DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD

Date: May 13, 2026

In the matter of:	)	
----------	)	ISCR Case No. 24-02358
Applicant for Security Clearance	)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT
Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT
Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 26, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline D (Sexual Behavior) and Guideline E (Personal Conduct) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On February 17, 2026, Defense Office of Hearings and Appeals Administrative Judge Ross D. Hyams denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Judge's Findings of Fact

Applicant, in his early 50s, earned a bachelor's degree in 1997 and a master's degree in 2021. He has worked as a software engineer for a defense contractor since 2024 and previously held security clearance eligibility from at least 1999 to 2012.

Beginning in 2005 and while holding a security clearance, Applicant solicited prostitutes through escort websites a few times per month through 2012 (SOR ¶ 1.a). He did not disclose the conduct during his background investigation in 2007 (SOR ¶ 1.b).

In 2008, Applicant sent $5,000 to a woman in South Korea whom he had hired on multiple occasions as a prostitute in the U.S. earlier that year (SOR ¶ 1.c). He explained that they discussed a relationship and eventually marriage, and he thought the money would help her pay her debts so they could be together. They talked for a few more weeks but it then occurred to him that he was being scammed.

In 2009, Applicant used ecstasy during an encounter with a woman whom he paid for sexual acts (SOR ¶ 1.d). He explained that the woman put a pill in his mouth and told him to swallow, and that it happened so fast that he complied without asking questions. Although she told him it was ecstasy, he asserted that he did not know what the pill was and did not feel any effects.

Applicant disclosed his engaging with prostitutes and related foreign national contacts during a preemployment polygraph examination in 2010, explaining that he did not know the names or nationalities of the women in early years, but learned more about them as time went on. The Judge found that Applicant was warned at this point that he needed to report security matters in "real time." Decision at 2 (quoting, *generally*, Transcript (Tr.)).

In 2011, Applicant sent $100,000 to a woman in South Korea whom he previously paid for sexual acts in the United States and structured the payments to avoid bank reporting requirements (SOR ¶ 1.e). He explained that he and the woman had sex one time and that he sent the money to help her, starting with $30,000 and then with smaller sums. Although Applicant testified at hearing that he was not trying to evade reporting requirements, he acknowledged during his September 2024 background interview that he believed banks had to report transactions over $10,000 and he therefore sent the funds in $5,000 increments in order to avoid detection and reporting. Applicant further explained that he thought the woman was going to repay the full amount, but he only received $10,000 back and took no action to recover the money or report the fraud to police or security officials. Applicant reported this information during another polygraph examination in 2012. The Judge found that, "[d]espite the warnings about 'real time' reporting he received in 2010, the first time he reported this information was in the 2012 polygraph examination, after which his clearance was immediately revoked." *Id*. at 4. Applicant subsequently patronized massage parlors to obtain sexual services until 2014.

In 2015, Applicant visited a woman in Hong Kong whom he had hired as a prostitute in the United States in 2009 and 2010 (SOR ¶ 1.f). He explained that he kept in touch with her and they met in Hong Kong during his vacation. Later in 2015, Applicant underwent a new background investigation, wherein he did not address his history of paying women for sexual acts and use of ecstasy while holding a security clearance (SOR ¶ 1.g).

In 2018, Applicant was a member of a website through which he met a woman with whom he continues to maintain a relationship and provides monthly financial support (SOR ¶ 1.h). As of the hearing, he was giving her $2,500 each month to have a casual dating relationship and had given her over $200,000 in total. He claimed that no sex was ever involved in their relationship but that he hoped for a traditional relationship with her one day. Applicant explained that the website does not permit prostitution but rather is a dating website for successful older men to provide financial support to younger women to date them and may include sex depending on what the couple agrees. He testified that he selected the website because the terms of use prohibit prostitution; however, he acknowledged during his September 2024 background interview that the

website was controversial because it had been in the news as associated with escort and prostitution activity.

Applicant disclosed he has a condition that impairs his social skills and social awareness. He also acknowledged that he was embarrassed he paid women for sexual acts, and that his parents and friends are not fully aware of the extent to which he engaged in this conduct (SOR ¶ 1.j). He explained that he stopped his behavior by watching online videos about the dangers of prostitution. He also explained that he has provided information to law enforcement about prostitution rings and that he continues to visit escort websites, not to hire escorts, but to gather information for police. He provided no documentation at hearing to substantiate these assertions.

