits, GE 1 through GE 13, which were received and admitted into evidence. Applicant testified on his own behalf. He submitted five exhibits, marked folder number 1 through folder number 5, which were received and admitted into evidence without objection. I held the record open until July 9, 2009, for Applicant to submit additional matters. On July 6, 2009, he submitted Exhibit 6, without objection. The record closed on July 9, 2009. DOHA received the transcript of the hearing (Tr.) on July 13, 2009.

Procedural and Evidentiary Rulings

Applicant objected to GE 4 and GE 5 on the grounds the account balance was incorrect. Given that the actual balance owed on these debts would be discussed in the hearing, I overruled his objections. He also objected to GE 10 on the grounds the document had an incorrect date. Given this document is a court record, his objection was overruled. (Tr. 14-15, 17)

Findings of Fact

In his Answer to the SOR, Applicant admitted the factual allegations in the SOR, with explanations. He did not admit that he intentionally falsified his security clearance application.¹ He also provided additional information to support his request for eligibility for a security clearance.

Applicant, who is 35 years old, seeks employment with a Department of Defense contractor. A prospective employer is sponsoring his security clearance application.

Applicant graduated from high school in 1992. He received an associate's degree in communications in 1995. He has not completed his bachelor's degree. He enlisted in the United States Army Reserve in November 1997. He served some active duty during his eight years in the reserves. The Army awarded him the Global War on Terrorism Medal and the Army Reserve Achievement Medal. The Army provided him with training, including intelligence training. He received an honorable discharge in November 2005. While an Army reservist, Applicant completed training as a police officer for a city police department. He started working as a police officer in 2000. Applicant married in February 2002. He resigned from the police department in 2003 to move out-of-state with his wife. He and his wife separated for a short time in 2006. After they reconciled

¹When SOR allegations are controverted, the government bears the burden of producing evidence sufficient to prove controverted allegations. Directive, ¶ E3.1.14. That burden has two components. First, the government must establish by substantial evidence that the facts and events alleged in the SOR indeed took place. Second, the government must establish a nexus between the existence of the established facts and events and a legitimate security concern. See ISCR Case No. 07-18525 (App. Bd. Feb. 18, 2009), (concurring and dissenting, in part).

and sold their home, they moved to another state, where Applicant worked. This job required him to move yet again. They finally separated more than 18 months ago. They did not have any children.²

After he enlisted in the Army Reserve, Applicant applied for the Army Reserve school loan repayment program, which he understood would repay \$20,000 of his school loans. He completed the initial paperwork. In December 1999, the Army approved his request for repayment on five school loans totaling \$21,937. On December 23, 1999, the Army paid \$3,000 on the principal and \$4,106 on interest for these loans. On February 6, 2001, the Army paid \$3,000 on the principal and \$259 on interest on these loans. On July 20, 2002, the Army paid \$3,000 on the principal and no money for interest. Based on this information, the Army paid a total of \$13,365 on Applicant's school loans.³

In 2002, Applicant served in Germany, returning to the United States in December 2002. Sometime in 2003, he realized a problem had developed with the repayment of his school loans. He attempted to work through the Army processes to resolve this problem. At the time he completed his security application, he believed that the Army was still working on this issue. Despite his belief and long efforts to resolve this issue, the Army did not make any additional payments on his school loans.

During his marriage, his wife managed the household finances. He did not recall receiving any information from the school loan creditors that his loans were not being paid. He understood that he still had school debt when he met with the security investigator. He contacted the creditor and entered into a repayment plan in May 2008. He started his payments in August 2008 and provided evidence he complied with his payment plan through March 2009. His statement that he is continuing with the payment plan is credible as he has shown that he pays his debts.⁴

Applicant and his wife drove to a bowling alley after work on March 25, 2006. While at the bowling alley, Applicant consumed four or five beers. At some point in the evening, he confronted his wife about the affair in which she was involved. They argued, left the bowling alley with his wife driving, and drove to a 7-11 store. His wife parked the car and walked away. Applicant called a cab to take him home. After he entered the cab, the cab driver requested the cash fare immediately. Applicant realized that his wallet was at home. The cab driver refused to take him home unless he initially paid the fare. Applicant exited the cab, entered his car, and drove for 20 or 25 minutes. About 15 minutes from home, he pulled over to the side of the road and fell asleep with the keys in the car ignition. A police officer woke him up later. The police officer arrested him; handcuffed him; placed him in the cruiser; drove him to the police station; photographed

²Applicant folders numbers 2 and 3; GE 1; Tr. 20-23.

