



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



In the matter of:)
)
) ISCR Case No. 23-01204
)
Applicant for Security Clearance)

Appearances

For Government: Cynthia Ruckno, Esq., Department Counsel
For Applicant: Sean Rogers, Esq.

08/19/2025

Decision

OLMOS, Bryan J., Administrative Judge:

Applicant failed to mitigate the security concerns raised under Guideline H (Drug Involvement and Substance Misuse) and Guideline F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

On December 11, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H and Guideline F. The DOD issued the SOR under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on March 18, 2024 (Answer), with explanations and supporting documents. He requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The hearing was originally scheduled for April 7, 2025, but was continued at the Applicant's request. Prior to the hearing, Department Counsel amended the SOR, revising subparagraphs 1.a, 2.a, and 2.b.

The hearing convened as rescheduled on May 29, 2025. Department Counsel offered into evidence Government Exhibits (GX) 1-4. Applicant objected to the admission of a portion of GX 4, a Defense Information System for Security (DISS) Incident Report. That objection was overruled. Applicant offered into evidence Applicant Exhibits (AX) A-Z and Department Counsel offered no objections. All exhibits were admitted. Applicant and one character witness testified. The record was left open through June 13, 2025, for either party to submit additional information. Applicant timely submitted AX AA, which was admitted without objection. DOHA received the hearing transcript (Tr.) on June 5, 2025.

Findings of Fact

In his Answer to the SOR, Applicant admitted all the SOR allegations with qualifications. His admissions are incorporated into my findings of fact. After a thorough review of the pleadings and evidence submitted, I make the following additional findings of fact.

Applicant is 42 years old. He married in 2019 and has two children from this relationship. He has two additional children from a previous relationship. He completed a bachelor's degree in computer science in 2005 and holds multiple programming certifications. He has held a security clearance since about March 2009. As a federal contractor, he worked in Iraq from about 2009 into 2010 and in Afghanistan from about 2012 into 2013. In 2017, he again worked as a federal contractor and required access to sensitive information. Since 2019, he has worked in various capacities with his current employer and is a project lead. (GX 1-4; AX Q-R; Tr. 22-26, 32-43)

Drug Involvement and Substance Misuse

SOR ¶ 1.a alleged that Applicant used marijuana with varying frequency from about 1998 through February 2021. SOR ¶ 1.b alleged that Applicant's use of marijuana from December 2017 through February 2021 occurred while he held a sensitive position. He admitted the SOR allegations and clarified that he did not use marijuana while overseas from 2009 into 2010 or from 2012 into 2013. On his return from overseas, he renewed his marijuana use. However, in 2015, he reduced his consumption of marijuana to 1-2 times per month and continued using until February 2021. He denied any use of marijuana after February 2021 and stated he was committed to not using marijuana in the future. (Answer)

Applicant began using marijuana in high school in about 1998. This use continued after he received a security clearance in about March 2009. In April 2009, he

was arrested and charged with possession of marijuana. However, that charge was later dismissed. In November 2013, he was arrested and charged with possession of marijuana and aggravated speeding. Those charges were resolved through a pre-trial diversion program. (GX 1-3; Tr. 41-45, 65-71)

In his June 2016 security clearance application (SCA), Applicant disclosed that he had purchased and used marijuana from January 2009 through December 2015. He stated his intent to not use marijuana, but also admitted "I cannot say that I won't use it again in the future." (GX 2)

In his December 2020 SCA, Applicant again disclosed that he had used marijuana from January 2009 through December 2015. However, he also disclosed he purchased marijuana as recently as October 2020. While he again stated his intent to not use marijuana, he repeated the statement from his earlier SCA that "I cannot say that I won't use it again in the future." (GX 1)