The SOR alleged concerns under Guideline E regarding Applicant's history of engaging in prostitution, which conduct was cross-alleged under Guideline D (SOR ¶ 2.a), and further alleged under Guideline E that Applicant deliberately omitted relevant information during his December 2007 and November 2015 background investigations.[1] Applicant admitted SOR ¶¶ 1.a through 1.d, admitted in part SOR ¶¶ 1.e, 1.f, and 2.a, and denied SOR ¶¶ 1.g, 1.h, and 1.j, all with explanation. The Judge resolved all allegations adversely.

Scope of Review

The Board does not review a case *de novo* but rather addresses material issues raised by the parties to determine whether there is factual or legal error. When a judge's factual findings are challenged, the Board must determine whether the "findings of fact are supported by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." Directive ¶ E3.1.32.1.

When a judge's ruling or conclusions are challenged, we must determine whether they are arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3. A judge's decision can be arbitrary or capricious if: it does not examine relevant evidence; it fails to articulate a satisfactory explanation for its conclusions, including a rational connection between the facts found and the choice made; it does not consider relevant factors; it reflects a clear error of judgment; it fails to consider an important aspect of the case; it offers an explanation for the decision that runs contrary to the record evidence; or it is so implausible that it cannot be ascribed to a mere difference of opinion. *See* ISCR Case No. 95-0600, 1996 WL 480993 at *3 (App. Bd. May 16, 1996) (citing *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). In deciding whether a judge's rulings or conclusions are contrary to law, the Board will consider whether they are contrary to provisions of Executive Order 10865, the Directive, or other applicable federal law. *See* ISCR Case No. 03-22861, 2006 WL 2457675 at *2 (App. Bd. Jun. 2, 2006).

When an appeal issue raises a question of law, the Board's scope of review is plenary. *See* DISCR OSD Case No. 87-2107, 1992 WL 388439 at *3-4 (App. Bd. Sep. 29, 1992) (citations to federal cases omitted). If an appealing party demonstrates factual or legal error, then the Board must consider the following questions: (1) Is the error harmful or harmless?; (2) Has the

[1] The SOR also alleged under Guideline E that, from approximately March 2023 to June 2024, Applicant engaged in a business venture with and provided payments to a foreign national whom he met online (SOR ¶ 1.i). The Judge resolved this allegation favorably and it is not at issue on appeal.

nonappealing party made a persuasive argument for how the judge's decision can be affirmed on alternate grounds?; and (3) If the judge's decision cannot be affirmed, should the case be reversed or remanded? *See* ISCR Case No. 02-08032, 2004 WL 1434394 at *2 (App. Bd. May 14, 2004).

Discussion

On appeal, Applicant challenges certain of the Judge's factual findings and analyses under both Guidelines and provides new evidence regarding his self-counseling to refrain from prostitution and efforts to assist law enforcement. We find merit in some of Applicant's arguments but, for reasons stated below, affirm the Judge's ultimate adverse decision.

Challenges to Findings and Characterizations of Evidence

Several of the challenged factual findings either represent harmless error[2] or mere disagreements with the Judge's weighing of the evidence that are insufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law.[3] For example, in addressing SOR ¶ 1.c regarding Applicant having sent a woman $5,000 in 2008, the Judge found that the pair "talked for a few weeks after he sent the money, and then it occurred to him that he was being scammed." Decision at 3. Applicant argues that he "terminated the relationship and all contact with" the woman after she mentioned having additional expenses due to her sister's illness, but that he never said the interaction was a "scam." Appeal Brief at 5. Although our review of the record supports Applicant's position that he did not identify the *2008* incident as a "scam,"[4] the finding's terminology is not clearly erroneous as it may simply have been the Judge's assessment of the incident. To the extent that the finding erroneously suggested that Applicant characterized the 2008 incident as a "scam," such an error would not impact the ultimate outcome of the case and is harmless.