³Applicant folder number 1.

⁴Applicant folder number 1; Exhibit 6; Tr. 29.

him; and fingerprinted him. He spent a night in jail. The police released him the next morning. The police officer charged him with driving under the influence (DUI), a misdemeanor criminal offense, and gave him the summons at the time of his arrest.⁵

Applicant hired an attorney to represent him in court on his DUI charge. He appeared in the general district court on June 8, 2006 and pled not guilty to the DUI charge. The court found him guilty and sentenced him to 30 days in jail, suspended. The court also fined him \$500, suspended his driver's license for 12 months, restricted his driver's license, directed that he participate in an alcohol safety program, and directed him not to possess alcohol for 12 months. Through his attorney, Applicant appealed this decision to the circuit court on June 8, 2006. The appeal notice advised his attorney, and Applicant through his attorney, that his appeal was scheduled for a setting of the hearing date on July 10, 2006. The court scheduled the arraignment hearing for August 23, 2006. Appellant faxed a letter on August 22, 2006 to the circuit court, but not his attorney, stating that he would be unable to attend the hearing on the next day, August 23, 2006, and that he was withdrawing his appeal. The circuit court continued the hearing, which is characterized as an arraignment,⁶ until October 2, 2006 and did not act on his request to withdraw his appeal. Applicant did not appear in court for his arraignment on October 2, 2006, although his attorney did. When Applicant did not show for the arraignment, he violated a previous court order to appear on this date. The court issued a failure to appear warrant (also titled Capias) for contempt of court on this date. The record evidence, including Applicant's testimony, does not explain the reason that he did not know about the October trial date or that the warrant had been issued. Applicant believed that the case had been dropped. He learned about the warrant during the interview with the security clearance investigator. Between August 2006 and 2008, he sporadically contacted his attorney because he was moving and working in different areas of the country.⁷

In a letter dated May 6, 2008, Applicant's attorney advised that he and Applicant were working on the above circuit court case and that a court date had not yet been set. The letter does not discuss the Capias or indicate the extent of Applicant's knowledge of the Capias. The circuit court rescheduled the hearing for the Capias and the DUI on March 18, 2009. Applicant appeared in circuit court with his attorney on this date. Applicant again advised the circuit court that he wanted to withdraw his appeal and accept the judgment of the general district court. Applicant and his attorney completed the appropriate paperwork and the circuit court affirmed the judgment. The circuit court sentenced Applicant to 30 days in jail, suspended, and fined him \$500, suspending \$250. The circuit court directed Applicant to pay his fine and court costs that day; to keep the peace, be of good behavior and violate none of the state's penal laws for 12

⁵GE 7; Tr. 30-35.

⁶When a general district court's judgment is appealed in a DUI case, the circuit court conducts a new or *de novo* hearing on the case. Thus, the first hearing before the circuit court is an arraignment, not a hearing on the issues. GE 11.

⁷Response to SOR; Applicant folder number 5; GE 6; GE 7 at p.2; GE 8; GE 10; GE 11; Tr. 54-56.

months; not to possess or consume alcohol for 12 months; and to enter into an alcohol safety program. It also suspended his driving privileges in the state for 12 months. On motion of the prosecutor, the court nolle prossed the failure to appear charge (Capias). The court actually signed the order from the March hearing on June 4, 2009.⁸

Applicant does not drink alcohol, and has not since 2006, because “the DUI pretty much destroyed my life.” Applicant applied to a medical school intensive outpatient alcohol and drug abuse program. The program assessed him on May 4, 2009 and recommended that he attend classes two nights a week for three weeks. Applicant enrolled in the program and attended the recommended classes, which included individual and group counseling sessions. The program discharged him on May 28, 2009, noting that he did not exhibit any signs of alcohol or chemical dependency, that he understood the seriousness of operating a motor vehicle under the influence of alcohol, and that he accepted responsibility for his wrongdoing. This program meets the requirements of the state court order.⁹

Applicant does not currently work. His employer laid him off in December 2007. He received unemployment from January 2008 until February 2009. Presently, he lives with his parents and occasionally performs odd jobs. He actively applies for a variety of jobs, but has not yet received a firm job offer. He has been offered at least one job conditioned upon obtaining a security clearance. Applicant uses his savings to pay his bills when he lacks sufficient income. His monthly expenses are limited to his school loan, gas for his car, car insurance, and rental for two storage units at an estimated monthly expense of \$500.¹⁰

When Applicant completed his SF-86 on August 18, 2006, he answered “no” to the following questions:

Section 23: Your Police Record

- d. Have you ever been charged with or convicted of any offense(s) related to alcohol or drugs?

