



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



In the matter of:

[NAME REDACTED]

Applicant for Security Clearance

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ISCR Case No. 17-00306

Appearances

For Government: Robert Blazewick, Esq., Department Counsel
For Applicant: *Pro se*

05/17/2018

Decision

MALONE, Matthew E., Administrative Judge:

Applicant did not mitigate the security concerns raised by his personal conduct, his financial problems, his use of alcohol, and his alcohol-related and other criminal conduct. His request for a security clearance is denied.

Statement of the Case

On September 17, 2015, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to renew his eligibility for a security clearance required for his employment with a defense contractor. Based on the results of the ensuing background investigation, Department of Defense (DOD) adjudicators could not

determine that it is clearly consistent with the interests of national security for Applicant to have a security clearance.¹

On March 15, 2017, DOD issued a Statement of Reasons (SOR) alleging facts that raise security concerns under the adjudicative guideline for financial considerations (Guideline F), alcohol consumption (Guideline G), criminal conduct (Guideline J), and personal conduct (Guideline E).² Applicant timely responded to the SOR (Answer) and requested a hearing.

I received the case on January 24, 2018, and convened the requested hearing on March 7, 2018. The parties appeared as scheduled. Department Counsel proffered Government Exhibits (GX) 1 - 12. Applicant and one witness testified. Applicant also proffered Applicant Exhibits (AX) A and B. All exhibits were admitted without objection. I held the record open after the hearing to allow Applicant time to submit additional relevant information. The record closed on March 30, 2018, when I received Applicant's timely post-hearing submissions (AX C and D)³ and Department Counsel's waiver of objections. I received a transcript of the hearing (Tr.) on March 14, 2018.

Findings of Fact

Under Guideline F, the Government alleged that, as of March 2017, Applicant owed \$5,523 for 17 past-due or delinquent debts (SOR 1.a – 1.q); and that he filed Chapter 13 bankruptcy petitions in February 2016 (SOR 1.r), June 2005 (later converted to a Chapter 7 bankruptcy) (SOR 1.s), and October 1996 (SOR 1.t). In response, he admitted each of these allegations. As to SOR 1.a – 1.q, Applicant asserted a positive defense that he had initiated a good-faith effort to repay those debts. (Answer; Tr. 13 – 15) The allegations under this guideline are further supported by GX 1, GX 2, and GX 9 – 12.

Under Guideline G, the Government alleged that Applicant consumed alcohol, at times to excess, from 1983 until at least August 2015 (SOR 2.a); that in 1984, he was charged with driving under the influence (DUI) for which his driver's license was suspended for one year (SOR 2.b); that in August 1998, he was arrested for felony DUI,

¹ Required by Executive Order 10865, as amended, and by DOD Directive 5220.6 (Directive), as amended.

² At the time they issued the SOR, DOD adjudicators applied the adjudicative guidelines implemented by the Department of Defense on September 1, 2006. On December 10, 2016, the Director of National Intelligence issued a new version of the adjudicative guidelines, to be effective for all adjudications on or after June 8, 2017. My decision in this case would have been the same under either version.

³ Applicant's post-hearing submissions are identified and admitted as follows: AX C consists of a single-page handwritten statement, an amended response to the SOR, correspondence from a creditor regarding an unalleged delinquent debt that Applicant resolved in February 2018, and copies of his last 13 monthly bank statements for the period December 2016 through February 2018. AX D consists of three character reference letters and associated email correspondence regarding a letter forwarded directly from the author to Department Counsel.

child endangerment with intoxication, and resisting arrest. He was convicted of DUI and given a 12-month suspended jail sentence, placed on probation, ordered to complete community service and attend DUI school, and had his license suspended for a year (SOR 2.c); and that in August 2015, after trying to strangle someone while he was intoxicated, he was admitted for inpatient detoxification. At that time, Applicant allegedly was diagnosed with alcohol withdrawal syndrome with a fair prognosis, and did not follow medical advice to attend Alcoholics Anonymous (AA) (SOR 2.d). In response, Applicant admitted, with explanations, each allegation. These allegations are further supported by GX 1 – 5, and GX 7.

