



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



In the matter of:)	
)	
)	ISCR Case No. 11-05107
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Raashid Williams, Esq., Department Counsel
For Applicant: *Pro se*

08/22/2012

Decision

LYNCH, Noreen A, Administrative Judge:

On March 21, 2012, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) listing security concerns arising under Guideline H (Drug Involvement), Guideline F (Financial Considerations), Guideline G (Alcohol Consumption), and Guideline E (Personal Conduct). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), implemented in September 2006.

Applicant timely answered the SOR and requested a hearing before an administrative judge. The case was assigned to me on June 14, 2012. DOHA issued a notice of hearing on June 25, 2012, scheduling the hearing for July 26, 2012. Government Exhibits (GX) 1-6 were admitted into evidence, without objection. Applicant testified and submitted Applicant Exhibits (AX) A-F, which were admitted without objection. I kept the record open for additional documents. Applicant timely submitted documentation, which was marked as AX G-O. DOHA received the transcript on August

3, 2012. Based on a review of the pleadings, testimony, submissions, and exhibits, I find Applicant met his burden regarding the security concerns raised. Security clearance is granted.

Findings of Fact

In his answer to the SOR, Applicant admitted and denied the factual allegations under Guideline F (Financial Considerations), Guideline G (Alcohol Consumption), Guideline H (Drug Involvement), and Guideline E (Personal Conduct).

Applicant is a 34-year-old employee of a defense contractor. He graduated from high school in 1996 and received a diploma from a technical college in 2008. In 2010, he obtained another certificate from a technical institute. (AX G) Applicant is single and has no children. He lives with his mother. He has worked for his current employer since April 2012. (GX 1)¹ This is his first application for a security clearance.

Applicant states that he is proud of his steady progress and his conscious efforts to improve his life. He is a productive citizen who wants to continue his work and who does not intend to do anything to jeopardize his position. (AX J)

Applicant submitted seven letters of recommendation from his manager, colleagues, and friends. He is described as dependable and trustworthy. Applicant has gained the respect of his peers. (AX F, AX H) Applicant is consistently described as a smart man who has a strong work ethic and dedication to his job and to his fellow employees. He responds to situations in a dignified manner. He does not have difficulty adapting to situations and has proven to be highly proficient in overcoming obstacles. He is a valued member of the team.

Applicant experienced a traumatic event in January 2002 when he was shot in his foot by his mother's boyfriend. His mother was not injured, but Applicant was injured and hospitalized. (Tr. 54) He described the terror in watching his mother being attacked by her abusive boyfriend. His attempt to intervene caused him both physical and emotional suffering. After the incident, Applicant became very depressed and sought counseling. He reported that his anger at the event caused him to resort to behaviors that involved alcohol and marijuana. He described his rage and anger because his mother's boyfriend shot and killed himself after the incident, leaving Applicant unable to confront the man. He started drinking to mask the emotional and physical pain. He credibly testified that the drug, alcohol, and financial difficulties stem from this one traumatic event. He admitted that he began having "troubles with the law."²

¹Applicant listed employment from October 2010 to the present when he completed his security clearance application in 2010. However, he was not actually working with the company. The company has offered him the position, contingent on him obtaining a security clearance. The company is sponsoring him for his security clearance.

²Applicant disclosed his alcohol, drug, personal, and financial issues in his 2010 SF-86. He also noted, in detail, the incidents in his DOHA interrogatories. The Government's information concerning the allegations comes from Applicant's full disclosure.

