



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



In the matter of:)
)
) ISCR Case No. 15-05443
)
Applicant for Security Clearance)

Appearances

For Government: Michelle Tilford, Esq., Department Counsel
For Applicant: Patrick Kernan, Esq.

04/26/2019

Decision

BENSON, Pamela C., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline E (Personal Conduct). National security eligibility for access to classified information is denied.

Statement of the Case

On August 26, 2014, and August 3, 2017, Applicant submitted security clearance applications (SCA). On March 6, 2018, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline E (Personal Conduct). The action was taken under Executive Order (EO) 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 Adjudicative Guidelines (AG) effective within the DOD on June 8, 2017.

Applicant answered the SOR on April 23, 2018, and he provided four documents with his response. He admitted SOR allegations ¶¶ 1.b - 1.f, and denied ¶ 1.a. Applicant obtained counsel and requested a hearing before an administrative judge. Department Counsel provided discovery and an amendment to the SOR to Applicant's

Counsel by letter dated November 5, 2018. The amendment included SOR ¶¶ 1.g - 1.n; all falsification allegations cited under Guideline E. On November 30, 2018, Applicant denied SOR ¶¶ 1.g - 1.n. On December 31, 2018, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for January 17, 2019. On January 4, 2019, the case was assigned to me.

During the hearing, Department Counsel offered Government Exhibit (GE) 1-14, but only GE 1-10 were admitted into evidence without objection. Applicant's Counsel objected to GE 11-14, as noted under Procedural Matters addressed below. In addition, Counsel offered Applicant Exhibit (AE) B, C, E, F, G, and L,¹ which I admitted into evidence without objection. (Tr. 26-32) Applicant called his wife to testify on his behalf. I held the record open until February 17, 2019, in the event either party wanted to submit additional documentation. On January 22, 2019, Applicant's counsel provided two additional documents. I admitted AE M and N into evidence without objection. DOHA received the hearing transcript (Tr.) on January 28, 2019, and the record was closed on February 17, 2019.

Procedural Matters

Applicant's Counsel objected to GE 11-14, which are reports of Applicant's background interviews during various security clearance investigations. Applicant's Counsel believed the reports of subject interview were incomplete reports, and claimed the falsification allegations were taken out of context. Department Counsel stated that the subject interview reports were complete summary reports, but Applicant's Counsel's claim of "statements taken out of context" was due to him not receiving Applicant's entire report of investigation. (ROI) She correctly noted that DOHA is not authorized to provide the entire ROI since it is the property of Office of Personnel Management (OPM). I reviewed GE 11-14, and I determined that the summary of Applicant's interview was complete in all four documents. The summary covered the beginning, middle, and the end of Applicant's interview, without any missing pages. Of course, the interviews are summaries and are not verbatim. They do not provide complete information from the interviews. I also advised Applicant's Counsel to clearly state during Applicant's testimony if there were any discrepancies in the summary of the background interviews, which I would take into consideration. (Tr. 20-25)

The subject interview summary is an investigative report produced by OPM, a Federal government agency. OPM is required to complete subject interviews in the DOD security clearance investigations. Applicant's admissions are of a party opponent and according to Federal Rule of Evidence (Fed. R. Evid.) 801(d)(2), they are not hearsay. In the alternative, the summary is admissible as a record of a regularly recurring activity—in this case a security clearance investigation under Fed. R. Evid. 803(6). ISCR Case No. 16-02536 at 3 (App. Bd. Mar. 11, 2019). [Except OPM investigative records. See n. 3.] Thus, I overruled Counsel's objection to the four subject

¹ Some tabs from Applicant's notebook of exhibits were removed prior to the hearing. The notebook contained a table of contents, but not all of the tabs listed in the table of contents were included in the notebook that was provided to me at the hearing.

interview summaries of Applicant. I admitted GE 11-14 into evidence, and I have accorded the facts therein the appropriate weight given the record as a whole.

