



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



In the matter of:)
)
-----) ISCR Case No. 10-10510
)
Applicant for Security Clearance)

Appearances

For Government: Braden M. Murphy, Esq., Department Counsel
For Applicant: *Pro se*

06/27/2013

Decision

Harvey, Mark, Administrative Judge:

Applicant acknowledges he is an alcoholic. He consumes alcohol almost every day, and he drives after drinking three or four beers. He occasionally consumes 12 to 15 beers in an evening, and he has been late for work due to alcohol consumption in the last 12 months. Applicant has not made sufficient progress resolving the delinquent debts listed on his statement of reasons (SOR). His termination from his previous employment was not due to misconduct. Personal conduct concerns are mitigated. Alcohol consumption and financial considerations concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On June 4, 2010, Applicant submitted his Electronic Questionnaires for Investigations Processing (e-QIP) version of a security clearance application (SF 86). (GE 1) On November 20, 2012, the Department of Defense (DOD) Office of Hearings and Appeals (DOHA) issued an SOR to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended; and the adjudicative guidelines (AG) the President promulgated on December 29, 2005.

The SOR alleged security concerns under Guidelines G (alcohol consumption), E (personal conduct), and F (financial considerations). (Hearing Exhibit (HE) 2) The SOR further informed Applicant that DOD adjudicators could not make the preliminary affirmative finding that it is clearly consistent with the national interest to grant or continue his security clearance, and it recommended that his case be submitted to an administrative judge for a determination whether his clearance should be granted or denied. (HE 2)

On December 14, 2012, the DOHA received Applicant's response to the SOR. (HE 3) On March 21, 2013, Department Counsel indicated he was ready to proceed on Applicant's case. On April 1, 2013, the case was assigned to me. On April 16, 2013, and May 6, 2013, DOHA issued hearing notices, setting the hearing for May 9, 2013. (HE 1A and 1B) On May 9, 2013, a brief hearing using video teleconference was held, and Applicant asked for a delay in the hearing, which I granted. On May 13, 2013, DOHA issued a hearing notice, setting the hearing for May 23, 2013. (HE 1C) On June 5, 2013, DOHA issued a hearing notice, setting the hearing for June 13, 2013. (HE 1D) Applicant's hearing was held as scheduled, using video teleconference. Department Counsel offered nine exhibits, and Applicant offered four exhibits. (Tr. 19-26; GE 1-9; AE A-D) There were no objections, and I admitted GE 1-9 and AE A-D. (Tr. 22-26) Additionally, I admitted the hearing notices, SOR, Applicant's response to the SOR, and Department Counsel's demonstrative exhibit. (HE 1-4) On June 21, 2013, I received the transcript.

Findings of Fact¹

Applicant admitted the conduct alleged in SOR ¶¶ 1.a, 1.b, and 3.a to 3.g, and he provided some extenuating and mitigating information. (HE 3) He denied the allegations in SOR ¶¶ 1.c and 2.a. His admissions are accepted as findings of fact. After a complete and thorough review of the evidence of record, I make the following additional findings of fact.

For the past three years, Applicant, who is a 35-year-old field service representative employed by a defense contractor, provided maintenance and repair on Army armored vehicles. (Tr. 5-6, 32; GE 1) He was awarded a high school diploma in 1996, and he received an associate's degree in applied science and electronics engineering technology in 2000. (Tr. 5, 28-29; GE 1) He has never served in the military. (Tr. 5, 31; GE 1) He has never held a security clearance. (Tr. 6, 31) He has one child, who is 11 years old. (Tr. 52) His daughter lives with her mother in a different state from Applicant. (Tr. 52) He pays \$500 monthly child support, and he is current on his child support obligation. (Tr. 52)

¹The facts in this decision do not specifically describe employment, names of witnesses or locations in order to protect Applicant and his family's privacy. The cited sources contain more specific information.