During his April 2021 interview with a DOD investigator, Applicant detailed that, from 1998 through 2001, he smoked marijuana with friends about once per week while in high school. While in college from 2001 through 2005, he smoked marijuana approximately every other day with friends. After graduating college, he continued to smoke marijuana several times per week through 2015, except when he was overseas from 2009 into 2010 and from 2012 into 2013. From 2015 through 2020, Applicant continued to use marijuana about 1-2 times per month and last used marijuana around Christmas 2020. At the time of the interview, he was unable to commit to terminating his marijuana use, even though he was aware that marijuana use was illegal under federal law and could negatively impact his holding of a security clearance. (GX 3)

In June 2021, Applicant self-reported additional marijuana use that occurred during a 2021 New Year's celebration and again while on vacation in February 2021. In his November 2023 response to interrogatories, he confirmed that his last use of marijuana was in February 2021. He further stated, "I have no intention to use drugs in the future but may partake in marijuana depending on the situation (vacation, holidays, special occasions)." (GX 3-4)

In support of his claim that he terminated all marijuana use in February 2021, Applicant submitted negative drug tests from January 2024 and May 2025. He also submitted a statement of intent to abstain from any illegal drug use. (AX M-N, Y)

Applicant testified that he had always been forthcoming about his marijuana use and that he never felt he had a problem with marijuana. He stated that his use of marijuana never impacted his work and that, when he used marijuana, it was primarily on holidays, weekends or at family events. He described changes in his environment and people he associated with and is more focused on his career and family. He stated it had been four years since he last used marijuana, and he was fully committed to not using marijuana in the future. (Tr. 40-43, 80-83)

Financial Considerations

The SOR also alleged that Applicant failed to timely file his federal income tax returns (¶ 2.a) and state tax returns (¶ 2.b) for tax years (TYs) 2015 through 2022. He admitted the SOR allegations. However, he claimed that all the tax returns had since been filed and that he was prepared to timely address his future tax obligations. (Answer)

In his December 2020 SCA, Applicant first disclosed that he had not timely filed his federal and state tax returns for TYs 2015 through 2019. He stated that he “procrastinat[ed]” and had a “history of getting sidetracked.” However, he further stated his commitment to getting his future tax filings completed on time. (GX 1)

During his April 2021 interview with a DOD investigator, Applicant admitted that he procrastinated in failing to timely file his tax returns. However, he detailed that he had hired a tax consultant and that the federal and state tax returns for TYs 2015 through 2018 had since been filed. At the time of the interview, Applicant admitted he was still working on filing the tax returns for TY2019 but intended on having those and the returns for TY2020 filed by May 2021. He further stated his intent to remain current with his tax obligations. (GX 3)

In review of his tax filings, and IRS tax account transcripts printed in December 2023, Applicant’s federal and state tax returns for TYs 2015 through 2017 were prepared by a tax consultant in October 2018 and received by the IRS later that month. For TY2015, the IRS account transcript noted a \$0 balance and that \$959 had been transferred to TY2012. For TYs 2016 and 2017, the account transcripts reflect that Applicant received penalties for the late filing of both tax returns and the late payment of taxes due. Both transcripts reflect that the taxes and penalties were paid. (AX D-F, Z)

Despite his efforts to catch up on his tax obligations in October 2018, he did not timely file his TY2018 tax return in 2019. However, in November 2020, he again hired a tax consultant to prepare his TY2018 tax return. The IRS account transcript reflects that his TY2018 tax return was received in January 2021 and there was a \$0 balance remaining. (AX G, Z; Tr. 85-86)

For TY2019, Applicant chose to submit his tax returns using tax preparation software. An IRS account transcript reflects that Applicant’s TY2019 tax return was received by the IRS in May 2022 and that the taxes were paid. The transcript also notes that Applicant received a penalty for the late payment of taxes due. (AX H, Z; Tr. 58-59)

For TY2020, Applicant again used tax preparation software and provided an unsigned and undated copy of the tax return that showed he was due a refund. He admitted that the return was filed late but did not specify when the return was submitted. He also detailed that the IRS was unable to process the return, and he later learned there had been an issue relating to a possible identity theft of his wife’s information. He admitted he had not followed up with the IRS to resolve the issue. However, documents

reflect that the state tax return for TY 2020 had been received and processed. (GX 3; AX I, L, Z; Tr. 86-89)