Findings of Fact

Having thoroughly considered the evidence in the record, I make the following findings of fact: Applicant is 38 years old. He earned a bachelor's degree in 2005, and a master's degree in 2007. Applicant was married in 2003 and divorced in 2009. He remarried in 2009. He has a daughter, age 12, and an adult stepdaughter, age 21. Applicant enlisted in the U.S. Air Force in March 2003. He was on active duty until December 2005, when he received an honorable discharge due to hardship. He joined the Navy Reserve in February 2010, and in October 2012, he resigned his commission due to a pending Federal investigation. While serving as a government contracting officer in Iraq, Applicant had been accused of setting up a sham company, bribery, and receiving monetary kickbacks for awarding contracts to companies involved in the scheme. He could not be promoted in the Navy Reserves while a Federal investigation was on-going, and he received an honorable discharge. (Tr. 12-14, 33, 38, 42, 46-48, 77-78, 119, 121-122; GE 1, GE 3-6; AE M, AE N)

Since 2012, Applicant is the chief executive officer and 51% service disabled veteran owner of a federal consulting company that has 150 employees and does \$10 million in business annually. He manages many different operations in the company. Applicant does not currently possess a DOD security clearance, but he previously held a DOD security clearance and a DOD facility clearance until 2015. Applicant is requesting that he be granted a personal DOD security clearance, and as Key Management Personnel, his company could then be granted a DOD facility clearance. (Tr. 12-14, 33, 38, 46-49, 77-78; GE 1)

SOR allegation ¶ 1.a alleges that in 2009, while Applicant was working as a U.S. Government Contracting Officer in Iraq, he was investigated for bribery and conspiracy to commit bribery. In his response to the SOR, Applicant denied this allegation, and also noted that this adverse information occurred a decade ago. On May 18, 2015, Applicant received notice via certified mail from the U.S. Army Procurement Fraud Division that after completion of a Federal investigation, Applicant and his company were being considered for debarment from future contracting with any agency in the Executive branch of the U.S. Government. (AE M) He denied receiving any notice from the Government. He found out about the proposed debarment from his business partner, who had checked the website listing debarred federal contractors and individuals. (Tr. 97-98) Applicant obtained counsel, disputed the findings of the investigation, and argued that debarment was not appropriate in this matter. (AE N) On February 25, 2016, the U.S. Army Procurement Fraud Division agreed to establish an administrative compliance agreement, and required Applicant to take a business ethics course. (SOR response attachment 2) A Memorandum from the U.S. Department of Justice, Federal Bureau of Investigation (FBI), dated August 6, 2012, stated that although there was not enough corroboration obtained during the investigation to charge Applicant with bribery, and attempted bribery, the case agents from FBI, Defense Criminal Investigative

Services, Army Criminal Investigation Command, and Special Inspector General for Iraq Reconstruction believe that Applicant was involved in criminal activity. (Tr. 95-102; GE 3-7; AE C, AE M, AE N)

SOR allegation ¶ 1.b alleges that in 2011, while Applicant was employed as an employee of the United States Peace Corps, he accessed pornographic websites on his assigned government computer. Applicant admitted this allegation in his response to the SOR. He stated that he had just filed a complaint with the Office of Inspector General (OIG) against his supervisor for selling illegal drugs to Peace Corps employees, nepotism, and possible contract fraud. She also discriminated against military members. Applicant testified that his supervisor asked him directly if he wanted to be part of a contract bribery scam. After hearing her offer, Applicant admitted to being unprofessional, and he said some curse words to his supervisor. He claimed his supervisor then placed him on a performance improvement plan. (PIP) About three weeks after he filed an OIG complaint against his supervisor, a computer check revealed that Applicant had been visiting pornography websites on his work computer. There were also allegations of him reporting to work late and leaving work early. Applicant was called into an office with an OIG representative, and he signed the paperwork that was provided to him. He said the paper included an admission of guilt, which he agreed to sign since he was guilty of accessing pornographic websites on his work computer. Applicant noted that he signed the paperwork without the benefit of having legal representation. (Tr. 60-70)

