



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



In the matter of:)
)
) ISCR Case No. 11-11069
)
Applicant for Security Clearance)

Appearances

For Government: Richard Stevens, Esq., Department Counsel
For Applicant: *Pro se*

10/24/2013

Decision

DUFFY, James F., Administrative Judge:

Applicant failed to mitigate the security concerns arising under Guideline J (Criminal Conduct) and Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

On October 15, 2012, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines J and F. This action was taken under Executive Order (EO) 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 (AG) implemented on September 1, 2006.

On December 6, 2012, Applicant answered the SOR and requested a hearing. The case was assigned to me on August 9, 2013. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on August 21, 2013, and the hearing was convened as scheduled on September 9, 2013. At the hearing, Department Counsel

offered Government's Exhibits (GE) 1 through 10. Applicant testified, called one witness, and offered Applicant's Exhibits (AE) A through J. The record was left open until September 16, 2013, to provide Applicant an opportunity to submit additional matters. He timely submitted documents that were marked as AE K through U. All exhibits were admitted into evidence without objection. Department Counsel's memorandum forwarding Applicant's post-hearing submission was marked as Hearing Exhibit (HE) 1. DOHA received the hearing transcript (Tr.) on September 17, 2013.

Procedural Matters

At the beginning of the hearing, Department Counsel made a motion to withdraw the allegations in SOR ¶¶ 2.d and 2.g because they were duplicates of other alleged debts. Applicant had no objection to that motion. The motion was granted.¹

Findings of Fact

Applicant is a 34-year-old computer customer services representative working for a defense contractor. He has worked for his current employer since February 2009. He graduated from high school in 1997. He served on active duty in the U.S. Marine Corps for about 10 years, attained the grade of sergeant (E-5), and received a bad conduct discharge. He has been married and divorced twice. He has one child, a son who is seven years old. He has held a security clearance for at least the last four years.²

The SOR listed two allegations under Guideline J. One alleged that Applicant was arrested and charged with spousal abuse, witness intimidation, and vandalism in November 2006. The other alleged that, in May 2007, Applicant was tried by a general court-martial for the charges of unlawful entry to commit indecent assault, attempted assault, wrongfully communicating a threat, and wrongfully engaging in conduct likely to cause death or grievous bodily harm; that he was convicted of unlawful entry and indecent assault; and that he was sentenced to 15 months confinement, forfeiture of all pay and allowances, reduction to pay grade E-1, and a bad conduct discharge. Excluding the withdrawn allegations under Guideline F, the SOR further alleged that Applicant had 11 delinquent debt, totaling \$23,621. In his answer to the SOR, he admitted both Guideline J allegations and five of the delinquent debts (SOR ¶¶ 2.b, 2.c, 2.e, 2.k, and 2.l). His admissions are incorporated as findings of fact.³

SOR ¶ 1.a

While serving on active duty in the Marine Corps in November 2006, Applicant was married to his second wife, which he described as a bad marriage that got worse after his son was born. At that time, he worked at a base that was a number of miles

¹ Tr. at 12-14.

² Tr. at 6-7, 86-87; GE1, 3, 4.

³ Applicant's answer to the SOR.

from where his family lived. He resided at the base during the workweek and would go home generally once a week, usually on the weekends.⁴

On November 6, 2007, he was home with his family. At about 11:00 p.m. that evening, he was attempting to go to sleep because he planned to drive back to the base at about 4:00 a.m. He stated that his wife wanted to argue and fight. By turning on the radio and television, she tried to keep him from sleeping so that she could continue to argue with him. At one point, she threw something at him and he stood up. She then threw a baby bottle that struck him in the face, and he began to bleed. He ran to the bathroom to check his face. His wife called the police and reported that she was afraid that he would hurt her. He stated that he did not hurt her.⁵

The police arrived at their home. They saw that Applicant's face was bleeding. The police advised them that, since they were called, one of them would have to be arrested and go to jail. Because he had a newborn son, he decided that it was best for him to "take the hit" and told the police to arrest him. He was arrested and spent 14 days in jail awaiting trial. He stated that his wife testified at the trial that he did not hurt her and the domestic violence charges against him were dismissed. However, when she threw an object at him, it caused a hole in the wall of their military housing unit. He was convicted of vandalism for that damage and sentenced to 14 days in jail (time served), fined, and placed on unsupervised probation for three years.⁶