Under Guideline J, the Government alleged as criminal conduct the alcohol-related arrests described in SOR 2.b and 2.c (SOR 3.a). It was further alleged that in 1986 or 1987, Applicant was charged with and convicted of driving on a revoked license, for which he was sentenced to three days in jail and the revocation of his license was extended for an additional year (SOR 3.b); that in December 1998, he was charged with domestic violence-assault, which was later dismissed (SOR 3.c); that in August 2013, Applicant was charged with felony domestic assault and vandalism, both dismissed after he paid restitution and court costs. Applicant was ordered to have no further contact with the assault victim (SOR 3.d). In response, Applicant admitted these allegations. They are further supported by GX 1 – 6.

Under Guideline E, the Government alleged as adverse personal conduct the criminal offenses described in SOR 3.a – 3.d (SOR 4.a). It was further alleged that in January 2016, Applicant's access to classified information, as well as to DOD unclassified information systems was suspended after Applicant asked a supervisor to co-sign an automobile loan, and after Applicant borrowed money from co-workers. After initially denying those allegations during a company investigation, Applicant admitted having done so. (SOR 4.b) Finally, it was alleged that Applicant deliberately provided false answers to e-QIP Section 26 questions about his finances when he omitted the delinquent or past-due debts described at SOR 1.a – 1.o (SOR 4.c). In response, Applicant admitted SOR 4.a and 4.b, but denied SOR 4.c, claiming he was unaware of the debts, having relocated from his marital residence. SOR 4.a and 4.b are also supported by GX 1 – 3, GX 5 and GX 6.

In addition to the facts established by Applicant's admissions and the Government information cited above, I make the following additional findings of fact. Applicant is 54 years old. After high school, he attended two technical schools between 1982 and 1990, receiving diplomas and certifications as an electrician. Since 2016, he has worked as an electrician for a defense contractor who is sponsoring his current request for clearance. He has worked for federal contractors since 2006, and first applied for a security clearance in June 2007. He has been employed by different federal contractors at the same location as the contract for that work has changed hands. He reapplied for clearances in October 2013 and September 2015. (GX 1 – 3)

Applicant has been married twice. His first marriage began in January 1987 and ended by divorce in July 2006. Applicant has three adult children from that marriage. He remarried in September 2015, but divorced his second wife in December 2017. (GX 1; Tr. 56)

Applicant filed for Chapter 13 bankruptcy protection in October 1996 because he and his first wife did not manage their finances responsibly. Applicant was 33 years old at the time. A wage earner repayment plan was successfully completed in February 2002. (AX B; Tr. 59 – 60, 63)

In June 2005, Applicant again filed for Chapter 13 bankruptcy protection. He filed in response to the costs of his first divorce and unexpected child support obligations. In February 2006, it was determined he could not afford the payments required under the approved wage earner plan. The bankruptcy petition was converted to a Chapter 7 and Applicant was discharged of his debts in June 2006. (AX B; Tr. 60 - 62)

Most recently, Applicant filed for Chapter 13 bankruptcy in April 2016. The approved wage earners plan requires him to pay \$350 directly from his pay every week until 2021. Applicant explained that he filed after his second wife ran up unnecessary bills, and because he incurred unplanned living expenses when they separated. In June 2017, after he received the SOR, Applicant amended the Chapter 13 petition to include most of the debts alleged in the SOR. This Chapter 13 petition remained active and in good standing as of the hearing in this matter. In addition to completing mandatory on-line financial counseling as a prerequisite to filing for bankruptcy, a longtime friend of Applicant has been helping him manage his finances and communicate with creditors for much of the past year. She testified that Applicant's second wife was not responsible with their finances, that Applicant has reduced his expenses now that he is divorced, and that he is better able to avoid financial pitfalls. (AX A – C; Tr. 57 – 59, 62 – 63, 75 – 80)

Applicant began using alcohol when he was about 18 years old. As alleged at SOR 2.b, he was first arrested for DUI in April 1984, when he was 21 years old. Applicant testified that he had about four beers at a party before he got behind the wheel that night. His license was suspended as part of the disposition of that charge. (AX B; Tr. 66 – 67)

As alleged at SOR 2.c, he was again arrested for DUI in August 1998, at age 35, while he had two of his three minor children in the car. Applicant testified he had consumed about three or four beers when his first wife, from whom he had separated, called and demanded he come get the children from her or she would simply leave them where they were. Applicant felt he had no choice and picked the children up at his ex-wife's house. On his way home, police pulled him over and arrested him for DUI. When they tried to handcuff Applicant, he resisted, wrestling one officer to the ground before being subdued and transported to jail. Applicant was given a suspended jail sentence and placed on supervised probation. (AX B; Tr. 43 – 45)