SOR ¶ 1.g alleges Applicant intentionally failed to disclose his employment with the U.S. Peace Corps when he completed his 2014 SCA. Applicant denied this allegation, and believes the omission was either a computer glitch, the result of a “gag order” he thought was in effect, or just oversight. SOR ¶ 1.m alleges that during his background interview in September 2014, Applicant volunteered information about his employment with the U.S. Peace Corps. When initially asked by the investigator whether he had any difficulties with this employment, Applicant denied any difficulties, and said no one from the Peace Corps would question his conduct or behavior at this employment. He did not violate any oral, written or otherwise recorded agreements made with this employer. He admitted to the investigator that he clicked on links provided by his father which, unbeknownst to him, turned out to be pornographic websites. At the hearing, Applicant accepted full responsibility for intentionally visiting pornographic websites on his government computer. He did not disclose on his SCA that he was terminated for accessing pornography on his government computer. (Tr. 70-73, 102-103, 107-108, 124-127; 136-137, 139; GE 2, GE 11; AE L)

SOR ¶ 1.n alleges that Applicant intentionally lied to the investigator during his background interview in September 2014 when he told the investigator that he had been employed by the Peace Corps, but he was under a gag order and could no longer discuss his employment with the Peace Corps during his interview. Applicant stated that he believed the gag order was valid, and he was required to keep his “mouth shut.” (Tr. 70-73, 102-103, 109, 136; GE 2, GE 11; AE L)

SOR ¶ 1.j alleges that Applicant falsified his 2017 SCA when he answered “no” to the question if within the last seven years, had he ever received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace. Applicant denied this allegation. He believed he was under a “gag order” and could not disclose any information about his misconduct while employed by the U.S. Peace Corps. He claimed paragraph 3, of an unsigned settlement agreement, (AE L) was the driving force in this matter. Applicant said he also knew this adverse information was readily available during his investigation, so he was not attempting to hide this information. Later during the hearing, Applicant stated that he did not know the exact time period, and going back 7 years, he should have listed his misconduct for viewing pornography while employed by the Peace Corps, but he mistakenly missed the seven-year cut-off by “days.” Applicant did not list his termination from the Peace Corps for viewing pornography on the SCA. He stated he was not trying to hide the information. After reading Paragraph 3 of AE L, I find that it does not contain any language which would prevent Applicant from discussing his Peace Corps employment misconduct during the course of his background investigation. (Tr. 60-73, 104, 129, 140-14; GE 1, GE 2; AE L, paragraph 3)

SOR ¶ 1.k alleges Applicant falsified material facts during a December 2011 subject interview when he told the investigator that he was under a gag order as a result of a lawsuit he filed against the Peace Corps. He had filed a complaint against the Peace Corps and the matter was settled out of court. He could not provide additional information, due to a gag order issued by the presiding judge. (GE 14) In addition, Applicant deliberately withheld the circumstances that led to him being placed on paid administrative leave, due to viewing pornographic websites on his government computer. Applicant testified that he has always admitted his misconduct of viewing pornography whenever questioned, and also admitted he lost his employment position due to viewing pornography. Later in the hearing, Applicant said he was not forthcoming with his pornography misconduct due to the gag order, and he recommended the investigator obtain his employment history directly from the Peace Corps. (Tr. 73-75, 105, 113)

SOR allegation ¶ 1.l alleges that Applicant gave conflicting accounts during his background interviews concerning the circumstances of viewing pornography on his work computer. During his March 2012 interview, Applicant told the investigator that he had looked at pornographic sites on his Government computer when he was on his personal e-mail account. The websites were sent to him by his military friends. He did not consider viewing pornographic websites from his personal e-mail a problem or in violation of any policy. During his September 2014 background interview, Applicant said he clicked on links provided by his father, which he did not know contained pornographic as well as shopping websites. (Tr. 106-107; GE 11, GE 13)

SOR allegation ¶ 1.c alleges that Applicant was counseled while employed with U.S. General Services Administration (GSA) for misuse of his Government credit card. In 2012, his employment with GSA was terminated. Applicant admitted this allegation in response to the SOR. He denied that the misuse of his Government credit card was

