



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 09-06775  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Fahryn E. Hoffman, Esquire, Department Counsel  
For Applicant: *Pro se*

June 9, 2011

**Decision**

WHITE, David M., Administrative Judge:

Applicant accrued substantial delinquent debt since discharging \$80,000 in debts in a 2006 bankruptcy, and his income is insufficient to meet recurring expenses. He is alcohol dependent with multiple alcohol-related criminal offenses. He recently completed alcohol treatment, but remains on supervised probation. His efforts to date are a good start, but are insufficient to mitigate security concerns. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

Applicant submitted a security clearance application (SF 86) on May 11, 2009. On September 21, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guidelines F (Financial Considerations), G (Alcohol Consumption), and J (Criminal Conduct). 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 *Adjudicative Guidelines for Determining*

*Eligibility for Access to Classified Information* effective within the Department of Defense on September 1, 2006.

Applicant answered the SOR in writing (AR) on October 6, 2010, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on November 10, 2010, and the case was assigned to me on November 16, 2010. DOHA issued a Notice of Video Teleconference Hearing on January 3, 2011, and I convened the hearing as scheduled on January 27, 2011. Department Counsel and Applicant were co-located at one site near Applicant's home, while the court reporter and I were located at another site near my office. The Government offered exhibits (GE) 1 through 19, which were admitted without objection. Applicant offered exhibits (AE) A through D, which were admitted without objection, and testified on his own behalf. I granted Applicant's request to leave the record open until February 10, 2011, for submission of additional evidence. On that date, Applicant submitted three documents that were marked AE E through G and admitted without objection. DOHA received the transcript of the hearing (Tr.) on February 4, 2011. Department Counsel submitted her closing argument in writing on March 2, 2011, after reviewing Applicant's post-hearing submission. Her argument and memorandum forwarding AE E through G were marked Hearing Exhibit (HE) II, and entered into the record. Applicant initially declined, but later requested additional time to accept my offer to permit him to submit a rebuttal argument in writing. His argument, dated March 28, 2011, was admitted into the record without objection as AE H. Department Counsel's memorandum forwarding AE H was entered as HE III, and the record was closed on April 4, 2011.

### **Findings of Fact**

Applicant is a 51-year-old former employee of a defense contractor at a facility where he hopes to be hired if he is granted the security clearance required for the position.<sup>1</sup> He has no military service, but held a security clearance from 1981 to 2006. He earned a Bachelor of Science degree in electrical engineering in 1995. He is divorced for the second time, and has a ten-year-old child.<sup>2</sup> In his response to the SOR, Applicant admitted the truth of all of the factual allegations in the SOR. Applicant's admissions, including his statements in response to DOHA interrogatories,<sup>3</sup> are incorporated in the following findings.

Applicant held a steady engineering job with a defense contractor, earning up to \$75,000 or \$80,000 per year, from December 1999 to October 2004. His financial situation was good until he and his second wife divorced in early 2002. He tried to maintain his mortgage payments and other living expenses on his income, but was unable to do so while paying child support of about \$550 per month to his ex-wife, who had custody of their son. He took out a second mortgage, but eventually began using

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<sup>1</sup>His application is sponsored by his potential employer. See Tr. 10-16.

<sup>2</sup>GE 1; Tr. 10-11, 33, 37, 38.

<sup>3</sup>GE 2; GE 3; GE 4.

credit cards to charge living expenses due to spending beyond his means. He sold the home for between \$20,000 and \$30,000 more than his combined mortgage debt, and used those funds to pay off other creditors. In October 2004, he was fired from his position after a “verbal altercation” with his supervisor. He was unemployed until March 2005, and fell behind on his child support payments and other debts during that period. In March 2005, he obtained an engineering position in another state. He worked there until late September 2005, when he was fired after an argument with his boss over his misuse of the company’s personal time (leave without pay) policy to visit his son, who had been diagnosed with epilepsy.<sup>4</sup>