Section 28: Your Financial Delinquencies

- a. In the last 7 years, have you been over 180 days delinquent on any debt(s)?
- b. Are you currently over 90 days delinquent on any debt(s)?

⁸Applicant folder number 5; GE 13.

⁹Applicant folder number 5; Tr. 59.

¹⁰Applicant folder number 2; Tr. 69-74.

When Applicant met with the security investigator on March 6, 2007, he acknowledged he had been arrested and charged with a DUI in March 2006 after being confronted with this information. During the interview, Applicant stated that he thought the case had been dropped and that he did not volunteer the information about his DUI arrest because he was scared and did not know how it would affect his security clearance. At the hearing, Applicant stated that he answered “no” because he did not have a final “deliberation” on the charge. He also agreed that he probably thought his DUI would hurt his clearance.¹¹

The security investigator did not discuss Applicant’s finances in the interview. Applicant did not list his school loan debt as past due because he had requested the Army to pay the debt under its repayment loan program. He knew in 2003 that there was a problem with his loan repayment papers and had requested assistance from the Army. In 2006, he thought the loan was being paid. He did not recall receiving any notices from creditors about this debt. His wife handled the finances and may have received a notice, but he did not recall any information on this matter. He never looked at his credit report.¹²

Applicant provided documents reflecting his performance in the past. He received a commendation from the police department for his work. He also completed many training courses in the Army Reserve and on his own. He received favorable performance evaluations in the past.¹³

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 commonsense 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.

¹¹GE 12, at p. 2; Tr. 46-47, 52.

¹²Tr. 62-67.

¹³Applicant folder number 3.

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 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 J, Criminal Conduct

AG ¶ 30 expresses the security concern pertaining to criminal conduct:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying:

(a) a single serious crime or multiple lesser offenses;

(c) allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted; and

(d) individual is currently on parole or probation.

The police arrested and charged Applicant with DUI, a misdemeanor offense, in 2006. When he failed to appear in court in October 2006, the court issued a warrant based on contempt of a court order. Because of communication problems, this matter did not fully resolve until March 2009. As a result of Applicant's withdrawal of his appeal, he accepted the original trial court finding in March 2009 and the court imposed sentence as of that date. He is currently on probation for this offense. In light of my findings under Guideline E, the allegation that Applicant violated 18 U.S.C. § 1001 is established. The government has established the above disqualifying conditions.

Under AG ¶ 32, the following conditions may establish that the Applicant has mitigated the government's security concerns:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement.

Applicant's initial DUI conviction occurred more than three years ago, even though he is currently on probation for that conviction. Since his 2006 arrest, Applicant has not consumed alcohol. He attended the court required alcohol abuse program, which did not find any signs of alcohol abuse or chemical dependency, and he accepted responsibility for his alcohol conduct. The court nolle prossed the related failure to appear warrant. The 2006 arrest is Applicant's only arrest for criminal conduct. Applicant has partially mitigated the government's security concerns under Guideline J as there is evidence of successful rehabilitation of his alcohol use.

Guideline F, Financial Considerations

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

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

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an “inability or unwillingness to satisfy debts” is potentially disqualifying. Similarly under AG ¶ 19(c), “a history of not meeting financial obligations” may raise security concerns. Applicant accumulated delinquent debt related to his education loans. He did not pay these loans for a period of time. The evidence is sufficient to raise these potentially disqualifying conditions, requiring a closer examination.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where “the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment.” Under AG ¶ 20(b), it may be mitigating where “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances.” Mitigation may also be shown under AG ¶ 20(c) where there is evidence that “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control.” Similarly, AG ¶ 20(d) applies where the evidence shows “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.”

Applicant incurred education debt while a college student. After he enlisted in the Army Reserve, he applied for the school loan repayment program. The Army accepted his application and paid over \$13,000 of his school loan debt, including interest. The payments stopped when problems arose during the Army payment processing in 2003. Applicant sought help through the Army with resolving the payment problem. When he learned that his education loans were delinquent, he developed a repayment plan. He has complied with the terms of his repayment plan. This is his only debt and he is paying it. He has mitigated the government’s security concerns about his education debt.