intentional. His wife inadvertently pulled this credit card out of a stack of personal credit cards Applicant kept at home. When GSA notified him of the fraudulent activity, he immediately paid the balance billed to his Government credit card. He claimed to have self-reported the misuse of his Government credit card to his supervisor. His supervisor told Applicant that this incident was a minor issue. Applicant was later called into an office with his supervisor and the chief of staff, approximately six weeks before the expiration of his employment probationary period. They asked him to commit contract fraud, which he immediately refused. The chief of staff slipped a piece of paper to him, and he discovered that he was being placed on a PIP for insubordination, and misuse of a Government credit card. Applicant stated he turned over the PIP document and wrote that he immediately resigned his position with GSA. Before he walked out of the room, he was told that he could not resign from a government job. It was his understanding that he resigned from GSA. Upon further question at the hearing, Applicant was asked why he had denied being fired from GSA, as he indicated that he thought he was simply let go during his probationary period. Applicant said this statement was correct, as he was unsure of his status when he left employment with GSA. (Tr. 76-77, 83-93, 146; AE E)

SOR allegation ¶ 1.h alleges that Applicant falsified his 2014 SCA when he listed that he left employment with GSA to start his own business. SOR ¶ 1.i alleges Applicant falsified information on the same SCA when he denied he was fired, quit after being told he would be fired, or left employment by mutual agreement for misconduct or unsatisfactory performance. (GE 2) Applicant denied these allegations. He did start his company after leaving GSA, and he had resigned from his position. (Tr. 93-95, 103-104, 127-128)

During the hearing, his attorney asked Applicant:

Counsel: “And it was your understanding that you resigned and they (GSA) said no, you can’t resign.”

Applicant: “That is correct.”

Counsel: “And they fired you.”

Applicant: “That is correct.”

Counsel: “But you weren’t aware of that?”

Applicant: “No I wasn’t. Once again I didn’t hire legal counsel. Once again [I] walked out of the building the same day.” (Tr. 93)

...and later during the hearing:

Counsel: “And it says when in fact you were terminated from that (GSA) position. Did you understand you were terminated?”

Applicant: “No, not at that time I did not know I was terminated.” (Tr. 103)

On the 2017 SCA completed by Applicant, he listed his reason for leaving GSA as follows:

I was terminated for insubordination. I was asked by my entire team of executives to illegally award several contracts, valued in the \$100s of millions of dollars, to companies of their choosing. I told them that it was illegal, and that I respectfully refused. When I did that, I was still under my ‘1 year probationary’ period, and was terminated from my employment.” (GE 1 pg. 14) [

On page 15 of his 2017 SCA, Applicant said, **“...When I refused, respectfully, I was issued termination papers, and left the same day. If I had to do it again, I would do it EXACTLY the same way. No questions.”**

During the hearing Applicant was questioned about his contradictory statements. He stated that he learned much later that he had been terminated by GSA in 2012. When he filled out the SCA in 2014, he reflected that termination information he just only recently discovered. When asked how he found out about his termination from GSA, he said, “I don’t remember. There’s somehow I did find out. I don’t remember. I don’t recall.” (Tr. 147-149)

SOR allegation ¶ 1.d alleges that Applicant was arrested in May 2012 for assault of a family member (wife). Applicant testified that during this time he was having difficulty with his wife. He claimed she was addicted to illegal drugs. He admitted during the hearing to being arrested in state A for having an open container in public, but he denied ever being arrested in May 2012 or convicted of domestic assault. (Tr. 49-52) During Applicant’s background interview in January 2013, he told the investigator that his neighbors called the police whenever he and his wife got into a loud argument. The police were called three times to their apartment, and his wife was arrested on all three occasions. Applicant stated he was never arrested or charged with domestic disturbance on any of those occasions. (GE 12) State A criminal record and an FBI identification record both show that Applicant was arrested in May 2012 for assault of a family member. Two months later, in July 2012, the charge was *nolle prossed*. (GE 9-10) Applicant did not disclose his May 2012 arrest for assault of a family member on his 2014 or 2017 SCA. (GE 1-2) It is important to note that during his interview in September 2014, Applicant provided a different account of the incident. He stated the police were called to their apartment in May 2012 due a loud argument, and the policy of State A police is that one of the individuals involved in the domestic disturbance must be arrested if the police are called to investigate. In May 2012, Applicant *volunteered* (emphasis added) to go with the police because his wife already had several criminal convictions. He spent about eight hours in jail, he met with a magistrate, paid a fine, and

was then released. Applicant did not list the arrest on the SCA as he was unaware that he had been charged with any criminal offense. (GE 11)