Regarding SOR ¶ 1.d, Applicant's encounter with an escort in 2009 during which he potentially ingested ecstasy, the Judge found that Applicant "picked up a prostitute in *his* car, and she put a pill in his mouth, gave him some water, and told him to swallow." Decision at 3 (emphasis added). Applicant contends that he did not pick the woman "up off the street" but rather hired her for an extended night out, met at her apartment, and drove *her* car to a club. Appeal Brief at 5. To the extent that Applicant disputes the Judge's details about how the evening began, we see no evidence in the record about how Applicant connected with the woman or what vehicle was driven; however, differences in such background details would be, at best, harmless errors.

The Judge's findings about Applicant's 2011 payments to a woman totaling $100,000 as alleged at SOR ¶ 1.e form the basis of several of additional factual challenges. First, Applicant disputes that he intentionally structured the payments to avoid bank reporting; however, Applicant detailed during his 2024 background interview – the summary of which he later adopted as accurate – that he "was worried the bank would notify the IRS and tax implications may arise or

[2] *See* DISCR OSD Case No. 91-0129, 1992 WL 388334 at *3 (App. Bd. Jul. 23, 1992) (error is harmless when there is not a significant chance that, but for the identified error, the judge would have reached a different result).

[3] *See* ISCR Case No. 04-08975, 2006 WL 2725032 at *1 (App. Bd. Aug. 4, 2006).

[4] The record reflects that it was the woman to whom Applicant sent $100,000 in 2011 that he came to believe was "scamming" him after she requested more money. Government Exhibit (GE) 2 at 20.

the authorities would become aware [he] was sending such a large amount of money to an escort/escort provider" and therefore he "would only send $5,000 at a time . . . in order to avoid bank reporting/detection methods." GE 2 at 20. The Judge's finding that Applicant structured these payments is supported by the record and sustainable.

The Judge also found that, "[d]espite the warnings about 'real time' reporting he received in 2010," Applicant did not report sending the woman $100,000 until his "2012 polygraph examination, after which his clearance was immediately revoked." Decision at 4. On appeal, Applicant avers that he received the "real time" warning in 2012, not 2010, and that his security clearance was only suspended, not revoked.

Our review of the record reflects that, in prior investigations and throughout his current adjudication, Applicant has consistently explained that his security clearance was *suspended* in about March 2012.[5] No evidence supports the Judge's finding that Applicant's clearance was ever *revoked*, and Applicant has successfully established that the Judge's factual finding in this regard was erroneous. Applicant did not articulate, however, how an unresolved suspension and a revocation are so distinct in terms of their relevance here as to have impacted the outcome of this matter, and we do not otherwise see that the error was harmful.

The merit of Applicant's argument regarding when he received the "real time" warning is less clear. Most of the record evidence, including portions of his hearing testimony, comports with Applicant's position on appeal – that it was shortly after his 2012 polygraph that he was cautioned to promptly report security significant conduct.[6] At hearing, however, Applicant also testified during cross-examination that it was "[a]fter [his] polygraph in 2010" that he was told "to report everything in real time." Tr. at 60. The Government confirmed this timeframe with Applicant, asking "after 2010 you knew about your real-time reporting obligations?" and that "it was this 2010 polygraph that was really the [] tipping point where you learned about your real-time reporting obligations." *Id*. at 60, 80. Applicant also stated that, as a result of the warning, he self-reported his foreign contacts to his facility security officer in early 2011,[7] which lends support to the earlier warning date. It would have been preferable for the Judge to acknowledge the conflicting timeline evidence and address why he found that the warning was issued in 2010 instead of 2012. Because the Judge's finding is supported by some record evidence, however, it is not erroneous. Moreover, any error in the Judge's failure to explicitly address the evidentiary conflict is harmless considering the overarching issue discussed below.

Falsification Concerns – SOR ¶¶ 1.b and 1.g

Applicant also challenges the Judge's adverse findings under Guideline E concerning his alleged deliberate omissions of information from prior national security investigations. His arguments in this regard are of mixed merit.

[5] *See* GE 1 at 35; SOR Response at 3, 4, 29-30; Tr. at 28-29, 41, 64.

[6] *See* SOR Response at 3, 4; Tr. at 28-29, 64, 85.

[7] *Id*. at 80-81.

