DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
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	)	ISCR Case No: 19-00673
	)	
	)	
Applicant for Security Clearance	)	

For Government: Moira Modzelewski, Esq., Department Counsel
For Applicant: Pro Se.

06/15/2020
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Decision
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DAM, Shari, Administrative Judge:

Applicant falsified information on two security clearance applications and submitted a resume to a potential employer that contained false information. She did not mitigate the resulting personal conduct security concerns. A psychological evaluation determined that she has a personality disorder, which impairs her judgment. She did not mitigate the resulting psychological conditions security concerns. National security eligibility for access to classified information is denied.

Statement of the Case

On June 13, 2019, the Department of Defense (DoD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline E, Personal Conduct, and Guideline I, Psychological Conditions. The action was taken under Executive Order 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD on June 8, 2017.

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Applicant answered the SOR in writing (AR) four times: July, 31, 2019 (AR-1); August 29, 2019 (AR-2); October 12, 2019 (AR-3); and post-hearing April 3, 2020 (AR-4), which is marked as AE F. She included a request for a hearing before an administrative judge in her AR-3. On January 15, 2020, the Defense Office of Hearings and Appeals (DOHA) assigned the case to me. On January 21, 2020, DOHA issued a Notice of Hearing setting the case for February 12, 2020. The case was heard as scheduled. Department Counsel offered Government Exhibits (GE) 1 through 7 into evidence, and called one witness. Applicant testified, and offered Applicant Exhibits (AE) A through D into evidence. All exhibits were admitted.

DOHA received the hearing transcript (Tr.) on February 24, 2020. The record remained open until March 6, 2020, to give Applicant an opportunity to submit additional evidence. Post-hearing, Department Counsel submitted GE 8, which I admitted into the record on March 10, 2020, without objection.

Applicant subsequently requested that she be given additional time to submit a psychological evaluation. Chief Judge Erin Hogan, acting in my stead, granted Applicant's request and extended the closure of the record to April 3, 2020. I subsequently ordered that Department Counsel be given until April 20, 2020, to file a response to Applicant's post-hearing submissions. Both parties complied with the ordered deadlines. Applicant timely submitted three exhibits that I marked AE E through AE G. They are admitted into the record without objection. Applicant also submitted a Clinical Neuropsychological Evaluation, performed in March 2020 that I marked as AE H.

Department Counsel objected to the admission of AE H.[1] Department Counsel argued that it should not be admitted on the basis of its timeliness. She also challenged the qualifications of the evaluator, the factual basis for the conclusions, and the focus of the evaluation. The objection is overruled and AE H is admitted into evidence.

Findings of Fact

Applicant's Background

Applicant is 51 years old and married for 18 years. She has a high school education. She has taken college courses, but has not earned any college degrees. (Tr. 92-93)

Applicant submitted her first Electronic Questionnaires for Investigations Processing (e-QIP) in July 2014. She did not receive a security clearance after submitting it. She submitted a second e-QIP in May 2017. She thinks she might have been granted an interim clearance after this submission, but is unsure. (Tr. 93-94) There is no evidence that she was granted a security clearance.

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[1] I marked the Government's Response to Applicant's Submission of Independent Psychological Evaluation as Hearing Exhibit (HE) 1.

Applicant has worked as a background investigator for five federal contractors. From February 2015 to March 2015, Applicant worked for Contractor 1. She was involuntarily terminated from that position. (Tr. 113) From July 2015 to May 2016, she worked for Contractor 2. She was involuntarily terminated in May 2016 from that position. From September 2016 to December 2019, she worked for Contractor 3. (GE 1) From July 2017 up to the date of this hearing, she has intermittently worked for Contractor 4 and Contractor 5 while awaiting a security clearance. (Tr. 95-101; GE 1; AE C)

Personal Conduct

As part of her background investigation, Applicant was interviewed three times by a special agent (SA) from the Office of Personnel Management (OPM): twice in June 2018 and once in September 2018. SA testified that another agent was with her for each of the three interviews. (Tr. 31, 41, 45)