SOR ¶ 1.b

Following the above incident, Applicant was issued a military protective order that prohibited him from having contact with his wife. As a result of that order, he resided in the barracks on the base and was not permitted to return home.⁷

On December 16, 2006, a fellow Marine, a staff sergeant (SSgt), invited Applicant to his house for dinner. This was the first time that Applicant had been to the SSgt's house as well as the first time he met the SSgt's girlfriend. The three of them spent the night drinking, playing pool, and watching movies. After exhausting the SSgt's supply of beer, they walked to a liquor store and purchased whiskey. They returned to the SSgt's house and continued to drink. Applicant acknowledged that he could not drive back to the base due to his consumption of alcohol. The SSgt showed him a guest bedroom that he could use that night. The SSgt's and his girlfriend's bedroom was adjacent to the guest bedroom. They returned to the living room where all of them fell asleep watching a movie.⁸

⁴ Tr. at 24, 32-33, 51-54.

⁵ Tr. at 32-34 51-54; GE 4.

⁶ Tr. at 34-36, 54-55, 88-90; GE 1, 4, 5.

⁷ Tr. at 36, 56-58; GE 6.

⁸ Tr. at 36-37, 55-56; GE 4, 6.

In the early morning hours, the girlfriend tried unsuccessfully to wake the SSgt. She woke Applicant and told him he could sleep in the guest bedroom. At some later point, Applicant got up from the couch in the living room and went to the bedroom. He stated that he went into the wrong bedroom. He stated that he entered the bedroom where the SSgt's girlfriend was sleeping and tried to lay down on that bed. She jumped up and started to scream. The SSgt ran into the room, pulled a gun on Applicant, and told him to get out of the house.⁹

At the court-martial, the girlfriend testified that Applicant pulled off her pants while she was in the bed and placed his hands on her buttocks. At the security clearance hearing, he denied assaulting her and testified that his alcohol consumption did not impair his memory of what happened that evening. When he left the SSgt's house, he tried to explain his actions by writing a note that he left behind. He did not remember what he wrote in that note. A military court that later reviewed his court-martial conviction stated the note was written coherently enough to be used as a basis to prove he had the ability to form the specific intent to commit an indecent assault. After the incident, Applicant drove back to the base while he was intoxicated. When the SSgt notified authorities on the base what had happened, Applicant was placed in pretrial confinement.¹⁰

In May 2007, Applicant was tried by a general court-martial on the charges of unlawful entry with intent to commit indecent assault therein; attempt to destroy private property, attempted assault, indecent assault, attempt to disobey an order, unauthorized absence, destruction of property, wrongfully communicating a threat, and wrongfully engaging in conduct likely to cause death or grievous bodily harm. He was tried by a military judge alone. Contrary to his pleas, he was found guilty of unlawful entry and indecent assault. He was sentenced to 15 months confinement, forfeiture of all pay and allowances for 15 months, reduction in pay grade to E-1, and a bad conduct discharge.¹¹

Applicant was confined for 14 months, which included time spent in pretrial confinement, and then placed on appellate leave pending completion of the post-trial review of his court-martial conviction. In August 2008, the U.S. Navy-Marine Corps Court of Criminal Appeals approved the findings and sentence of his court-martial. In March 2009, the U.S. Court of Appeals of the Armed Forces denied Applicant's petition for further review of his court-martial. He received a bad conduct discharge in June 2009.¹²

⁹ Tr. at 37, 90-91; GE 4, 6.

¹⁰ Tr. at 37-38, 40, 58-61, 90-91; GE 4, 6.

¹¹ Tr. at 39-40, 58-59; GE 4, 6. Unlawful entry is a lesser included offense of unlawful entry with the intent to commit indecent assault. Some of the charges against Applicant at the court-martial may have involved the November 2006 incident, but he was apparently acquitted of those charges.

¹² Tr. at 40; GE 1, 4, 6, 7.