SOR ¶ 1.b alleged that Applicant deliberately omitted from his December 2007 investigation information about his history of paying women for sexual acts. The 2007 investigation is not in the record, and there is limited evidence about what Applicant was asked during it or how he responded to those inquiries. In response to the SOR, Applicant admitted the allegation and explained that he has "acknowledged the behavior and made a vow to the U.S. government to never repeat these actions again." SOR Response at 3. The Judge resolved the allegation unfavorably, finding that Applicant "claimed that the relevant questions asked if he was paying foreign nationals for sex, and since he did not know for sure if they were foreign nationals, he did not disclose it. He also stated at that time, he had not asked the prostitutes their real names, so he had no information to report." Decision at 3.

On appeal, Applicant asserts that there was "no question on the [2007 application] asking if [he] paid women for sexual acts" and implicitly challenges the Judge's finding that Applicant "claimed that the relevant questions asked if he was paying foreign nationals for sex." Appeal Brief at 4. We see no place in the record where Applicant made such a claim, and this element of the Judge's finding is erroneous.

Instead, as he reiterates on appeal, Applicant testified that the 2007 security clearance application asked about close and affectionate relationships with foreign nationals and he did not have "full information" to provide. Tr. at 53-54. At hearing, the Government sought to clarify the response, asking whether Applicant "did not believe [he] had to divulge this information or, as [he] previously said, that [he] deliberately hid that information." *Id*. at 54. Applicant asserted that he interpreted the 2007 application question as asking about relationships with foreign nationals and, because he "didn't have anyone's name," he "didn't know what to put down back then." *Id*.

It is unclear whether Applicant's testimony was intended to retract his earlier admission or simply clarify his withholding information during the 2007 investigation. Either way, the Judge was not bound to accept the explanation.[8] Once the Judge acknowledged Applicant's hearing explanation – that he did not know contact or nationality information to report – it would have been preferable for him to address why he found that explanation not reasonable or credible, or to amend the SOR to conform to Applicant's actual admission and analyze the concern accordingly. In light of the record as a whole, however, including Applicant's SOR admission, it was not arbitrary or capricious for the Judge to find the post-SOR explanation unpersuasive.

SOR ¶ 1.g alleged that Applicant also omitted from his November 2015 investigation information about his history of paying women for sexual acts and his use of an illegal drug while holding a security clearance. Applicant has consistently denied this allegation, noting that the 2015 application – a narrower application for public trust eligibility – "did not require [him] to report on foreign nationals or any payments or businesses with foreign nationals" and the single question about drug use was limited to use within the prior one year. SOR Response at 6; Appeal Brief at 7. The only evidence available from the investigation is Applicant's 2015 application, which he offered in support of his denial, and which reflects the limited information sought about foreign

[8] *See* ISCR Case No. 93-1234, 1995 WL 404720 at *4 (App. Bd. May 19, 1995) ("Although Applicant was not precluded from seeking to explain or retract his earlier admissions about the security violations, the Judge was not bound, as a matter of law, to accept his explanations or retractions.").

ties (i.e., foreign countries visited) and illegal drug use, and his accurate responses thereto. Applicant's argument is therefore persuasive as it pertains to these specific inquiries.

In resolving SOR ¶ 1.g adversely, the Judge cited only that the 2015 application "shows in Section 18 that Applicant falsified the reason his clearance was revoked in 2012, by omitting the information alleged." Decision at 4. To that end, in response to the question about whether he had "ever had a clearance or access authorization denied, suspended, or revoked," Applicant responded "Yes" and explained, "While taking a polygraph, [another government agency (AGA)] wanted to gather more information. [AGA] decided to suspend my security clearance while they gathered the information." SOR Response at 29-30. There is no evidence of the reason for Applicant's 2012 clearance suspension or that Applicant was informed of one. The record therefore does not support that Applicant knowingly withheld the details of his 2012 clearance suspension in response to information sought during his 2015 investigation, and the Judge failed to make reasonably supported findings about Applicant's culpable state of mind as required to support his finding. *See* ISCR Case No. 05-03472, 2007 WL 1107713 at *5 (App. Bd. Mar. 12, 2007). Accordingly, the Judge's adverse finding for SOR ¶ 1.g is unsustainable and reversed. This outcome does not, however, erode the remainder of the Judge's adverse analysis or disturb the ultimate unfavorable decision.