Applicant used tax preparation software for his TY 2021 tax return, which was received by the IRS in May 2022, past the filing deadline. No penalties were issued, and all taxes were paid. (GX 3; AX J, L, Z)

Applicant did not address his tax filings again until January 2024, when he hired the tax consultant to prepare his TY2022 tax return. An IRS account transcript, printed in May 2025, reflects that the TY2022 tax return was received by the IRS in February 2024 and that all taxes were paid. No penalties were issued. (AX K, Z-AA; Tr. 53-56)

Regarding his TY2023 tax return, an IRS account transcript reflects that he timely filed for an extension of the April 2024 deadline and submitted his tax return in September 2024. He received penalties for not prepaying his taxes and for the late payment. He paid the taxes and penalties that were due. (AX Z; Tr. 56-60)

An IRS account transcript, printed in May 2025, reflects that Applicant timely filed his TY2024 tax return and received a penalty for not prepaying his tax obligation. He paid the taxes and penalties that were due. (AX Z; Tr. 36, 62-63)

Applicant admitted that there may have been other years, prior to 2015, where he did not file his tax returns on time, but he could not recall details of those filings. Regarding the filing of his tax returns for TYs 2015 through 2022, he testified there was "no excuse" for his delay in meeting his tax obligations. He admitted he procrastinated and prioritized work and personal obligations over his tax filings. He also knew that, as a W-2 employee, his taxes were generally paid in advance, and he would not owe the IRS any additional funds. However, after his marriage in 2019, his wife earned income outside of a W-2, which further complicated their filings. He used the tax consultant for the complicated filings but admitted that he was late in getting the paperwork to the consultant. Otherwise, he felt confident using tax preparation software. He stated that all his tax filings had been submitted and he did not owe any additional taxes. He further detailed that his state tax filings mirrored his federal filings and that any taxes he owed to the state had been paid. He assured that he and his wife were committed to meeting their annual tax obligations going forward. (Tr. 31-60)

Applicant further noted that his tax situation did not arise from financial hardship and that he was meeting all his financial obligations. He continues to make timely payments of child support to the mother of his two oldest children and he submitted a personal financial statement reflecting that he can cover his expenditures while maintaining a monthly remainder of over \$7,000. (AX O; Tr. 61-63)

One witness, Mr. C, testified on Applicant's behalf. He was Applicant's neighbor and described Applicant as honest and dependable. He noted that their families interacted regularly, and he never had any concerns about Applicant's prior use of

marijuana or interactions with his children. He believed that Applicant was responsible and exercised good judgment. (Tr. 93-101)

Additionally, Applicant provided character-reference letters from four current and former coworkers who highlighted his technical proficiency and leadership on the job. They all emphasized that Applicant was a strong leader and dedicated to his work and community. They further noted that he was a trusted advisor and properly managed the handling of sensitive information. Applicant has also received multiple commendations and certifications of appreciation for his work. (AX R-W)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held in *Department of the Navy v. Egan*, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” 484 U.S. 518, 531 (1988)

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, which are used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, 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 and has the ultimate burden of persuasion to obtain a favorable security 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 of potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline H: Drug Involvement and Substance Misuse

AG ¶ 24 provides the security concern arising from drug involvement and substance misuse stating:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. Controlled substance means any "controlled substance" as defined in 21 U.S.C. 802. Substance misuse is the generic term adopted in this guideline to describe any of the behaviors listed above.

The adjudicative guidelines note several conditions that could raise security concerns under AG ¶ 25. The following are potentially applicable:

- (a) any substance misuse (see above definition);
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

Applicant consistently used marijuana from 1998 through February 2021, except while overseas from 2009 into 2010 and from 2012 into 2013. As recently as his November 2023 response to interrogatories, he was unable to commit to not using marijuana in the future. Marijuana is listed on Schedule I of the Controlled Substances Act. See 21 U.S.C. § 812(c); Drug Enforcement Administration listing at <https://www.dea.gov/drug-information/drug-scheduling>. Applicant's extended period of

marijuana use is sufficient to establish the security concerns under AG ¶¶ 25(a) and 25(c) for SOR ¶ 1.a.