Guideline E, Personal Conduct

AG ¶ 15 expresses the security concern pertaining to personal conduct:

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.

AG ¶ 16(a) describes conditions that could raise a security concern and may be disqualifying:

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

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing, or (2) while in another country, engaging in any activity that is illegal in that country or that is legal in that country but illegal in the United States and may serve as a basis for exploitation or pressure by the foreign security or intelligence service or other group;

For AG ¶ 16(a) to apply, Applicant's omission, concealment or falsification in his answer must be deliberate. The government established that Applicant omitted a material fact from his SF-86 when he answered "no" to Questions 23d about his 2006 DUI arrest, 28a, about debts over 180 days delinquent, and 28b about debts currently 90 days over due. This information is material to the evaluation of Applicant's trustworthiness to hold a security clearance and to his honesty. In his response, he denies, however, that he had an intent to hide this information from the government. When a falsification allegation is controverted, the government has the burden of proving it. Proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred. An administrative judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning an applicant's intent or state of mind at the time the omission occurred.¹⁴

When he completed his SF-86 and e-QIP in August 2006, Applicant did not list his March 2006 DUI arrest because he feared it would negatively impact the approval of his application for a security clearance. Even though he appealed his conviction, he clearly knew he had been arrested and convicted of a DUI in June 2006. His acknowledgment that he was scared about the impact of this arrest is an admission that he intentionally falsified this answer. The government has established its case as to allegation 3.a. under AG ¶¶ 16(a) and 16(e). Concerning his answers regarding his finances, Applicant believed in 2006 that his educational loans were still being considered by the Army. Since his wife managed the household finances and did not advise him of a problem with his education loans, he did not intentionally falsify his

¹⁴See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004)(explaining holding in ISCR Case No. 02-23133 at 5 (App. Bd. Jun. 9, 2004)).

answers to Questions 28a and 28b because his belief was mistaken. The government has not established intentional falsification under allegations 3.b and 3.c.

Allegation 3.d is a factual statement, which supports allegation 3.a, not an indication of specific personal conduct covered under this guideline. Thus, this allegation is found in favor of Applicant. The government established the existence of the failure to appear warrant at the time of the issuance of the SOR.

Under AG ¶ 17, an applicant may mitigate the government's security concerns in the following manner in this case:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(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;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress; and

(f) the information was unsubstantiated or from a source of questionable reliability.

After reviewing the facts of this case and the above mitigating conditions, I conclude that Applicant has not mitigated the falsification of his answer to question 23d in his security clearance application. However, when he appeared in court on March 18, 2009, the prosecutor dismissed the Capias warrant. Thus, this warrant is not active and Applicant has mitigated the government's security concerns about this warrant. Guideline E is found against Applicant.

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 an applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept. The decision to grant or deny a security clearance requires a careful weighing of all relevant factors, both favorable and unfavorable. In so doing, an administrative judge must review all the evidence of record, not a single item in isolation, to determine if a security concern is established and then whether it is mitigated. A determination of an applicant's eligibility for a security clearance should not be made as punishment for specific past conduct, but on a reasonable and careful evaluation of all the evidence of record to decide if a nexus exists between established facts and a legitimate security concern.

In reaching a conclusion, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant successfully worked as a police officer, in the Army Reserve, and in industry. He manages his limited finances and does not live beyond his financial means. During a crisis in his marriage, he drank too much one evening, which resulted in a fight with his wife. After the fight, he drove his car while intoxicated. The police arrested and charged him with DUI. The court convicted him of this charge and he is currently on probation. He lied on his e-QIP about his DUI because he feared that it would impact his eligibility for a security clearance. His failure to be truthful is more serious than his DUI. His lack of honesty raises questions about his trustworthiness and ability to protect classified information.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from his financial considerations, but has not mitigated the personal conduct and criminal conduct concerns.

Formal Findings

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

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Paragraph 2, Guideline F:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant
Subparagraph 3.b:	For Applicant
Subparagraph 3.c:	For Applicant
Subparagraph 3.d:	For Applicant
Subparagraph 3.e:	For Applicant

Conclusion

In light of all of the circumstances presented by 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.

MARY E. HENRY
Administrative Judge