As alleged at SOR 2.d, in August 2015, at age 52, Applicant self-referred to inpatient treatment for alcohol detoxification. He had attempted to strangle or assault his second wife while both of them were intoxicated. Medical records from Applicant's treatment show he suffers from chronic alcoholism, and it was recommended that he engage in follow up counseling through AA or some other structured approach to his alcohol abuse. Applicant testified that he last used alcohol during the event that lead to his hospitalization, and that he only consumed about four beers on that occasion. I found Applicant's testimony about his use of alcohol since 2015, and in general, to be evasive and less than credible. His answers to questions about his relationship with alcohol are best characterized as an attempt to minimize the severity of his problems with alcohol. For example, Applicant claims that he has not consumed alcohol to excess since he was 25 years old. This is in direct contradiction to the observations of medical professionals when Applicant was admitted for detoxification in 2015. (AX B; Tr. 39 – 42, 66, 69 – 71)

As alleged at SOR 3.b, Applicant was arrested for driving on a suspended driver's license in 1987. His license had been revoked following his first DUI arrest (see SOR 2.b). He was approved to drive to work, but when he was pulled over on this occasion, he was taking his pregnant wife to a doctor's appointment. (AX B; Tr. 52 – 53)

As alleged at SOR 3.c, Applicant was arrested and charged with domestic violence-assault. The charges were later dismissed. Applicant was on probation for his August 1998 DUI (see SOR 2.c) at the time. (AX B; Tr. 51 – 52)

In August 2013, as alleged at SOR 3.d, Applicant was charged with domestic assault and vandalism. He claims he had gone to an ex-girlfriend's house uninvited and in the course of trying to get her to come to the door, he broke a window. Applicant also has claimed that he broke the window accidentally; however, contemporaneous information in a JPAS report indicated that, when police arrived, he was banging on the victim's door and acting in a manner that made the ex-girlfriend (who had told him she did not want to see him) fear for her safety. The charges were dismissed on condition that Applicant make restitution and have no further contact with the ex-girlfriend. (AX B; Tr. 48 – 50)

Applicant has applied for a security clearance on at least two prior occasions. He submitted e-QIPs in 2007 and 2013. When he submitted his most recent e-QIP in 2015, he disclosed some of his earlier arrests, as well as his 2015 alcohol treatment. He did not disclose any of the debts listed in the SOR. In response to the allegation at SOR 4.c, that he intentionally omitted that information, Applicant averred that he was unaware of those debts because he had moved out of the house when he and his second wife separated. He further acknowledged, however, that he knew he should have obtained a credit report before completing the e-QIP. After receiving the SOR, Applicant amended his Chapter 13 bankruptcy petition to include the debts listed in the SOR. (AX A; AX B; Tr. 33 – 34)

In January 2016, while Applicant's current request for a security clearance was pending, his access to classified information was suspended. A Joint Personnel

Adjudications System (JPAS) report stated he had asked a supervisor to co-sign Applicant's application for a new car loan. It was also reported that Applicant had asked a co-worker to loan him money. During a company investigation into these allegations, Applicant initially denied them but later admitted his misconduct. At hearing, Applicant claimed he had called his team leader from the car dealership where he was shopping for a new vehicle about getting his team leader's personal information to use in a loan application. Applicant stated he did not go through with that request. As to borrowing money from a co-worker, in response to the SOR, Applicant described that as a wedding gift from a fellow employee. (AX B; Tr. 53 – 57)

Applicant insists that his current finances are sound. He provided copies of bank statements dating back to December 2016 to show that he has not been overdrawn during that period. As to his use of alcohol, Applicant claims all of his bad conduct and abuse of alcohol occurred in his "younger days." He insists he has changed his circumstances for the better now that he is no longer in a bad marriage. He no longer drinks to excess and he tries to live a responsible lifestyle. This was supported by the testimony of his witness, a longtime friend who has observed positive changes in his appearance and behavior since Applicant divorced from his second wife. A co-worker and a superintendent from Applicant's current place of employment, who have worked with Applicant since 2016, view Applicant as reliable, professional, and attentive to his work. (AX C; AX D; Tr. 75 – 83)

Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,⁴ and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines (AG). Decisions must also reflect consideration of the factors listed in ¶ 2(d) of the guidelines. Commonly referred to as the "whole-person" concept, those factors are:

- (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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified

⁴ See Directive. 6.3.

information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest⁵ for an applicant to either receive or continue to have access to classified information.