Applicant also admitted to using marijuana from December 2017 through February 2021 while holding a sensitive position. In ISCR Case No. 22-02623 at 4 (App. Bd. Jan. 24, 2024), the DOHA Appeal Board discussed the term of “holding a sensitive position” as follows:

For purposes of national security eligibility determinations, the Directive defines “sensitive position” as:

Any position within or in support of an agency in which the occupant could bring about, by virtue of the nature of the position, a material adverse effect on the national security regardless of whether the occupant has access to classified information, and regardless of whether the occupant is an employee, military service member, or contractor.

SEAD 4, ¶ D.8. We have previously held that this broad language is “designed to be inclusive and encompass a wide range of positions, including those that require eligibility for access to classified information (i.e., a security clearance).” ISCR Case No. 22-01661 at 4 (App. Bd. Sep. 21, 2023). The term “sensitive position” is not so broad, however, to encompass any and all employment with a defense contractor.

Applicant’s marijuana use from December 2017 through February 2021 occurred while he held a security clearance and while he held a sensitive position. The security concern under AG ¶ 25(f) is established for SOR ¶ 1.b.

AG ¶ 26 lists conditions that could mitigate drug involvement and substance misuse security concerns. The following are potentially applicable:

- (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; and
- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to: (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; and (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

The Security Executive Agent (SecEA) promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications as follows:

[Federal] agencies are instructed that prior recreational marijuana use by an individual may be relevant to adjudications but not determinative. The SecEA has provided direction in [the adjudicative guidelines] to agencies that require them to use a “whole-person concept.” This requires adjudicators to carefully weigh a few variables in an individual’s life to determine whether that individual’s behavior raises a security concern, if at all, and whether that concern has been mitigated such that the individual may now receive a favorable adjudicative determination. Relevant mitigations include, but are not limited to, frequency of use and whether the individual can demonstrate that future use is unlikely to recur, including by signing an attestation or other such appropriate mitigation. Additionally, in light of the long-standing federal law and policy prohibiting illegal drug use while occupying a sensitive position or holding a security clearance, agencies are encouraged to advise prospective national security workforce employees that they should refrain from any future marijuana use upon initiation of the national security vetting process, which commences once the individual signs the certification contained in the Standard Form 86 (SF-86), Questionnaire for National Security Positions.

Security Executive Agent Clarifying Guidance Concerning Marijuana for Agencies Conducting Adjudications of Persons Proposed for Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position (Dec. 21, 2021) at 2 (quoted in ISCR Case No. 20-02974 at 3-4 (App. Bd. Feb. 1, 2022)).

The DOHA Appeal Board cited the importance of considering “the changing landscape of marijuana law and . . . of the Director of National Intelligence’s *Clarifying Guidance Concerning Marijuana*.” ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025). See also ISCR Case No. 24-00914 at 3 (App. Bd. Apr. 9, 2025).

It has been over four years since Applicant last used marijuana and he described several circumstances that have changed for him in that time. He believes he has grown past his marijuana use and no longer associates with anyone who uses marijuana. He submitted a signed statement to abstain from future marijuana use and submitted two negative drug tests to show a pattern of abstinence. Applicant is also credited with voluntarily disclosing his marijuana use throughout the security clearance process. Mitigation must be considered under AG ¶¶ 26(a) and 26(b).

In contrast, Applicant began using marijuana as early as 1998 and as recently as February 2021. He continued using marijuana after first being granted a security clearance in 2009 and renewed his marijuana use after returning from work overseas in 2010 and again in 2013. He continued using marijuana after being hired to work in a sensitive position in 2017. He was unable to commit to terminating his marijuana use in

his June 2016 or December 2020 SCAs. He was also unable to commit to terminating his marijuana use when questioned during his April 2021 interview with a DOD investigator or in his November 2023 responses to interrogatories.