Alcohol Consumption

In November 2007, Applicant was arrested for unlawful use of a firearm. (Tr. 37-38) He and a friend were driving around in the country shooting at road signs. (Tr. 38) Applicant had consumed alcohol before the arrest. (Tr. 38) His alcohol consumption has also led to relationship problems and black outs or loss of memory about events when he consumed alcohol. (SOR response to ¶ 1.b)

Applicant has occasionally been late for work because of consuming alcohol the night before work. (Tr. 39) He was most recently late for work “a couple of months” before his hearing. (Tr. 39-40) In the previous 12 months, he estimated he was late for work twice because of alcohol consumption. (Tr. 40)

Applicant consumes alcohol on most days. (Tr. 41) He prefers beer and vodka tonics. (Tr. 41) He can consume 12 to 15, 12 ounce, four or five percent alcohol content beers or a third of a fifth of vodka before he really starts feeling intoxicated. (Tr. 42, 76-77) When he consumes 12 to 15 beers, his alcohol consumption is over about a six-hour period. (Tr. 69) He most recently consumed 12 to 15 beers the weekend before his hearing. (Tr. 42) He drinks six to eight beers almost every day. (Tr. 43) Occasionally, he drives after consuming alcohol. (Tr. 70-71) About five weeks before his hearing, he drank three or four beers and then drove home from a sports bar. (Tr. 71)

Applicant began meeting with a certified substance abuse counselor in April 2013. (Tr. 44-45; AE D) He meets with his substance abuse counselor every two weeks. (Tr. 47) He and his counselor are exploring the reasons for his alcohol consumption, and he has not yet decided whether to enter a more in-depth substance abuse program. (Tr. 45) He has never been diagnosed with alcohol abuse or dependence. (Tr. 47-48) Applicant considered himself to be an alcoholic. (Tr. 49) He attended one Alcoholics Anonymous (AA) meeting several years ago, and he never went back. (Tr. 49)

Personal Conduct

Applicant’s previous employer believed Applicant was not actually at work when he claimed to be at work because a scanner that detects when employees badged into a work site did not register Applicant’s badge number. (Tr. 35) Applicant occasionally “tail-gated” past the scanner by following another employee without having his badge scanned. (Tr. 35) Applicant did not ensure his badge was scanned because he was carrying tools, and it was inconvenient for him to set down his tools to insert his badge into the scanner. (Tr. 35-36) There were no statements from other employees or customers indicating when Applicant reported to the work site.

When Applicant left his previous employment, his supervisor refused to tell him the reason he was losing his employment. (Tr. 33) His supervisor simply said, “. . . there is nothing more to say.” (Tr. 33) The employer subsequently told the Department of Defense that Applicant was fired for falsifying paperwork about when he came to work. (Tr. 34) By the time Applicant learned the rationale for his termination, it would have

been very difficult for him to prove that he actually reported to work on time on the days his employer alleged he came to work late.

Financial Considerations

Applicant made some progress in establishing his financial responsibility. He paid off his car and some debts to his family. (Tr. 53) Applicant's parents signed a student loan for Applicant, and he paid \$100 monthly and resolved that debt. (Tr. 61) His father described Applicant's systematic and consistent payments of his student loan. (AE B) He does not own any personal credit cards. (Tr. 62) He is current on his federal income taxes. (Tr. 62-63)

Applicant pays \$200 to \$250 monthly for alcohol. (Tr. 61) His checking account and savings accounts do not have any money in them. (Tr. 62) He has a small tax bill that he owes to his state. (Tr. 62-63)

Applicant owes the debt in SOR ¶ 1.e (\$9,678) for student loans used to pay for the education he received from 1998 to 2000. (Tr. 29-30, 51) He missed payments on a separate student loan, resulting in the debts in SOR ¶ 1.f (\$459) and SOR ¶ 1.g (\$482). (Tr. 30) The debts in SOR ¶¶ 1.f and 1.g are the same debt. (Tr. 31) He did not make any payments to address his delinquent student loans. (Tr. 53) He intended to contact his creditors once he has the funds to resume payments. (Tr. 53) Applicant may join a lawsuit against his employer for not paying the proper wages. (Tr. 54) If the lawsuit is successful, he may use the money to pay his student loans. (Tr. 54-55)

Applicant was unsure of the identity of the collection agents or the status of the debts in SOR ¶ 1.a (medical debt for \$71), 1.b (telecommunications debt for \$332), and 1.c (utilities debt for \$330). (Tr. 55) He did not understand why his former landlord was seeking \$3,523 as alleged in SOR ¶ 1.d, when he believed he owed about half of that amount. (Tr. 57-58) His delinquent apartment debt was generated in 2008. (Tr. 66)

Applicant received credit counseling through an employee assistance program. (Tr. 63) He also met with a financial advisor. (Tr. 77) He acknowledged his responsibility to pay his debts, and he planned to pay his debts. (Tr. 66)