SOR allegation ¶ 1.e alleges that Applicant was arrested in December 2015 for assault of a family member (wife). As indicated previously, Applicant claimed the neighbors called the police on multiple occasions whenever he and his wife got into a loud argument. On this particular night, he and his wife were having a loud verbal argument. He left the residence and stayed overnight in a hotel. The next morning, Applicant was arrested by the police for assault after leaving his hotel room. Since it was a holiday weekend, he was held in jail for three days before he could see a judge. (Tr. 52-54; GE 9; AE G)

While sitting in jail, Applicant realized he had a company payroll cycle that needed attention, but he did not have his business partner's telephone number memorized. The only phone number he had memorized was his wife's phone number. Applicant claimed he did not realize that a protective order had been issued, so he called his wife from jail. They had a cordial conversation, and he asked her to call his business partner to handle the company payroll. Applicant was then rearrested for violation of a protection order. (SOR ¶ 1.f) The protective order remained valid for a period of five months. Applicant had to move into his own apartment. Applicant accepted a deferred sentence agreement which required him to successfully complete 24 weeks of an anger management program, and successfully complete two years of probation without further violations. The violation of a protective order was *nolle prossed* in March 2016. Applicant successfully completed the anger management program in September 2016, and the assault of a family member charge was dismissed in March 2018. (Tr. 54-58; GE 9; AE G)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG 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(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 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 avoided drawing 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. 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 as to obtaining 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 that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

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

Analysis

Guideline E: Personal Conduct

AG ¶ 15 expresses the security concern for personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to provide truthful and candid answers during national security investigative or adjudicative processes. ...

AG ¶ 16 describes conditions that could raise a security concern and be disqualifying. The following are potentially applicable under the established facts in this case:

(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;

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official,... in making a recommendation relevant to a national security eligibility determination, and

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

This includes, but is not limited to:

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources.

Applicant deliberately falsified SCAs and background interviews concerning his employment and termination history with the Peace Corps and GSA. He intentionally failed to fully disclose the circumstances of his workplace misconduct, and he provided contradictory and inconsistent statements throughout multiple security clearance investigations. While serving as a government contracting officer in Iraq, Applicant was accused of setting up a sham company, bribery, and receiving monetary kickbacks for awarding contacts to companies involved in the scheme. He was arrested on more than one occasion for assault on a family member, and he was arrested for violation of a protection order. As recently as 2018, the court dismissed an assault charge against Applicant after his completion of anger management classes and two years of probation. Applicant did not disclose his full criminal history on the SCAs, and he provided contradictory statements about his May 2012 assault arrest during two background interviews. Applicant admitted to intentionally accessing pornography on a government computer, but his previous accounts of how he accessed these websites, and whether he did so intentionally, were also inconsistent. The above disqualifying conditions apply.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. The following mitigating conditions under AG ¶ 17 are potentially applicable:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor or so much time has passed, or the behavior is so infrequent, or 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; and

(d) the individual acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

None of the mitigating conditions apply. I did not find Applicant's testimony credible. He has not made prompt, good-faith efforts to correct omissions or falsifications provided during the course of several security clearance investigations. His claim that either a judge's ruling, or a company settlement agreement, preventing him from disclosing his workplace misconduct pursuant to a "gag order" is self-serving and unconvincing. He demonstrates a pattern of dishonesty, which casts doubt on his reliability, trustworthiness, and overall good judgment. Many of his statements and explanations were uncorroborated. After reviewing his history of misconduct and deceit, I find that it is probable Applicant's inappropriate behavior is likely to recur.

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 the 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. This SOR highlights serious offenses that provides insight to Applicant's character and integrity. Applicant is not remorseful for his misconduct or deceit. His explanations are self-serving and insincere. I conclude that Applicant has not mitigated security concerns raised by his personal conduct. Accordingly, Applicant has not carried his burden of showing that it is clearly consistent with the national interest to grant his eligibility for access to classified information.

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 E:	AGAINST APPLICANT
Subparagraphs 1.a-1.n:	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 security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Pamela C. Benson
Administrative Judge