Applicant also knew using marijuana was illegal under federal law, and he knew it could negatively impact his security clearance. In consideration of his extended history of marijuana use, as well as his extended period of using marijuana after he filled out two SCAs and while in a sensitive position, his recent period of abstinence is insufficient to conclude that his marijuana use is entirely in his past and no longer casts doubt on his reliability, trustworthiness or judgment. Applicant has not met his burden to mitigate the security concerns. Mitigation under AG ¶¶ 26(a) and 26(b) is not applicable.

Guideline F, Financial Considerations

The security concern relating to the guideline for financial considerations is set out in 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.

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The adjudicative guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable:

(c) a history of not meeting financial obligations; and

(f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant failed to timely file his federal and state income tax returns for TYs 2015 through 2022. The above security concerns are established.

There are several pertinent conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's financial considerations:

- (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; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Failure to file tax returns suggests that an applicant has a problem complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information. See ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). A security clearance adjudication is not a proceeding aimed at inducing an applicant to meet his or her duty to file tax returns. Rather, it is a proceeding aimed at evaluating an applicant's judgment, reliability, and trustworthiness. See ISCR Case No. 23-00254 at 3 (App. Bd. Sept. 9, 2024) citing ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). Accordingly, even though Applicant eventually filed his tax returns, an administrative judge is obligated to consider the facts and circumstances surrounding the failure to timely meet tax obligations. *Id.*

Applicant admitted he procrastinated in meeting his tax obligations over several years and he described efforts he made to get his tax filings in order. All his delinquent tax returns for TYs 2015 through 2022 have been filed. Apart from his federal tax return for TY2020, all these tax returns have been received and processed by the IRS and state. He has paid the taxes and penalties that were due. He is expecting a refund for TY2020 and stated his intent to follow up with the IRS to provide the additional information needed to finish processing that return. Additionally, Applicant has timely filed his tax returns for TYs 2023 and TY2024. Although he received a penalty for not prepaying his taxes both years, he has paid the taxes and penalties that were due. Mitigation under AG ¶ 20(g) must be considered.

However, Applicant's tax issues occurred over an extended period and as recently as involving his TY2022 tax return, which was not filed until February 2024. While he described some difficulties relating to reporting his wife's income, he has not established that his tax filing difficulties occurred under unusual circumstances or were caused by conditions largely beyond his control. Mitigation under AG ¶¶ 20(a) and 20(b) is not applicable.

Applicant has filed his delinquent tax returns and has otherwise maintained sound financial circumstances. He appeared motivated to timely meet his future tax obligations. While he is credited with timely filing his tax returns for TYs 2023 and 2024, he was still required to pay penalties for failing to pay his taxes on time in both instances. When compared to the number of years that he failed to meet his tax obligations, more time is necessary for him to establish that he will be able to maintain compliance with his tax obligations. None of the AG ¶ 20 mitigating conditions are fully applicable.

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(d):

- (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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline H and Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that Applicant did not mitigate the drug involvement and substance misuse or the financial considerations security concerns.

Waiver-Conditional Clearance (SEAD 4)

Applicant requested that consideration be given to a conditional security clearance. Applicant's long history of marijuana use, including while working in a sensitive position, and intentionally failing to comply with his tax filing requirements, do not support the application of issuing either a waiver or granting a conditional clearance. A person who disregards drug-use policies and fails repeatedly to fulfill his or her legal obligations, such as filing tax returns and paying taxes when due, does not demonstrate

the high degree of judgment and reliability required of those granted access to classified information. The benefit of continued eligibility does not outweigh the existing security concerns.

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 H: AGAINST APPLICANT

Subparagraphs 1.a – 1.b: **Against Applicant**

Paragraph 2, Guideline F: AGAINST APPLICANT

Subparagraphs 2.a – 2.b: Against Applicant

Conclusion

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

Bryan J. Olmos
Administrative Judge