The June 2019 SOR alleged the following: six instances in which Applicant falsified information on her 2014 and 2017 e-QIPs; one instance in which she falsified information on a resume she submitted to a contractor; and one instance in which she was terminated from a position for representing herself as an FBI employee. Applicant denied all allegations that she intentionally attempted to mislead the Government about her background. (Tr. 102; AR-1, AR-2, AR-3, AE F)

SOR ¶ 1.a and ¶ 1.b: Under the educational section of her June 2014 e-QIP, Applicant asserted that she received four masters' degrees from California State University (CSU): in 2000, 2001, 2002, and 2003. She also asserted that she received a bachelor's degree from Chapman University in 2005, and one from the University of Illinois in 1991. In her May 2017 e-QIP, she listed the identical information about her educational background. (GE 1, GE 2) While testifying, she admitted that she has not earned a master's or bachelor's degree. (Tr. 92-93, 102, 134, 127)

During her first interview with SA, Applicant told SA that her highest degree was a bachelor's degree from Chapman University. She explained to SA that she listed the four master's degree by mistake, and said she had received master-level certificates. (Tr. 67) She later admitted to SA that she did not have a bachelor's degree. (Tr. 50)

Applicant testified that she made mistakes when she completed her e-QIPs. She attributed the mistakes to problems she had with the connectivity of her computer while working on the e-QIPs. She said she also rushed through them. (Tr. 135) She stated it was an oversight on her part when she failed to review the e-QIPs before she submitted them to the Government. (Tr. 145) She claimed that she mistakenly listed bachelor and master certificates as degrees because she had trouble with the drop-down menus in the e-QIP. (Tr. 48, 102) SA said there is no "certificate" category in Section 12's educational background inquiry on the e-QIPs. (Tr. 49)

Applicant testified that she used her 2014 e-QIP as the template for completing her 2017 e-QIP, and did not review the 2017 e-QIP for inaccuracies before submitting it.

She said she was in a hurry to complete it because she had limited time to do so. (Tr. 128-129)

SOR ¶ 1.c: Under the employment section of her May 2017 SCA, Applicant did not disclose that she was involuntarily terminated by Contractor 2 in May 2016. Applicant denied that she falsified any facts regarding that termination. She stated she did not receive a termination notice from Contractor 2 explaining the reason for her termination. However, she acknowledged that she knew it related to a badge incident at the Department of Veteran Affairs (VA) health center, for which she said she was falsely accused. She reiterated that she was having connections problems with her e-QIP, and rushed to complete it, which lead to inaccuracies.[2] (Tr. 112)

SOR ¶ 1.d: Under the employment section of her May 2017 SCA, Applicant did not disclose that she was involuntarily terminated by Contractor 1 in March 2015. Applicant acknowledged that she worked for Contractor 1 from February to March 2015. She denied that she intentionally failed to disclose the requested information. (Tr. 113-114) She said the error in not disclosing that information was an "unintentional oversight." (Tr. 114)

SOR ¶ 1.e: Under the employment section of her May 2017 e-QIP, Applicant stated that she was employed by the "U.S. Marine Corps as a Field Security Specialist from August 2009 – January 2011." (GE 1)

Applicant said she should have stated that she performed volunteer activities for the Marine Corps (Marines) and should not have stated she was a field specialist for the organization. She said that she should not have listed the Marines as her employer, but rather the Heroes of Freedom Foundation, for whom she performed volunteer security work at national sports events. She said those were typographical errors. (Tr. 116) In her AR-1, she said she was having connectivity problems while completing the e-QIP. She said the volunteer organization was composed of retired military members and their spouses. (AR-1)

Applicant also listed "End of tour of duty" as the reason she left her employment with the Marines. (GE 1) She explained that she used that language because the national sports team for whom she volunteered to work was no longer in the play-offs. She said it was the end of the season for them. (Tr. 115-117)

During her interview with SA in September 2018, Applicant admitted that she has never been employed by the Marines or served in the military. (GE 3 at 39) In her most recent answer, AR-4, she said it was not her intention to represent herself as being in the U.S. military. (AE F)

SOR ¶ 1.f: Under the military history section of her May 2017 e-QIP, Applicant listed that she was in the "Inactive Reserves in the Air Force from June 2002 until

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[2] The facts underlying this termination are set out in SOR ¶ 1.h.