In October 2005, Applicant resumed working as an engineer for a subcontractor at the defense facility where he worked from 1999 to 2004. In January 2006, the prime contractor hired him into an engineering position, again earning around \$75,000 per year. He held that job until July 2006, when he was fired after being sentenced for one of his two December 2005 Driving Under the Influence (DUI) offenses discussed below. He was unemployed until September 2006, when he obtained another engineering position with a manufacturing company unrelated to defense work. He was fired from that job in March 2007 due to alcohol issues. After nine months of unemployment, he was hired into another senior engineer position at a power company in December 2007. These engineering positions paid him about \$80,000 per year. After his six-month probationary period in this latest job, he was not offered a permanent position and was terminated in June 2008 due to personality conflict troubles with his supervisor. He then remained unemployed until September 2010, when he obtained his current position as a customer service representative in a call center for a major credit card company. He makes \$9.50 per hour and testified that, depending on how many hours he works, has a net pay of between \$400 and \$500 every two weeks.<sup>5</sup>

In February 2006, Applicant filed for Chapter 7 bankruptcy relief. In June 2006, about \$80,000 in unsecured debt that had accumulated over the preceding several years was discharged through this proceeding. Applicant admitted to presently owing the two delinquent medical debts and delinquent child support alleged in SOR ¶¶ 1.a through 1.c. He testified that the medical debts are probably included in about \$7,000 worth of medical bills that he owes to a collection agency. He further testified that, although the state takes about half of each current paycheck for his child support obligation, his total arrearage is probably more than the \$24,000 alleged in the SOR. A couple weeks before his hearing, Applicant petitioned the court to lower his monthly \$547 child support obligation, which was calculated when he was earning around \$80,000 per year.<sup>6</sup>

On December 15, 2009, Applicant completed a personal financial statement in response to DOHA interrogatories. Although he was unemployed at the time, he

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<sup>4</sup>GE 1; GE 2; Tr. 40-42, 49-58.

<sup>5</sup>GE 1; GE 2; Tr. 38-39, 42, 45, 49-58, 94.

<sup>6</sup>AR; GE 1; GE 2; GE 16; Tr. 40-48.

claimed a net monthly income of \$2,000 and net monthly expenses and debt payments of \$1,920, including payments toward delinquent state and federal income taxes. After his hearing, he submitted an updated budget showing monthly expenses of \$1,323. He also submitted earnings statements from his two most recent 14-day pay periods. After the deduction of \$257 from each paycheck for child support, his net pay was \$357 for the first period and \$154 for the second. He both testified and included a note on his latest budget indicating that his father was helping him with bills when he can. Applicant offered no evidence of financial counseling.<sup>7</sup>

Applicant admitted to all of the alcohol-related issues alleged in SOR ¶¶ 2.a through 2.h. These included arrests for driving under the influence of alcohol in November 1976, June 1977, May 2004, October 2005, December 2005, and August 2008. These arrests resulted in a variety of legal outcomes, but all involved drinking and driving. He underwent outpatient alcohol treatment from May to June 2004, but resumed drinking in violation of his probation abstinence requirement, resulting in two more DUI arrests in 2005. He entered a month-long inpatient treatment program for alcohol and opioid dependence on August 28, 2008. He then entered a court-ordered intensive outpatient treatment program on December 1, 2008, and successfully completed it in August 2010. His certified counselor from that outpatient program confirmed Applicant's diagnosis of Alcohol Dependence in Sustained Full Remission, and Opioid Dependence in Sustained Full Remission, on December 16, 2009. Other than using prescribed medications, he has remained clean and sober since entering treatment in August 2008.<sup>8</sup>

Applicant also admitted to committing the other criminal offenses alleged in SOR ¶¶ 3.a through 3.d. In 2003, he was arrested in July for Disturbing the Peace by playing his stereo too loud, and in August he was arrested for two counts of Using a Telephone to Annoy, Harass, or Offend. He pled guilty to the former offense in return for the dismissal of the latter two counts. He was fined and placed on one year of unsupervised probation. On July 15, 2008, he was arrested and charged with Trespassing when he refused to leave a bar that he had previously been kicked out of after being asked to leave. He was charged with Petit Theft and two counts of Battery on July 21, 2008, for failing to pay the cab driver who drove him home from a bar where he had become intoxicated and then punching the driver when asked for money. On July 22, 2008, he went to visit a sick friend. The friend's son was also home, and told Applicant to leave because he was drunk. When he refused to leave, the son called the police who arrested him and charged him with Trespassing. On January 12, 2009, as part of a plea agreement that also included Applicant's entry into the DUI Court program for his latest DUI the previous August, he pled guilty to Disturbing the Peace and the Battery, Theft, and Trespassing charges were dismissed. He was given a 90-day suspended jail sentence and two years of unsupervised probation.<sup>9</sup>

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<sup>7</sup>GE 3; AE E; AE F; AE G; Tr. 58-59, 85, 93-94.