While in confinement, Applicant voluntarily attended alcohol awareness classes and participated in group sessions. He received a certificate of completion for that alcohol counseling program. After his confinement, Applicant moved to the city where his son was living. He obtained a divorce in 2010. He was initially required to register as a sex offender for about two years. His military attorney provided information to the state authorities about his conviction. Based on the information, the state authorities determined he did not need to register and removed him from the sex offender registration list. In February 2008, Applicant began working in a civilian job and has been employed since then.¹³

Financial Considerations

Applicant attributed his financial problems to the events discussed above. When he went into confinement, his wife continued to live in government quarters for an unspecified time. He indicated that, when she left the quarters, she left them a mess, which resulted in financial charges against him. She was also receiving his pay for a period while he was in confinement, but did not make his car payments that resulted in the repossession of his car. He further noted that he encountered financial problems when he divorced her in 2010.¹⁴

SOR ¶ 2.a – judgment for \$1,027. This judgment arose from a consumer debt for furniture purchased in about 2000. The account became delinquent when Applicant was confined in 2006. It was paid in full on March 31, 2010. He used a tax refund to pay this debt. It is resolved.¹⁵

SOR ¶ 2.b – charged-off account for \$12,000. This debt was a vehicle loan. When Applicant was confined, a friend kept the vehicle for him. His wife stopped making payments on the vehicle. After he was released from confinement, his friend told him the vehicle was towed. Applicant does not know what happened to the vehicle. He stated that he contacted the listed collection agency and they had no information on the account. He stated he is still attempting to obtain information on this account. This account is unresolved.¹⁶

SOR ¶ 2.c – collection account for \$338. This debt arose from damage to the government quarters that Applicant was occupying when he was confined. The date of last activity on this account was May 2008. In his Answer to the SOR, Applicant indicated that he made payment arrangements for this debt. However, because he moved and went through a divorce in 2010, he stated that he was unable to make the

¹³ Tr. at 38-43, 45, 87-88.

¹⁴ Tr. at 38-45, 62-64.

¹⁵ Tr. at 62-64; Applicant's Answer to the SOR; GE 2, 4, 8, 9, 10.

¹⁶ Tr. at 45, 64-66; Applicant's Answer to the SOR; GE 2, 4, 8, 9, 10.

payments. He last contacted the creditor in 2010. In his post-hearing submission, he provided no information on this debt. This debt is unresolved.¹⁷

SOR ¶ 2.d – charged-off account for \$1,233. As noted above, this allegation was withdrawn. It was a duplicate of the debt alleged in SOR ¶ 1.a.¹⁸

SOR ¶ 2.e – charged-off account for \$507. This was a credit card account that Applicant opened in January 2010. It had a date of first delinquency/date of last activity of September 2011. In his Answer to the SOR, Applicant indicated that he would pay this debt when he was able to do so. At the hearing, he indicated that he made an arrangement to pay the creditor \$50 per month, but had not yet started making the payments. In his post-hearing submission, he provided no information on this debt. This debt is unresolved.¹⁹

SOR ¶ 2.f – collection account for \$374. This debt was a cable television bill. It had a date of last activity of October 2006. In his Answer to the SOR, Applicant stated that he set up an installment plan to pay this debt. At the hearing, he testified that he paid this debt at the end of 2012. In his post-hearing submission, he indicated that he was mistaken in his testimony. He provided documentation showing the creditor agreed to accept \$150 to settle this debt on September 13, 2013, and that he made a \$50 payment to the creditor on that date. This debt is unresolved.²⁰

SOR ¶ 2.g – charged-off account for \$577. As noted above, this allegation was withdrawn. It was a duplicate of the debt alleged in SOR ¶ 1.i.²¹

SOR ¶ 2.h – unpaid medical account for \$122. This account was opened in August 2004 and had a date of last activity of April 2009. In his Answer to the SOR, Applicant indicated that he had no knowledge of this debt. He noted that he and his family would have been covered by the military medical system while he was in the military. He testified that he did not know whether this bill was incurred by his ex-wife and indicated that he was still in the process of trying to obtain information on this debt. In his post-hearing submission, he provided no information about it. This debt is unresolved.²²

SOR ¶ 2.i – collection account for \$642. This was a credit card account. The original creditor was also the creditor holding the debt in SOR ¶ 1.e. One of Applicant's

¹⁷ Tr. at 66-68; Applicant's Answer to the SOR; GE 2, 4, 8, 9, 10.