Character Evidence

Applicant's supervisor describes him as having a strong work ethic, dedication, professionalism, and leadership. (AE A) He shows initiative and makes contributions to accomplishing corporate goals. (AE A) A friend, coworker, and landlord said Applicant was trustworthy and dedicated towards establishing his financial responsibility and curbing his alcohol consumption. (AE C)

Applicant describes himself as reliable, trustworthy, and honest. (Tr. 65) He is a diligent worker, who contributes to accomplishment of his employer's mission. (Tr. 65)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

Eligibility for a security clearance is predicated upon meeting the criteria contained in the adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include 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. Adverse clearance decisions are made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the [a]pplicant concerned.” See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), Section 3. Nothing in this decision should be construed to suggest that I based this decision, in whole or in part, on any express or implied determination as to applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the

facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue [his or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

The SOR alleges security concerns under Guidelines G (alcohol consumption), E (personal conduct) and F (financial considerations).

Alcohol Consumption

AG ¶ 21 articulates the Government’s concern about alcohol consumption, “[e]xcessive 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.”

Seven Alcohol Consumption disqualifying conditions could raise a security or trustworthiness concern and may be disqualifying in this case. AG ¶¶ 22(a) - 22(g) provide:

(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;

(b) alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, or drinking on the job, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

(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;

(d) diagnosis by a duly qualified medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence;

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

(f) relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program; and

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

AG ¶¶ 22(b) and 22(d) to 22(g) do not apply. Applicant did not have any alcohol-related incidents at work, did not violate any court orders, and did not have a relapse after a diagnosis of alcohol abuse or alcohol dependence. He did not suffer a relapse after being diagnosed as suffering from alcohol dependence.

AG ¶ 22(a) applies because Applicant was arrested for shooting signs after consuming alcohol. He also suffered from relationship problems because of his alcohol consumption. AG ¶ 22(c) applies because Applicant engaged in binge alcohol consumption.²

Four Alcohol Consumption Mitigating Conditions under AG ¶¶ 23(a)-23(d) are potentially applicable:

(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.

Although none of the mitigating conditions fully apply, there is some mitigating information. AG ¶ 1.a is mitigated because Applicant began alcohol-related counseling

²Although the term "binge" drinking is not defined in the Directive, the generally accepted definition of binge drinking for males is the consumption of five or more drinks in about two hours. The definition of binge drinking was approved by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) National Advisory Council in February 2004. See U.S. Dept. of Health and Human Services, NIAAA Newsletter 3 (Winter 2004 No. 3), <http://www.pubs.niaaa.nih.gov/publications/Newsletter/winter2004/NewsletterNumber3.pdf>.

in April 2013; however, he has not attended any intensive, inpatient alcohol rehabilitation or counseling programs. He admits he is an alcoholic. He consumes alcohol almost every day, and he drives after drinking three or four beers. He occasionally consumes 12 to 15 beers in an evening, and he has been late for work due to alcohol consumption in the last 12 months.

Applicant's excessive alcohol consumption did not occur "under such unusual circumstances." His alcohol consumption is not fully under control, and his alcohol consumption continues to cast doubt on Applicant's "current reliability, trustworthiness, or good judgment." Alcohol consumption security concerns are not mitigated.

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 describes four conditions that could raise a security concern and may be disqualifying in this case:

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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;

(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: . . . (3) a pattern of . . . or rule violations; 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. . . .

All three disqualifying conditions apply. The Government produced substantial evidence that Applicant was terminated from employment under adverse circumstances. There is substantial evidence that he violated rules, and his employer terminated him based on the employer's belief of his malfeasance. His conduct and professional reputation as an employee fired for timecard abuse adversely affects his personal, professional, and community standing. Further analysis concerning applicability of mitigating conditions is required.

AG ¶ 17 provides seven conditions that could mitigate security concerns 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;

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

(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.

AG ¶¶ 17(c) and 17(f) apply. The allegation that Applicant defrauded his employer by filing false timecard information is not substantiated in light of his adamant denial of misconduct and the absence of proof that he did not tailgate to the work site. The employer failed to provide witness statements corroborating the employer's contention that Applicant was not at work when he claimed to be at work. The badging

evidence is insufficient by itself to establish that he defrauded his employer. Personal conduct concerns are mitigated.