The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the Government's case. Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.⁶ A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.⁷

Analysis

Alcohol Consumption

Applicant's use of alcohol reasonably raised the security concern articulated at AG ¶ 21:

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.

More specifically, available information requires application of the following AG ¶ 22 disqualifying conditions:

(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 the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder.

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;

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

⁶ See *Egan*, 484 U.S. at 528, 531.

⁷ See *Egan*; AG ¶ 2(b).

(d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder; and

(e) the failure to follow treatment advice once diagnosed.

Applicant has a history of alcohol-related misconduct over the past 30 years. He has been arrested for DUI and, most recently, checked himself in for detoxification treatment after getting drunk and attempting to choke or assault someone in a domestic setting. Medical records show that he has a history of alcoholism, and treating physicians recommended he attend AA. Applicant did not follow their advice.

I also have considered the following AG ¶ 23 mitigating conditions:

(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 judgment;

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;

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

(d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant has not produced sufficient, credible information on which to base application of any of these mitigating conditions. To the contrary, he claimed he had not consumed alcohol to excess since his 20s; yet, as recently as 2015, at age 52, he presented for inpatient detoxification as a chronic abuser of alcohol. Applicant's witness testified she has observed positive changes in Applicant since the end of his second marriage, but her testimony did not establish that Applicant lives a sober lifestyle. Applicant himself was, in my view, evasive regarding his current use of alcohol. He did not follow medical advice to attend AA, and he has not engaged in any reliable approach to maintaining sobriety. When asked how much alcohol he had consumed in connection with any of the alcohol-related events alleged in the SOR, Applicant replied with the same number – three or four beers. The intake assessment for Applicant's detox treatment cited at least two 40-ounce beers as Applicant's daily consumption before being admitted. All

of this suggests Applicant lacks insight into his alcohol problem, as well as a level of denial on his part. Available information does not support any of the AG ¶ 23 mitigating conditions, and the security concerns about Applicant's use of alcohol remain unresolved.

Financial Considerations

The Government established that Applicant has experienced financial difficulties since his early 30s. To resolve his delinquent debts, Applicant has resorted to bankruptcy protection three times. As of the date of the SOR, in addition to an ongoing Chapter 13 petition, Applicant also owed about \$5,500 in delinquent debt that was not initially included in his 2016 petition. All of the foregoing reasonably raises a security concern about Applicant's finances that is articulated at AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

More specifically, available information requires application of the following AG ¶ 19 disqualifying conditions:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (e) consistent spending beyond one's means or frivolous or irresponsible spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators.

Applicant's bankruptcies in 1996 and 2016 arose from his inability to manage his household finances. Available information shows that, over the past 20 years, Applicant has been unable to prudently manage his finances in a way that would indicate sound judgment and reliability. I also have considered the following pertinent mitigating conditions under 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;

(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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to 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.

AG ¶ 20(a) does not apply because Applicant's financial problems are recent and ongoing, and have recurred over a long period of time. I considered AG ¶ 20(c) in the context of his friend's testimony that she is assisting Applicant in resolving his debts and in dealing with his creditors. While this is positive information, in light of Applicant's long history of debt and bankruptcy, it is far too soon to conclude that his financial problems are under control.

As to AG ¶ 20(b), Applicant's 2005 bankruptcy arose from his first divorce and invokes the first prong of that mitigating condition. Full application of this AG ¶ 20(b) is not possible, because Applicant's financial problems recurred. In conjunction with my consideration of AG ¶ 20(d), I conclude Applicant's repeated resort to bankruptcy protection does not constitute responsible action in response to financial problems. Nor does it support his claim that he initiated prompt, good-faith efforts to pay or otherwise resolve his debts. Applicant did not show that he has embarked on a systematic, reliable effort to improve his financial management in a way that inspires some confidence that he will not experience financial problems in the future. Applicant has not mitigated the security concerns about his finances.