December 2013," and noted that she received an honorable discharge in December 2013. (GE 1)

Applicant also noted under that military history section that she was a "1st Lieutenant-Civil Air Patrol-auxiliary unit of the United States Air Force-Wing Administrator for Hawaii Wing." (GE 1)

In her AR-2, Applicant stated it was not her intention to state that she was in the U.S. military. She testified that she never served in the Air Force or any U.S. military branch, and she did not receive an honorable discharge from the Air Force. Applicant explained that the Civil Air Patrol is a volunteer organization, which flies security missions. She said she should have more clearly explained her volunteer role of the Civil Air Patrol in her e-QIP. She testified it was an "oversight on my part not to go back and take it out when I was trying to type things in." She stated that she had connectivity problems while working on the e-QIP and made this mistake. (Tr. 120-123; AR-2)

Applicant testified that during her background investigation, she felt threatened by SA based on SA's demeanor, attitude, and voice during the interviews. Applicant said SA "acted demoralizing" toward her. (Tr. 136)

SOR ¶ 1.g: Applicant submitted her 2017 resume to Contractor 3, which falsely stated that she had the following credentials (GE 5):

1. A Sensitive Top Secret Security Clearance;

2. Earned a pilot's license and flew various drug interdiction missions with the Drug Enforcement Agency;

3. Worked for the U.S Marine Corps from 2009 – 2011 as a field security specialist, and provided field security for 16 [national sports games] as the "only female Marine on field 20 hours per week;

4. Held the following degrees:

    a. CSU – Master of Science in Biology
    b. CSU – Master of Science in Advanced Applied Forensic Science
    c. CSU - Master of Science in Crime and intelligence Analysis
    d. Chapman University – Bachelor of Science, Pre-Veterinary Medicine.

In her four answers to the SOR, Applicant denied that she attempted to falsify information on her resume (GE 5). She stated that it was a working resume and was not intended to be distributed to the public. (Tr. 118, 124-126; AR-1, AR-2, AR-3, AR-4)

In her AR-4, Applicant stated that her computer was hacked and she did not know which resume was on the internet. She was a student pilot and the reference to having a pilot's license was a typographical error. (Tr. 124-125; AE F) She clarified that she was

the only female volunteer that worked security for the national sports team in her home state. She admitted that she was never a female Marine. (Tr. 118-119; AE F) Applicant acknowledged that her resume, GE 5, contained the same inaccurate educational credentials that she listed on her 2017 e-QIP. (Tr. 103)

Applicant acknowledged that in 2015 she sent Contractor 2 a resume (GE 6) similar to the "working" resume (GE 5) she sent in 2017 to Contractor 3. Both contained incorrect and false information about her educational and employment background, and military history. She explained that after a job interview in 2015, Contractor 1 wanted something from her regarding her qualifications, so she sent GE 6. She told Contractor 2 that the resume was not correct and was not for publishing. She explained to them that she was editing it. She acknowledged that she sent resumes to Contractors 1, 2, and 3, which contained inaccurate information. (Tr. 123-126, 152)

In GE 6, Applicant noted that she "earned a helicopter pilot's license and flew various drug interdiction missions with the Drug Enforcement Agency." (GE 6) She admitted that statement regarding having a pilot's license was false. (Tr. 124)

SOR ¶ 1.h: In May 2016, Applicant was terminated by Contractor 2 after the VA Police Department conducted an investigation that determined she used her government employee badge to represent herself as a Federal Bureau of Investigation (FBI) employee at the VA health care center where she obtained medical services.

According to the VA police investigation, Applicant flashed a federal law enforcement badge at staff members and told them that she worked for the FBI. During the investigation, the police learned that she also told staff members at a private pain clinic, where Appellant was being treated, that she worked for the FBI. On one occasion, Applicant asked for special privileges because she said she was going to Washington D.C. for training with the FBI. Applicant told one health care provider that she was a helicopter pilot with the armed services. She told another health care provider that she worked for the Central Intelligence Agency (CIA). In January 2016, Applicant was interviewed by police Agent F. Applicant denied ever telling anyone that she was an FBI agent. She said she had mentioned to a member of the VA clinic's staff that she was in the process of applying for a job with the FBI, NCIS, and Secret Service. (GE 8)