Applicant worked at his job despite the emotional pain until 2004, when he was fired. He stated that he did not show up for work because he was suffering from depression. At that point, he referred himself to a psychiatrist who diagnosed him with a depressive disorder. (AX A) The report noted that Applicant had "thoughts of suicide" and difficulty sleeping. He told the physician that he had not been reporting to work and had been fired. He related that not a day goes by without reliving the 2002 shooting event involving his mother. Applicant told the physician that he had used marijuana in 1999 and began to drink alcohol in his adolescent years. Applicant saw the psychiatrist from May 2004 until September 2004. Applicant took a prescribed antidepressant. The last progress note stated that Applicant's appearance was appropriate, and he was cooperative. The treating physician noted that Applicant's affect was appropriate and his judgment intact. (AX A)

Drug Involvement

Applicant noted on his SF-86 that he used marijuana and was arrested for possession of marijuana in 2003. However, he credibly explained that he was arrested in 2004. He incorrectly stated the date. The charge was dismissed. He disclosed in his DOHA interrogatories that he used marijuana in high school. He admitted occasional use in 1999 until 2003. (Tr. 115) He denies any marijuana use in 2004 or 2005. He was on probation and attempted to contact his probation officer to verify his assertion. He could not locate the officer. He noted that he was a recreational user (maybe twice a week) prior to 2004.

Applicant states that his drug use is in the past. He regrets his past decisions and understands the consequences of his behavior. He knows it is illegal. He states that he has not used marijuana since he was placed on probation on or about early 2004, after his 2003 DUI conviction. He has taken drug tests for employment since 2008. He submitted a recent pre-employment drug urinalysis. (AX E) He has developed new ways to cope with stress, which include a family support network.

Alcohol Consumption

Applicant was arrested three times for alcohol incidents. In March 2003, he was charged with driving under the influence (DUI). He pled guilty and was sentenced to 60 days (suspended) in jail. Applicant was placed on 18 months of unsupervised probation. He had been sleeping behind the wheel of his car when a police officer stopped and woke him up. He was told to get out of the car and was arrested for DUI because he was asleep behind the wheel.

In May 2005, when Applicant was stopped for speeding, an open container of alcohol was observed in his car. Applicant was charged with DUI, to which he pled guilty. He served 30 days in jail and was required to undergo alcohol treatment. Applicant attended the court-ordered alcohol inpatient treatment program from September 22, 2005 until October 19, 2005. He attended both group and individual counseling. There is nothing in the record concerning any diagnosis of alcohol abuse or dependency. He admitted that he continued to drink after the release from the

rehabilitation program. He stated that alcohol was his crutch that managed his hurt, pain, disgust, and fear. (Tr. 34) .

In June 2007, Applicant was charged with operating a motor vehicle after his license had been revoked. He pled guilty and received six months of unsupervised probation. His license was suspended.

Applicant was adamant that he was not arrested in December 2006 for driving on a suspended license. (Tr. 73) He provided a criminal history that validated his assertion. (AX N) He was arrested in June 2007 for possession of an open container in his car. (Tr. 77) He received unsupervised probation and paid a fine. He has no record of any arrests after 2007.

In response to the DOHA 2012 interrogatories, he admitted drinking beer, but not to the point of intoxication. He stated that he is in the process of weaning himself from alcohol. He has modified his drinking to perhaps four beers during a 24-hour period on a special occasion. (GE 2) At the hearing, Applicant testified that he has decided to stop drinking alcohol entirely. He stated his last drink was in January 2012 while watching a football game with friends.

Financial

The SOR lists seven delinquent accounts totaling approximately \$19,100. Applicant admitted that he was indebted to the Internal Revenue Service (IRS) for federal income taxes in the amount of \$8,469; to the State for a tax lien in the amount of \$1,783; to the State for a tax lien in the amount of \$1,208; to a car account for the amount of \$6,665; and to an insurance company for \$427. He denied that he is indebted to Genesis for \$2,604 because it has been settled and paid. He also denied his indebtedness to UNI COL for \$165 because the debt has been paid. (AX O) He paid the insurance company account in the amount of \$427. (AX I)

Applicant's financial difficulties began in 2004 when he lost his job. At that time, he was earning a salary of approximately \$60,000 and was able to pay his bills and maintain his daily expenses. He had purchased a home in 2001 and owned a truck. The home was co-owned by his mother. He sold the home in 2005.³ He was responsible in his financial affairs. When he lost the job in 2004, he could not find any full-time employment until 2008. He attempted to open a business, but was not successful due to the economy. He worked at temporary positions, and in 2009 he started part-time work as a security guard. He also suffered unemployment in late 2009 and again in late 2011 and 2012. He could not maintain his bills. He was offered a well-paying position in 2010, but the offer was contingent on his obtaining a security clearance.