<sup>8</sup>AR; GE 1 at 53; GE 2; GE 3 at 7-9; GE 13; Tr. 59-64, 67-76, 82.

<sup>9</sup>AR; GE 1 at 51; GE 2; GE 15; Tr. 66-67, 78-82.

On July 28, 2009, Applicant was stopped in a neighboring state for driving erratically. He had changed his prescribed anti-depressant medication the day before, and should not have been driving. A breathalyzer test showed no alcohol in his system, but he was arrested and charged with Driving Under the Influence/Drugs. On December 16, 2009, he pled guilty to, and was convicted of the lesser offense of Negligent Driving in the First Degree. He was sentenced to 90 days in jail, with 88 days suspended; fined \$1,000, with \$875 suspended; and assessed about \$900 in costs. On August 11, 2009, Applicant was arrested in his home state and charged with Probation Violation for his July DUI/Drugs offense in the neighboring state. On September 8, 2009, he was convicted of this charge, sentenced to 14 days in jail, and released with credit for time already served. After successfully completing his court-ordered alcohol and drug treatment programs in August 2010, Applicant finished the DUI Court program in September 2010. His August 2008 felony DUI charge was reduced to DUI-Second Offense, and he was sentenced to two years of probation, with at least the first year being supervised. Applicant testified that his probation officer is satisfied with his progress and intended to recommend to the court that he be released from probation in September 2011.<sup>10</sup>

Applicant's father wrote a letter on his behalf, describing his patriotism and conscientious attention to the importance of security matters.<sup>11</sup> A friend and coworker at the credit card call center wrote a letter describing his caring and dedicated relationships with his father and his son, his reliable and excellent work performance, and his integrity.<sup>12</sup> A long-term friend and former engineering colleague wrote concerning his high opinion of Applicant's integrity, quality of work, regard and respect for others, dedication, compliance with security procedures, trustworthiness, and allegiance to the United States.<sup>13</sup> Applicant expressed his intention to continue participation in Alcoholics Anonymous and remain sober for the rest of his life. He also expressed his intention to address his delinquent debts and child support to the best of his ability, and noted that he has not committed any criminal offenses since he stopped drinking.<sup>14</sup>

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially

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<sup>10</sup>AR; GE 1; GE 2; GE 3; Tr. 75-77, 83-85.

<sup>11</sup>AE A.

<sup>12</sup>AE B.

<sup>13</sup>AE C.

<sup>14</sup>AE D; AE H; Tr. 33-36, 86-89, 97.

disqualifying conditions (DCs) and mitigating conditions (MCs), which are to be used 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶¶ 2(a) and 2(c), the entire process is a conscientious scrutiny of applicable guidelines in the context 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 the 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, "[t]he applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision." Section 7 of Executive Order 10865 provides: "[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."

A person applying for access to classified information seeks to enter 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.

## **Analysis**

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

The security concerns relating to the guideline for financial considerations are 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 evidence raised security concerns under two Guideline F DCs, as set forth in AG ¶ 19(a) "inability or unwillingness to satisfy debts"; and AG ¶ 19(c) "a history of not meeting financial obligations." Applicant's history of delinquent debt stretches back at least seven years and continues, in large part, at present. He had about \$80,000 in unsecured debt discharged through a Chapter 7 bankruptcy in June 2006, and began falling further behind on court-ordered child support payments and other debts almost immediately. He testified that under the best of circumstances he earns \$1,000 per month in net income and he conservatively estimated over \$1,300 in living expenses. The two earnings statements he provided reflected an actual net income of only \$529 for the month of January 2011. Resulting security concerns under these two DCs shift the burden to Applicant to establish mitigation.