Applicant said she felt threatened by Agent F and told his supervisor of her concerns. (GE 8) She said Agent F told her he would arrest her at her home. (Tr. 137) She also told Agent F that a different investigator, fitting her description, was making the alleged assertions around the VA health center about being an FBI agent. (Tr. 137)

When questioned about this issue during an interview with SA in 2018, Applicant acknowledged that she never worked for the FBI, but stated she had been offered a position with the FBI in 2007. She said that in talking to people, she might have told them that, and they misunderstood her and thought she currently worked for the FBI. (GE 3 at 29)

In her Answers to the SOR, Applicant strongly asserted that she never represented herself as being an employee of the FBI. (AR-1, AR-2, AR-3, AR-4) She reiterated that denial during her hearing. (Tr. 131)

Applicant submitted a revised e-QIP that she completed on February 12, 2020. She claimed this e-QIP accurately represents her educational background and employment history. (Tr. 129; AE A)

Psychological Considerations

Government's Psychological Evaluation:

SOR ¶ 2.a: Based on the Government's request to assess Applicant's mental health status and to determine the presence of any psychological conditions that could impair her judgment or reliability, and potentially cause her to pose a risk for handling classified information, Applicant was evaluated by a licensed clinical psychologist (LCP) on February 6, 2019. The LCP diagnosed her with antisocial personality disorder and gave her a poor prognosis. The LCP determined that her disorder impaired her judgment and ability to safeguard classified information.

In addition to a clinical interview, the LCP reviewed Applicant's medical records and her security investigation file, and spoke to one of Applicant's supervisors. The LCP administered six psychological assessments, including the Million Clinical Multiaxial Inventory-4th Edition (MCMI-IV), as part of the evaluation.[3] (GE 7 at 1)

In discussing her employment background, the LCP asked Applicant to clarify her work with the Civil Air Patrol. Applicant stated that she flew many missions with the Civil Air Patrol after she obtained a helicopter pilot's license. When the LCP inquired how Applicant was able to acquire the required hours to become a pilot, Applicant corrected herself and said she did not have pilot's license and said "but I could have." (GE 7 at 3)

The LCP inquired about the VA investigation, which reported that she misrepresented herself as an FBI employee to staff members at a private pain clinic where she was treated and received pain medications, and at a VA clinic. A staff physician at the private clinic reported that Applicant was "fired" as a patient for making those representations and also prescription abuse. Applicant said she left the private clinic because she wanted to get off pain medication and the clinic did not assist her. Staff members at the VA clinic reported that she wore her badge and claimed she worked for the FBI. Applicant denied that behavior. (GE 7 at 4; AR-1)

The LCP noted that, during her mental status exam, Applicant exhibited a pervasive pattern of apparent dishonesty. She opined that Applicant's "insight and

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[3] Millon Clinical Multiaxial Inventory-IV is an assessment of DSM-5-related personality disorders and clinical syndromes.

judgement appeared impaired." (GE 7 at 5) She stated that the MCMI-IV, a personality measure, was invalid due to Applicant's tendency to portray herself in a favorable light. (GE 7) The LCP stated that Applicant "was not willing to disclose or admit to any difficulties in mood or functioning at the present time." (GE 7 at 5)

Based on her review of Applicant's file, testing, assessments, and clinical interview, the LCP diagnosed Applicant with antisocial personality disorder and gave her a poor prognosis, as the disorder tends to be a lifelong condition. The LCP opined that:

> The gravest concern regarding [Applicant's] potential to hold a national security position, is related to her pervasive and habitual pattern of deception and dishonesty. [Applicant] demonstrates a total lack of remorse for her actions, and has not shown any insight into her behaviors, or an ability to change her behaviors over time.