Applicant responded to DOHA interrogatories in 2012. Regarding his financial situation, he explained that he has paid several accounts and that he has the other

³He was candid that he sold his home and his truck. He split the money with his mother and used it to pay living expenses while unemployed. He also stated that he tried to open a business.

accounts in payment plans. He submitted documentation from the IRS and the State, showing that he is in repayment status. Specifically, he has been paying the IRS \$100 per month since January 2012. His tax refund for 2011 was applied to the IRS account. (AX C) He has been paying the State \$93 a month since March 2012. (AX C) He produced documentation of payment for all accounts. Prior to the SOR, Applicant had paid several other accounts. His credit reports reflect many accounts that are "pays as agreed." Applicant has a payment plan for his car account of \$6,665. He produced a settlement agreement with his answer to the SOR that shows a \$100 a month payment for 33 months. He has made payments. (AX M)

Applicant has a budget. (AX L) Applicant's monthly net income is \$2,000. After expenses, his net remainder is approximately \$1,300. He has recently started to work on weekends to help pay his bills. He has a small savings account and a checking account. His mother recently helped Applicant to purchase a used car to enable him to work delivery jobs on weekends. (Tr. 89) He had saved \$1,400 toward the car cost of \$2,500. Thus, he has shown that even in difficult times, he has the ability to save and pay his bills.

Policies

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied in conjunction with the factors listed in the adjudicative process. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. Under AG ¶ 2(c), this process is a conscientious scrutiny of a number of variables known as the "whole-person concept." An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

The United States Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or

proven by Department Counsel. . . .”⁴ The burden of proof is something less than a preponderance of evidence.⁵ The ultimate burden of persuasion is on the applicant.⁶

A person seeking access to classified information enters into a fiduciary relationship with the Government based on 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 classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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.”⁷ “The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.”⁸ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such information.⁹ The decision to deny an individual a security clearance does not necessarily reflect badly on an applicant’s character. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense established for issuing a clearance.

Analysis

Guideline H, Drug Involvement

AG ¶ 24 expresses the security concern pertaining to drug involvement:

Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

(a) Drugs are defined as mood and behavior altering substances, and include:

⁴ See also ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

⁵ *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

⁶ ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

⁷ See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information), and EO 10865 § 7.

⁸ ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

⁹ *Id.*

(1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens), and

(2) inhalants and other similar substances;

(b) drug abuse is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.

AG ¶ 25 describes conditions that could raise a security concern and may be disqualifying:

(a) any drug abuse (see above definition);

(b) testing positive for illegal drug use;

(c) illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;

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

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

(f) failure to successfully complete a drug treatment program prescribed by a duly qualified medical professional;

(g) any illegal drug use after being granted a security clearance; and,

(h) expressed intent to continue illegal drug use, or failure to clearly and convincingly commit to discontinue drug use.

Applicant admitted his use of illegal drugs (marijuana) from 1999 until 2003 before his first DUI arrest. He also purchased marijuana. He was arrested and charged with marijuana on March 2004 for possession with intent to distribute. The charge was later dismissed. AG¶ 25(a) and 25(c)apply.

AG ¶ 26 provides conditions that could mitigate security concerns:

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

(b) a demonstrated intent not to abuse any drugs in the future, such as:

- (1) disassociation from drug-using associates and contacts;
- (2) changing or avoiding the environment where drugs were used;
- (3) an appropriate period of abstinence; and,
- (4) a signed statement of intent with automatic revocation of clearance for any violation;

(c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and,

(d) satisfactory completion of a prescribed drug treatment program, including but not limited to rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Applicant's last use of marijuana was in 2003, and his marijuana arrest was in 2004. He credibly states that he has not used any illegal drugs since that time. He has no intention of using any illegal drugs. His eight-year abstinence from drug use reflects good judgment, reliability, and trustworthiness as well as a change in his life-style and environment. He submitted a negative test result from a drug screening for employment, dated March 2012. AG¶ 26(a) and 26(b) apply.