The guideline includes four conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial problems:

- (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;
- (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;
- (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; and
- (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant admitted the SOR-alleged debts, and has no unexplained affluence, so the remaining MCs are not pertinent.

The SOR alleges almost \$25,000 in delinquent debt. According to Applicant, he also has more than \$6,000 in other medical debt in collections, owes more delinquent child support, and has unpaid state and federal income tax debt. He also incurred about \$80,000 of other debt that he discharged through bankruptcy in 2006. His financial irresponsibility is lengthy, and continues in large part to date. Moreover, his monthly living expenses substantially exceed his monthly income, making the recurrence of this

behavior highly likely and casting continuing doubt on his reliability, trustworthiness, and judgment. The evidence does not establish mitigation under AG ¶ 20(a).

Mitigation under AG ¶ 20(b) was not established either. The debts of concern arose after his 2002 divorce, but he did not demonstrate responsible action under the circumstances. Over the next four years he sold his house to pay some debts, but still accumulated \$80,000 in obligations he could not pay and discharged through bankruptcy. He suffered some unemployment, but that resulted from being fired from high-paying engineering jobs in October 2004, September 2005, July 2006, March 2007, and June 2008, due to alcohol-related issues and arguing with his supervisors, all of which were circumstances under his control.

Applicant has not received financial counseling, nor has he been able to resolve any of his delinquent debts after obtaining his current position in September 2010. His monthly expenses substantially exceed his income, so there is no indication the problem is under control. His current child support obligations are being satisfied through involuntary garnishment of a large percentage of his pay, but he has neither the means nor a plan to address his large arrearage. Thus, no mitigation was established under AG ¶¶ 20(c) or (d) that require a good-faith effort to resolve one's debts.

As the Appeal Board has ruled concerning the successful mitigation of security concerns arising from financial considerations, "[a]n applicant is not required to show that [he] has completely paid off [his] indebtedness, only that [he] has established a reasonable plan to resolve [his] debts and has 'taken significant actions to implement that plan.'"<sup>15</sup> This applicant failed to show either a plan or significant action to implement one.

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

AG ¶ 21 expresses the security concern pertaining to alcohol consumption:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

AG ¶ 22 describes conditions that could raise a security concern and may be disqualifying. The DCs supported by the SOR allegations and evidence in this record are:

(a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

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<sup>15</sup>ISCR Case No. 06-12930 at 2 (App. Bd. Mar. 17, 2008) (quoting ISCR Case No. 04-09684 at 2-3 (App. Bd. Jul. 6, 2006)).



(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

(e) evaluation of alcohol abuse or dependence by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program; and

(g) failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

Applicant was arrested for driving under the influence of alcohol twice in the 1970s and four times between May 2004 and August 2008. He regularly drank to the point of impaired judgment, and was diagnosed by a certified drug and alcohol treatment program counselor as alcohol dependent. He was required to abstain from alcohol consumption during the two years of probation following his 2004 DUI conviction, and violated that requirement by committing two additional DUI offenses in October and December 2005. Accordingly, the burden is shifted to Applicant to mitigate the security concerns raised under these four DCs.

AG ¶ 23 provides conditions that could mitigate alcohol consumption security concerns:

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

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

(c) the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, and is making satisfactory progress; and

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

Applicant was involved in two alcohol-related driving offenses during the 1970s, which could be mitigated under AG ¶ 23(a) had he not driven while drunk again in 2004, twice in 2005, and as recently as August 2008. None of these were shown to have occurred under unusual circumstances. This lengthy history, and the recency and frequency of incidents since 2004, preclude a finding that such behavior is unlikely to recur or does not cast doubt on Applicant's trustworthiness or judgment. Accordingly, AG ¶ 23(a) does not provide mitigation.