Financial Considerations

AG ¶ 18 articulates the security concern relating to financial problems:

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.

AG ¶ 19 provides two disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability or unwillingness to satisfy debts;" and "(c) a history of not meeting financial obligations." In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). Applicant's history of delinquent debt is documented in his SF 86, credit reports, OPM interview, responses to DOHA interrogatories, SOR response, and statement at his hearing.

Some of Applicant's debts became delinquent when he was unemployed several years ago. Applicant's SOR alleges seven delinquent debts, totaling \$14,875. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

(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;

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

(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.

Applicant's conduct does not warrant full application of any mitigating conditions to all debts; however, he did provide some mitigating information. Two SOR debts are mitigated. SOR ¶ 1.a is mitigated because it is only \$71 and his credit report does not include sufficient contact information for him to locate this medical debt. SOR ¶ 1.g is mitigated as a duplication of the debt in SOR ¶ 1.f. He paid off his car and some debts to his family, including a student loan. He does not own any personal credit cards. He is current on his federal income taxes. He received financial counseling. AG ¶ 20(d) is partially applicable because Applicant admitted responsibility for his SOR debts.³

Applicant's financial problems were not caused by circumstances largely beyond his control. He has been consistently employed by his current employer for three years. He has not made any payments to any of his SOR creditors. He did not provide documentary evidence that he established and maintained contact with his creditors.⁴ His SOR debts are not being resolved, and his finances are not under control. His promises to pay his SOR debts in the future, while sincere, need supporting evidence of

³The Appeal Board has previously explained what constitutes a "good faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term 'good-faith.' However, the Board has indicated that the concept of good-faith 'requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.' Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) in order to claim the benefit of [the "good faith" mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

⁴"Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

systematic payments to his SOR creditors. He did not provide documentary evidence disputing any debts.

Applicant did not provide sufficient evidence to establish his financial responsibility. It is likely that financial problems will continue. His efforts are insufficient to fully mitigate financial considerations security concerns.

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. My comments under Guidelines G, E, and F are incorporated into my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

There are some facts supporting mitigation of security concerns under the whole-person concept; however, they are insufficient to fully mitigate security concerns. Applicant is a 35-year-old field service representative, who has been employed by a defense contractor to provide maintenance and repair on Army armored vehicles for the past three years. He earned an associate's degree in applied science and electronics engineering technology in 2000. There are no allegations of security violations or evidence that he abused illegal drugs. I am confident that he has the ability to comply with security requirements. He is an intelligent person who knows what he must do to establish his financial responsibility. Applicant has a strong work ethic, is dedicated, and professional. He shows initiative at work and makes contributions to accomplishing corporate goals. He understands that he must curb his alcohol consumption. He honestly described his heavy alcohol consumption. He is current on his child support obligation, has paid off his vehicle debt, and a student loan. His federal income taxes are current, and he has received financial counseling. I credit Applicant with mitigating security concerns for SOR ¶¶ 1.a, 2.a, 3.a, and 3.g.

The evidence against approval of Applicant's clearance is more substantial at this time. Some of Applicant's SOR debts have been delinquent for several years. He has not made any payments to any SOR creditors and has not negotiated any payment plans with his SOR creditors. He did not maintain contact with his SOR creditors. He could have made greater progress resolving and documenting resolution of more of his SOR debts. His failure to establish his financial responsibility shows lack of judgment and raises unmitigated questions about Applicant's reliability, trustworthiness and ability to protect classified information. See AG ¶ 15. More financial progress is necessary to fully mitigate financial considerations security concerns.

Applicant admits he is an alcoholic, as he drinks alcohol almost every day. He drives after drinking three or four beers. Sometimes he drinks 12 to 15 beers in an evening, and he has been late for work due to alcohol consumption in the last 12 months. He has not attended an intensive, inpatient alcohol rehabilitation or counseling program. Applicant's excessive alcohol consumption raises unmitigated issues relating to his "judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness." See AG ¶ 20.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude approval of Applicant's access to classified information is not clearly consistent with national security.

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 G:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 2.b and 2.c:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Paragraph 3, Guideline F:	AGAINST APPLICANT
Subparagraph 3.a:	For Applicant
Subparagraphs 3.b to 3.f:	Against Applicant
Subparagraph 3.g:	For Applicant

Conclusion

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

MARK HARVEY
Administrative Judge