¹⁸ Tr. at 12-14, 68; Applicant's Answer to the SOR; GE 2.

¹⁹ Tr. at 68-70; Applicant's Answer to the SOR; GE 2, 9, 10.

²⁰ Tr. at 70; Applicant's Answer to the SOR; GE 2, 4, 8; AE L, T, U.

²¹ Tr. at 12-14, 70; Applicant's Answer to the SOR; GE 2, 4.

²² Tr. at 70-72; Applicant's Answer to the SOR; GE 2, 4, 8.

credit reports indicates that this account was opened in July 2001 and had a date of last activity of September 2002. Applicant testified that he never had a credit card from this creditor before 2010. He thought that his first wife may have opened this account. He stated that he divorced his first wife soon after their marriage because he believed she married him to obtain his money and military benefits. No documentary evidence was presented to show that Applicant has disputed this debt. It remains unresolved.²³

SOR ¶ 2.j – charged-off account for \$67. Applicant testified that this debt was a gas utility bill for an apartment. He lived in that apartment with a roommate. This account was opened in May 2002 and had a date of last activity of August 2004. He claimed that this bill was his roommate's and the roommate told him all the bills were paid when they left the apartment. In his testimony, he acknowledged this account remained unresolved.²⁴

SOR ¶ 2.k – charged-off account for \$7,369. This debt was a vehicle loan. It was opened in March 1999 and had a date of last activity of August 2004. He parked this vehicle in a military parking lot before a deployment. The vehicle was towed when the parking lot underwent repairs. At some point, a lien was placed on the vehicle, and it was sold. He testified that this debt was cancelled and he paid the Internal Revenue Service taxes that resulted from the cancellation of this debt. It is resolved.²⁵

SOR ¶ 2.l – collection account for \$580. This was a telephone bill that was placed for collection in February 2009. Applicant indicated that this was a bill that his ex-wife did not pay while he was confined. He stated that, once he has the money, he will pay this debt. This debt is unresolved.²⁶

SOR ¶ 2.m – collection account for \$595. This is a telephone bill that was placed for collection in April 2009. Applicant denied this debt and stated he never had an account with this creditor. No documentary evidence was presented to show that he has disputed this debt. It remains unresolved.²⁷

Applicant's annual income is about \$44,000. He submitted a personal financial statement that reflected his net monthly income was \$2,380 and that his total monthly expenses and debt payments were \$1,877, which left him a net monthly remainder of \$503. He testified that he referees high school basketball games in his spare time.²⁸

²³ Tr. at 72-74; Applicant's Answer to the SOR; GE 2, 4, 8.

²⁴ Tr. at 74-75; Applicant's Answer to the SOR; GE 2, 8.

²⁵ Tr. at 44-45, 75-78; Applicant's Answer to the SOR; GE 2, 4, 8; AE L-S.

²⁶ Tr. at 78; Applicant's Answer to the SOR; GE 2, 4, 8.

²⁷ Tr. at 78-80; Applicant's Answer to the SOR; GE 2, 4, 8.

²⁸ Tr. at 25-26, 80-85; GE 2, 8

Character Evidence

Applicant's fiancée testified that she has known him for about two and half years. She has worked in the information technology field for about 20 years, but does not work with Applicant. She stated that he is a trustworthy, dependable, and upstanding person. She indicated that not long after they met he was forthcoming about his prior criminal record and financial issues. She indicated that his colleagues speak highly of him. She described him as a dedicated father. She and Applicant consume alcohol on occasion, but she has not observed any problems with his drinking.²⁹

Applicant provided character letters from a supervisor and present or former co-workers. They describe him as honest, trustworthy, and dependable and a man of integrity.³⁰

Applicant deployed to Iraq from August 2004 to January 2005. He has been awarded two Good Conduct Medals and a Navy and Marine Corps Achievement Medal.³¹

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions that 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

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.