Criminal Conduct

Applicant has a history of criminal conduct that began when he was about 21 years old and continued until he was about 50 years old. This information reasonably raises a security concern that is articulated at AG ¶ 30:

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.

Available information further requires application of the following AG ¶ 31 disqualifying conditions:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

I also have considered the following AG ¶ 32 mitigating conditions:

(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, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant's last instance of criminal conduct was in 2013. Despite his claims that his misconduct occurred when he was younger, he was 50 years old when he was arrested in 2013, and he was 35 when he was arrested in 1998. Some of Applicant's criminal conduct was alcohol-related. For the same reasons I concluded he did not show rehabilitation regarding alcohol, I conclude he has not shown rehabilitation with respect to his criminal conduct. The security concerns under this guideline are not mitigated.

Personal Conduct

The Government's information about Applicant's history of criminal conduct also reasonably raised a broader security concern about Applicant's overall judgment, trustworthiness, and reliability. For most of his adult life, he has placed himself in situations that put himself and others at risk. Additionally, Applicant exhibited poor judgment and a lack of discretion when he borrowed money from a co-worker, and when he tried to get a supervisor to help him obtain a loan for the purchase of a new car.

The Government also cited Applicant's allegedly intentional omission of several past-due or delinquent debts when he submitted his most recent e-QIP. To be disqualifying, such conduct must have been taken with intent to deceive or mislead the Government.⁸ My assessment of available information probative of Applicant's intent in this regard shows he did not so intend. Applicant had disclosed other unrelated adverse information in his e-QIP, and he had disclosed adverse financial information in previous e-QIPs. In this instance, Applicant provided a plausible explanation for his omissions; namely, that he had relocated around the time his marriage ended and did not have notice of some of the debts left from that marriage. He has since included those debts in his most recent Chapter 13 bankruptcy and there appears to be no reason why he would not have included them in the first place had he known about them. SOR 4.c is resolved for Applicant.

Nonetheless, the Government provided sufficient information to support SOR 4.a and 4.b, thus establishing the security concern articulated, in relevant part, at AG ¶ 15:

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 or sensitive information.

More specifically, the Government's information requires application of the disqualifying condition at AG ¶ 16(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 individual may not properly safeguard classified or sensitive information.

⁸ See AG ¶ 16(a) (*deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities*).

Applicant's repeated instances of criminal conduct over the past 20 years, and his lack of discretion in the workplace as a means to resolve his financial challenges undermine confidence in Applicant's judgment. His conduct in the workplace was of sufficient concern that his employer suspended Applicant's access to classified information and to unclassified information systems. When confronted with his employer's concerns, Applicant tried to deny it.

Of the mitigating conditions listed at AG ¶ 17, only AG ¶ 17(c) is pertinent to this case:

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.

As to Applicant's conduct in the workplace, it was recent, occurring less than two years ago. Additionally, it was related to his long history of poor management of his personal finances, which themselves remain a security concern. Because Applicant did not mitigate the security concerns about his criminal conduct, I conclude he also has not mitigated the related, broader concerns about his poor judgment and inability or unwillingness to abide by rules and procedures. Available information does not show that Applicant's poor decision making will not recur. On balance, he has not mitigated the security concerns under this guideline.

I also have evaluated this record in the context of the whole-person factors listed in AG ¶ 2(d). Applicant presented positive recommendations from two current coworkers, and the testimony of his witness showed there has been improvement personally and financially in Applicant's circumstances. Nonetheless, not enough time has passed to have sufficient confidence that Applicant is suitable for continued access to sensitive information. The record evidence as a whole leaves me with doubts that Applicant's problems with alcohol, money, and overall personal conduct are behind him. Because protection of the interests of national security is the principal focus of these adjudications, those doubts must be resolved against the Applicant.

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 F:	AGAINST APPLICANT
Subparagraphs 1.a - 1.t:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT

Subparagraphs 2.a – 2.d:	Against Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraphs 3.a – 3.d:	Against Applicant
Paragraph 4, Guideline E:	AGAINST APPLICANT
Subparagraphs 4.a – 4.b:	Against Applicant
Subparagraph 4.c:	For Applicant

Conclusion

In light of all of the foregoing, it is not clearly consistent with the interests of national security for Applicant to have access to classified information. Applicant's request for a security clearance is denied.

MATTHEW E. MALONE
Administrative Judge