Applicant's Conduct In and After 2018

Throughout his adjudication, Applicant asserted that he has not engaged in any sort of prostitution or escort service since 2014 and assured that he will not in the future. The Judge's ultimate adverse conclusion, however, was based largely on concerns reasonably drawn from the record about Applicant's ongoing conduct.

For example, the Judge noted that Applicant provided no evidence to corroborate that he continues to look at escort websites in order to assist law enforcement. With his appeal, Applicant submitted additional evidence regarding his efforts in and after 2018 to aid law enforcement and other groups in combatting human trafficking. Unfortunately, the Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29. Even if we could consider this evidence, which appears to align with Applicant's explanation, its narrow mitigative impact would not be sufficient to overcome the more significant ongoing concern.[9]

To that end and as the Judge addressed, the overarching issue in this case is Applicant's incomplete understanding of what constitutes illegal or otherwise security significant conduct coupled with his engaging in, what appears from the evidence to be, a pattern of financially driven relationships. Indeed, the Judge opined that Applicant "has been swindled out of hundreds of thousands of dollars by women feigning romantic interest." Decision at 8-9. Noting that Applicant patronized a controversial website[10] in 2018 to meet his current romantic interest, a woman whom

[9] *See* ISCR Case No. 06-10320, 2007 WL 4379279 at *1 (App. Bd. Nov. 7, 2007) (regarding the presence of some mitigating evidence).

[10] In addressing the concern, the Judge found that "Applicant stated that this was a controversial website, because it has been associated with escort and prostitution activity and it had been in the news." Decision at 5. On appeal, Applicant argues that the Judge's finding exclusively and improperly relied on the Government's claim that the website "was a prostitution website." Appeal Brief at 8. Contrary to Applicant's argument, however, the Judge's finding appears based on Applicant's own assertions, including to the investigator in 2024 that he knew the website

he has paid over $200,000 since the start of their arrangement, the Judge concluded that Applicant "is still engaging in the same pattern" of security significant conduct – *i.e.*, paying women for affection – that "has been ongoing since 2005." Decision at 8.

The Judge highlighted that, despite Applicant providing his current romantic interest with significant and continuing financial support since the arrangement began eight years ago and despite his hopes to marry her someday, the two have never discussed marriage, they have never met the other's family or friends, and the woman "did not testify or submit a character reference on his behalf." *Id*. at 5. The Judge also considered that Applicant "has a condition that impairs his social skills and social awareness" and concluded that Applicant appears to "not understand what constitutes illegal or prohibited behavior, which creates concerns and doubts about his ability to follow rules and regulations." *Id*. at 8.[11]

On appeal, Applicant challenges the characterization of his current relationship as "a high priced, superfluous, pay-for-affection scheme" and the inferences and conclusions drawn therefrom, and he affirmatively reiterates that his is a "traditional relationship." Appeal Brief at 10. Applicant's assertions, however, are the only evidence supporting that the relationship is, as he described it, a "traditional" or "casual dating relationship." Tr. at 103. In light of the entire record, the Judge reasonably concluded that Applicant's uncorroborated assertions were insufficient to overcome the concern that his current relationship is a continuation of a pattern of engaging in credulous relationships. The Judge's conclusion that questions remain about Applicant's national security eligibility is sustainable.

Conclusion

We conclude that Applicant has not established that the Judge committed harmful error. The Judge examined the relevant evidence and articulated satisfactory explanations for his adverse decisions under Guideline E and Guideline D, and the decision is sustainable on this record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Dep't of the Navy v. Egan*, 484 U.S. 518, 528 (1988). "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." AG ¶ 2(b).

was "controversial," explaining that it "has been associated with escort and prostitution activity" and, although he received a couple of offers for such services, he never accepted. GE 2 at 12. We find no error in the challenged finding.

[11] Throughout his adjudication and appeal, Applicant described his involvement in prostitution as "adult companionship time between two consenting adults" and reiterated his position that the conduct was not problematic because it was "private, consensual, and discreet," as asserted by the websites he patronized. Tr. at 36, 46; Appeal Brief at 1, 7. *See also* Tr. at 45 ([T]he website said everything was consenting, consensual, so if [the women] don't agree to it then, if either side doesn't agree to it then you can just call it off.").

Order

The decision in ISCR Case No. 24-02358 is **AFFIRMED**.

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie
Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Jennifer I. Goldstein
Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board