²⁹ Tr. at 92-107; AE B.

³⁰ Tr. at 46-51; AE C-J.

³¹ GE 1, 3, 4.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline J, Criminal Conduct

AG ¶ 30 sets out the security concern relating 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.

Two criminal conduct disqualifying conditions under AG ¶ 31 are potentially applicable:

- (a) a single serious crime or multiple lesser offenses; and
- (c) allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted.

In November 2006, Applicant was arrested on domestic violence charges and later convicted of vandalism. For that offense, he was sentenced to 14 days in jail with credit for time served, fined, and placed on probation for three years. In May 2007, he was convicted at a general court-martial of indecent assault and unlawful entry and sentenced to 15 months confinement, forfeiture of all pay and allowances for 15 months, reduction in pay grade to E-1, and a bad conduct discharge. His court-martial conviction was upheld on review. AG ¶¶ 31(a) and 31(c) apply.

I have considered all of the mitigating conditions for criminal conduct under AG ¶ 32 and the following are potentially applicable:

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

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

The guidelines are silent on what constitutes a sufficient period of reform and rehabilitation. Such a determination does not turn on any bright-line rules concerning the length of time needed to demonstrate reform and rehabilitation, but rather on a reasoned analysis of the entire record.

While Applicant was convicted of serious offenses at his general court-martial, more than six years have passed since then. For the past five years, Applicant has been gainfully employed. His co-workers attest to his reliability and dependability. By all accounts, he is on the right path and has been working hard to redeem himself. Nevertheless, he continues to deny that he committed the indecent assault even though the military judge found beyond a reasonable doubt that he was guilty of that offense. By denying that offense, he has failed to accept responsibility for that misconduct and has undercut a determination that he has reformed and rehabilitated himself. AG ¶¶ 32(a) and 32(b) partially apply. Based on the evidence presented, however, I find that insufficient time has passed to conclude that Applicant's criminal conduct no longer casts doubt on his reliability, trustworthiness, and good judgment.

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18 as follows:

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

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

(a) inability or unwillingness to satisfy debts; and

(c) a history of not meeting financial obligations.

Applicant accumulated 11 delinquent debts that he was unable or unwilling to satisfy for an extended period. This evidence is sufficient to raise the above disqualifying conditions.

Several financial considerations 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 delinquent debts are ongoing, significant, and cast doubt on his current reliability, trustworthiness, and good judgment. Based on the evidence presented, I am unable to find that his financial problems are unlikely to recur. AG ¶ 20(a) does not apply.

Applicant attributed his financial problems to his confinement and subsequent divorce. His criminal conduct and its repercussions do not constitute a condition beyond his control. On the other hand, his divorce does qualify as such a condition. Since his release from confinement, Applicant has been employed. He provided proof that he has paid one of the delinquent debts (SOR ¶ 2.a) and paid the tax on another debt that was cancelled (SOR ¶ 2.k). Overall, however, he failed to show that he has acted responsibly in addressing the other delinquent debts. From the evidence presented, I am unable to find that Applicant's financial problems are being resolved or are under control. He also failed to present documentary evidence showing that he has a legitimate basis for disputing any of the alleged debts. AG ¶¶ 20(c) and 20(e) do not apply. AG ¶¶ 20(b) and 20(d) partially apply.

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 relevant facts and circumstances surrounding this case. I have incorporated my comments under Guidelines J and F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment. I have considered Applicant military service, work history, community involvement, and other character evidence. Nonetheless, the record evidence leaves me with questions or doubts about his eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has failed to mitigate the security concerns under the criminal conduct and financial considerations guidelines.

Formal Findings

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

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraphs 1.a – 1.b:	Against Applicant
Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraphs 2.b – 2.c:	Against Applicant
Subparagraph 2.d:	Withdrawn
Subparagraphs 2.e – 2.f:	Against Applicant
Subparagraph 2.g:	Withdrawn
Subparagraphs 2.h – 2.j:	Against Applicant
Subparagraph 2.k:	For Applicant
Subparagraphs 2.l – 2.m:	Against Applicant

Conclusion

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

James F. Duffy
Administrative Judge