> There are considerable concerns, documented from numerous sources, that [Applicant] has misrepresented herself as being former active duty military, as working for the FBI and CIA, as working for the Police Department with arresting authority, as having numerous degrees and certifications, in which she does not now, nor has she ever possessed, with an apparent goal to deceive others, obtain medications and preferential treatment, obtain jobs in which she is not qualified or suited, or generally misrepresent herself to others. As such, [Applicant] meets diagnostic criteria for antisocial personality disorder. (GE 7 at 6)

The LCP concluded that "there is a considerable indication that [Applicant's] current psychological condition impairs her judgment, reliability, trustworthiness, and her ability to safeguard classified information." (GE 7 at 6)

Applicant's Rebuttal Psychological Evaluation:

In March 2020, Applicant participated in a clinical neuropsychological evaluation to assess her cognitive and emotional functioning. (AE H). According to the reporting clinical neuropsychologist (CN), Applicant was seeking this evaluation because she was "in the process of having her background investigator license renewed and therefore wants to ensure that she is of sound mind to continue performing her duties." (AE H at 1) Applicant also reported that she has a family history of dementia and has noted some cognitive changes in herself about a year ago. (AE H at 1)

Over the course of four visits during March 2020, the CN administered 13 cognitive assessment tests to Applicant and interviewed her. Applicant also completed four self-reporting inventories and took a computer-based test for attention deficits.[4]

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[4] This evaluation was performed and signed by a neuropsychology fellow and a licensed clinical neuropsychologist.

The CN noted that Applicant's social-emotional functioning scores from a self-reporting assessment fell outside the normal range, which suggested that Applicant may not have been "completely forthright" in her responses. (AE H at 7) The CN opined that:

> [Applicant's] pattern of responses suggests considerable defensiveness in responding. In particular, she appears motivated to portray herself as being exceptionally free of common shortcomings to which most individuals will admit. . . . Accompanying this reluctance may be a tendency to minimize any negative impact that her actions may have on other people, and also herself. Given the high level of defensiveness, the clinical scale profile is likely to reflect significant distortion and minimization of difficulties in certain areas. (AE H at 7)

The CN reported that Applicant "denied functional impairment in social/interpersonal, academic, and vocational domains."[5] (AH H at 9)

The CN made recommendations for Applicant to incorporate into her life in the areas of medical/physical, psychosocial, and cognition/memory. She did not arrive at psychological diagnosis nor did she address Applicant's fitness to hold a security clearance and protect classified information.

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying and mitigating conditions, which are useful 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 AG ¶ 2 describing 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

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[5] There is no mention in this evaluation that the CN administered a personality assessment, such as the MCMI-IV, or that the CN reviewed Applicant's security file or the CLP's report.

contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states that an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 protect or 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 Executive Order 10865 provides that an adverse decision shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Guideline E: Personal Conduct

AG ¶ 15 explains the security concerns relating to personal conduct:

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

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. Three may potentially apply 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, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

> (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

There is sufficient evidence to establish disqualifying security concerns under AG ¶¶ 16(a), 16(b), and 16(e)(1). Applicant deliberately provided false, misleading, and inaccurate information to the Government in her 2014 and 2017 e-QIPs, which was relevant to a determination of her national security eligibility. She also deliberately provided false and misleading information to a contractor regarding her credentials. Applicant's personal misconduct creates a vulnerability to exploitation or duress by other individuals, as it is the type of activity which, if known, could and would affect her personal and professional standing.

AG ¶ 17 provides four conditions that could mitigate the security concerns raised under this guideline. They are:

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

(c) 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;

(d) the individual has 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; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

The evidence does not establish mitigation under AG ¶ 17(a). Applicant did not make any effort to disclose or correct the various instances of falsified information that she submitted to the Government or contractors. Rather she has continues to deny all

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allegations and asserts that she made unintentional mistakes on her e-QIPs and resumes, due to connection problems she had with the e-QIP software, her own oversight issues, and being in a rush while working on the documents. None of these explanations are credible or persuasive regarding the specific false information she provided.

The evidence does not establish mitigation under AG ¶ 17(c). Applicant's misconduct was not minor, but serious and egregious. Between 2014 and 2017, she intentionally falsified two e-QIPs and submitted false resumes to at least two government contractors, in order to secure a security clearance and employment. Her assertions that she made unintentional mistakes on the e-QIPs are not credible. Her defense that she notified the contractors that the resume she submitted was a "working" resume and not intended for public dissemination is not convincing, nor is her claim that her computer was hacked. In addition, her statement to Agent F that she might have been confused with someone else who impersonated an FBI agent at the clinic is questionable, given that the staff identified her as the individual flashing her badge. Applicant's conduct demonstrates an ongoing pattern of dishonesty, bad judgment, and unreliability.