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:

(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.

Applicant has three alcohol incidents from 2003 until 2007. He was arrested in 2003 and 2005 for DUI and pled guilty. In 2007, he pled guilty to possession of an open container of alcohol, for which he was placed on unsupervised probation. AG ¶ 22(a) and (c) apply.

AG ¶ 23 provides conditions that could mitigate 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.

After considering the mitigating conditions, I find that given the information in this record, Applicant has mitigated the alcohol concern. His last DUI was in 2005. In 2005, he attended court-ordered treatment, which he successfully completed. The program counselor did not diagnose alcohol abuse or dependence. Granted, he had an incident with an open container in 2007, but he again modified his drinking habits. He has not had any problems since 2007. He has been abstinent since January 2012.

Guideline F, Financial Considerations

The security concern for Financial Considerations is set out in AG ¶ 18:

Failure or an 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." It also states that "an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

Applicant admitted that he had delinquent debts. He did not pay his taxes (federal or state), and incurred tax liens and failed to pay several bills. Consequently, Financial Considerations Disqualifying Condition (FC DC) AG ¶ 19(a) (inability or unwillingness to satisfy debts), and FC DC AG ¶ 19(c) (a history of not meeting financial obligations) apply. With such conditions raised, it is left to Applicant to overcome the case against him and mitigate security concerns.

Applicant suffered a traumatic event in 2002. This led to depression and use of alcohol, which impacted his ability to maintain his employment. After losing his job in 2004, he sought medical help. He was not able to find full-time employment until 2008. However, that did not last. He had more unemployment in 2009, 2011, and part of 2012. He could not pay his federal or state taxes. He sold his home and lived with his mother. He has made continuous efforts to pay his bills. He took the needed steps to arrange a payment schedule with both the IRS and the State. He has paid small accounts. Consequently, Financial Considerations Mitigating Condition (FCMC) AG ¶ 20(a) (the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment) applies in part.

Financial Considerations Mitigating Condition (FC MC) AG ¶ 20(b) (the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation) and the individual acted responsibly under the circumstances) applies. As noted, Applicant's 2002 trauma led to a severe depression. He was physically injured. He lost his well-paying job in 2004. He had difficulty finding employment. He has lived frugally and has attempted to save money to pay his bills. He is in repayment status with his taxes. He has paid other accounts. He has another account in repayment status. He is current with his daily expenses. There is evidence

that he acted reasonably under the circumstances. He has submitted documentation to show that he has resolved or is resolving his delinquent debts. He receives credit under this mitigating condition.

FC MC AG ¶ 20(d), (the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts) applies. Applicant has provided evidence of consistent payment plans. His failure to provide information about financial counseling obviates the applicability of FC MC AG ¶ 20(c) (the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control).

In assessing whether an Applicant has established mitigation under Guideline F, the Appeal Board provided the following guidance in ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008):

In evaluating Guideline F cases, the Board has previously noted that the concept of “meaningful track record” necessarily includes evidence of actual debt reduction through payment of debts.” See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007). However, an applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006). All that is required is that an applicant demonstrate that he has “. . . established a plan to resolve his financial problems and taken significant actions to implement that plan.” See, e.g., ISCR Case No. 04-09684 at 2 (App. Bd. Jul. 6, 2006). The Judge can reasonably consider the entirety of an applicant’s financial situation and his actions in evaluating the extent to which that applicant’s plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) (“Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.”) There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. See, e.g., ISCR Case No. 06-25584 at 4 (App. Bd. Apr. 4, 2008). Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

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.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. Under AG ¶ 16(c), a disqualifying conditions exists when there is “Credible adverse information in several adjudicative 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.”