Applicant has acknowledged his alcoholism, successfully completed voluntary inpatient and court-ordered outpatient treatment programs for his alcohol and opioid addictions, and remained abstinent since August 2008. This is a good start, but insufficient time has passed to establish mitigation under AG ¶ 23(b), given the duration and nature of his history of alcohol abuse and the fact that he achieved this under close court supervision with the threat of felony DUI penalties hanging over his head. Similarly, there is not sufficient evidence to support mitigation under AG ¶¶ 23(c) or (d). Applicant resumed drinking after his 2004 court-ordered alcohol treatment program, and is not a current employee of the company sponsoring his clearance application. He testified, without corroborating evidence, that he continues to participate in Alcoholics Anonymous after his most recent treatment program, but provided no favorable prognosis by a duly qualified medical professional or social worker.

#### **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. The DCs supported by the evidence in this case are AG ¶ 31:

- (a) a single serious crime or multiple lesser offenses;
- (c) allegation or admission of a criminal conduct, regardless of whether the person was formally charged, formally prosecuted, or convicted;
- (d) individual is currently on parole or probation; and
- (e) violation of parole or probation, or failure to complete a court-mandated rehabilitation program.

Independent of the six DUI offenses alleged under Guideline G in SOR ¶ 2, but not incorporated by reference under Guideline J in SOR ¶ 3, Applicant admitted committing each of the multiple lesser offenses alleged in SOR ¶¶ 3.a through 3.d. Some of these offenses resulted in convictions of lesser charges or dismissal as part of

a plea agreement, but the underlying conduct is not in dispute. His July 2009 offense of DUI/Drugs violated the conditions of his probation for both his January 2009 conviction for Disturbing the Peace and his 2008 Felony DUI Court program. He was convicted and sentenced for this probation violation in September 2009. He remains on supervised probation until at least September 2011 as a result of his September 2010 sentencing for the 2008 DUI. These established DCs support security concerns and shift the burden of mitigation to Applicant.

AG ¶ 32 provides conditions that could mitigate criminal conduct security concerns. These are:

- (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;
- (b) the person was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) evidence that the person did not commit the offense; 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 criminal offenses are too numerous and recent to support mitigation under AG ¶ 32(a), especially since none were shown to have occurred under unusual circumstances. He also failed to establish mitigation under AG ¶ 32(b), in the absence of any evidence that he was pressured or coerced into committing any of these offenses. He admitted committing the offenses, precluding the applicability of AG ¶ 32(c). Applicant successfully completed his inpatient and outpatient treatment programs for his alcohol and opioid addictions in August 2010, and has not committed a known crime since July 28, 2009. His call center work performance since September 2010 has been good. However, these positive developments occurred while under close court and probation officer supervision, which will continue until at least September 2011. This forms a good beginning point from which to develop mitigation under AG ¶ 32(d) if the behavior continues under lesser scrutiny by the authorities, but it is too early to constitute evidence of successful rehabilitation.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant 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.

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant is a well-educated engineer with a history of working for the defense of the United States while holding a security clearance. He successfully completed inpatient and outpatient treatment programs for his alcohol and opioid dependencies less than a year ago, and says he continues to participate in Alcoholics Anonymous and remains abstinent. Continued progress in those efforts, and the avoidance of new financial delinquencies and criminal offenses will strengthen his case in mitigation of the security concerns raised by his conduct since 2003.

However, Applicant currently has over \$31,000 in delinquent debts that he accrued since he discharged about \$80,000 in other debts through bankruptcy in June 2006, and did not demonstrate the financial means to resolve those debts or avoid new ones. His alcohol abuse and criminal conduct arose from choices that he voluntarily made, and his commendable efforts to address them are too recent to establish a permanent behavioral change. Applicant is a mature and experienced individual, who is fully accountable for his situation. The potential for pressure, coercion, exploitation, or duress remains largely undiminished; and he did not yet demonstrate a sufficient pattern of financial responsibility, abstinence, or law-abiding conduct to show that the behaviors giving rise to security concerns are unlikely to continue or recur.

Overall, the record evidence creates substantial doubt as to Applicant's present eligibility and suitability for a security clearance. He failed to meet his burden to mitigate the security concerns arising from his financial considerations, alcohol consumption, and criminal conduct.

### **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a through 1.d:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a through 2.h:	Against Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraphs 3.a through 3.d:	Against Applicant

### **Conclusion**

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

DAVID M. WHITE  
Administrative Judge