The evidence does not establish mitigation under AG ¶¶ 17(d) or 17(e). Applicant has not acknowledged her misconduct and adamantly denies any intentional wrongdoing. She has not obtained counseling to examine the factors that contributed to her untrustworthy behavior and prevent it from recurring. Given that she continues to defend her misconduct, she has not taken positive steps to eliminate vulnerability to exploitation.

Guideline I: Psychological Conditions

AG ¶ 27 explains the security concerns relating to psychological conditions:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

AG ¶ 28 describes conditions that could raise a security concern and may be disqualifying under this guideline. One may potentially apply in this case:

(b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness.

In February 2019, at the Government's request for a mental health examination, a licensed clinical psychologist (LCP) diagnosed Applicant with antisocial personality

disorder. The LCP arrived at the diagnosis after reviewing Applicant's security clearance file, performing a clinical interview, and administering tests including the MCMI-IV that objectively assesses the presence of personality disorders. The LCP opined that Applicant's judgment and ability to safeguard classified information were impaired due to her continuing antisocial personality disorder. The evidence establishes the above disqualifying condition.

AG ¶ 29 provides three conditions that could mitigate the security concerns raised under this guideline. They are:

> (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

> (c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation; and

> (e) there is no indication of a current problem.

The evidence does not establish mitigation under AG ¶ 29(b). Applicant is not participating in counseling or a treatment program. She has not received a favorable prognosis by a duly qualified mental health professional that addresses her fitness to hold a security clearance and ability to protect classified information. The evaluation she submitted in rebuttal to the Government's evaluation did not focus on her reported falsifications, but primarily assessed her cognitive functioning. The CN who performed that evaluation did not articulate a diagnosis or give Applicant a prognosis relevant to the issues in this case.

The evidence does not establish mitigation under AG ¶ 29(c). After completing a clinical interview, testing, and an objective personality assessment, a qualified mental health professional (LCP) concluded that Applicant has antisocial personality disorder, which is not under control or in remission. The LCP stated that Applicant's prognosis is poor.

Applicant's rebuttal evaluation focused on her cognitive and emotional functioning. It did not include consideration of the facts alleged in the SOR, or the Government LCP's psychological evaluation and diagnosis. The rebuttal included personality assessments based on Applicant's self-reporting, rather than a more objective method. Nonetheless, Applicant's own clinician specifically noted her responses to be unreliable and self-serving. The CN found that Applicant's defensiveness was likely to distort and minimize difficulties in certain areas of her life, similar to the Government LCP's conclusions.

Based on the Government LCP's February 2019 Psychological Evaluation, the absence of a persuasive rebuttal to it, and Applicant's testimony, there is compelling evidence that Applicant has a current condition that impairs her judgment and ability to hold security clearance. AG ¶ 29(e) does not apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(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) 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 national security eligibility must include 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 facts and circumstances surrounding this case. I have incorporated my comments under Guideline E and Guideline I in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment.

After reviewing the transcript and exhibits in this case, six significant issues raise concerns: (1) the scope of Applicant's falsifications, including her 2014 e-QIP, 2017 e-QIP, and deceptive resumes that she provided to federal contractors; (2) the nature of the falsifications, which involve misrepresenting her educational credentials and work history, in addition to fabricating a military history; (3) her consistent denials that she did not intentionally falsify her 2014 and 2017 e-QIPS or any other documents; (4) providing contradictory and a credible explanations for the allegations, including having problems with the e-QIP software, making typographical errors, working with a hacked computer, and failing to review her work; (5) both psychologists, the LCP and the CN, questioned Applicant's forthrightness; and (6) Applicant's consistent lack of remorse or insight concerning any aspect of her dishonest behavior.

The record evidence leaves me with serious doubts as to Applicant's judgment and suitability for a security clearance. Applicant failed to mitigate the security concerns arising under the personal conduct and psychological conditions guidelines.

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Formal Findings

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

Paragraph 1, Guideline E: AGAINST APPLICANT

    Subparagraphs 1.a through 1.h: Against Applicant

Paragraph 2, Guideline I: AGAINST APPLICANT

    Subparagraph 2.a: Against Applicant

Conclusion

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

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SHARI DAM
Administrative Judge