Applicant credibly testified that he did not leave his temporary job under unfavorable conditions. He admitted and disclosed that he was fired from his employment in 2004 due to his depression. He sought counseling and help due to the trauma he suffered in 2002. He also produced documentation that he was not arrested in 2006.

After considering the mitigating conditions outlined in AG ¶ 17, I conclude that AG 17(c) applies due to passage of time. I find that 17(d) applies as Applicant has taken steps to alleviate and change his behavior and that this is unlikely to recur. The information was unsubstantiated concerning the unfavorable circumstances with the temporary agency. Thus, AG 17(f) applies. I have no doubts about his good judgment and reliability. He has provided information in this record to show that he has met his burden of proof to mitigate the personal conduct concern.

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. As noted above, the ultimate burden of persuasion is on the applicant seeking a security clearance.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, as well as the whole-person factors. Applicant is 34 years old. He has many letters of recommendation from his employers

and colleagues. He has struggled since the trauma in 2002 relating to his mother. He was shot trying to aid his mother. This event appears to be the cause of Applicant's financial, personal, alcohol, and drug problems. Prior to that incident, Applicant was gainfully employed, owned a house, and had no legal problems.

Applicant suffered for years after the 2002 incident. He was shot and hospitalized. He feared for his mother's safety. He became enraged and depressed. He had thoughts of suicide. He continued in his job until 2004, when his depression prohibited him from working. He was fired. At that time, he was earning approximately \$60,000 a year. He owned his home and paid his bills.

When Applicant lost his job in 2004, he could not find steady employment for several years. He turned to alcohol to manage his depression. He was arrested in 2003 and 2005 for a DUI. He admits that he was drinking to intoxication. He attended a court-ordered treatment center in 2005. He completed the program, but continued to drink, which was permissible particularly since he was not diagnosed with either alcohol abuse or dependency. He had a final alcohol incident in 2007, when an open container was found in his car. Applicant has modified his drinking and in 2012, he decided to stop. He has recognized the problem that alcohol can cause. He learned coping skills and has a support network.

Financial issues began after the 2004 loss of employment. Applicant could not pay his taxes. He could not maintain his bills. He sold his home in 2005 and tried to start a business. He was not successful. He continued to search for employment, taking part-time and temporary jobs when he could. He lived with his mother. He did not live in an extravagant manner. He arranged a payment plan with both the federal and state tax agencies. He is in repayment status with both. He has paid several debts, even prior to the SOR. He has one account in repayment status. He has other accounts that are paid as agreed. Applicant has persevered and has been courageous in his attempt to better himself and lead a productive life. He took classes in 2008 and in 2010 to gain more certifications to improve his chances of employment. He has been offered a permanent position contingent on his obtaining a security clearance.

Applicant disclosed his issues in his SF-86 and his DOHA interrogatories. Granted, he did make mistakes with some dates, but he was not trying to hide any of his past behavior. He admitted that he used marijuana from 1999 until about 2003. He has no intention of using any illegal drug in the future. He believes he has broken the cycle. He has been employed and has submitted to drug tests. He has made great strides in the past years despite the severe trauma he experienced as a young man. He presented himself in an organized, coherent fashion at the hearing. He presented his documentation and followed up on post-hearing submissions. He is a productive citizen who wants to continue his work.

Applicant has been free of any issues with alcohol, drug or criminal charges since 2007. He submitted sufficient evidence to mitigate the security concerns raised in his case. He provided documentation regarding a consistent payment plan for all his

debts. I have no doubts about his trustworthiness or judgment given the record. Accordingly, Applicant has mitigated the security concerns. Clearance is granted.

Formal Findings

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

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a-1g:	For Applicant
Paragraph 2, Guideline G:	FOR APPLICANT
Subparagraphs 2.a -2.e:	For Applicant
Paragraph 3, Guideline H:	FOR APPLICANT
Subparagraphs 3.a -3.e:	For Applicant
Paragraph 4, Guideline E:	FOR APPLICANT
Subparagraphs 4.a:-c:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant a security clearance. Clearance is granted.

NOREEN A. LYNCH.
Administrative Judge