



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



In the matter of:

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) ISCR Case No. 07-00383
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Applicant for Security Clearance

Appearances

For Government: John B. Glendon, Esq., Department Counsel
Thomas Coale, Esq., Department Counsel
For Applicant: William F. Savarino, Esq.

March 27, 2008

Decision

LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the security concerns raised by his personal conduct and criminal conduct. Eligibility for access to classified information is granted.

On October 9, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the security concerns under Guideline E, Personal Conduct and Guideline J, Criminal Conduct. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR in writing on November 26, 2007, and requested a hearing before an Administrative Judge. The case was assigned to another Administrative Judge on January 17, 2008, and reassigned to me on January 31, 2008.

DOHA issued a notice of hearing on February 13, 2008, and the hearing was convened as scheduled on March 12, 2008. The government offered Exhibits (GE) 1 through 10, which were received without objection. Applicant testified on his own behalf, called one witness, and submitted Exhibits (AE) A through F, without objection. DOHA received the transcript of the hearing (Tr.) on March 21, 2008.

Findings of Fact

In his Answer to the SOR, Applicant admitted the factual allegations in SOR ¶¶ 1.a through 1.d and 1.f through 1.i. He denied the remaining allegations.

Applicant is a 42-year-old employee of a defense contractor. He is attending college. He is married with no children.¹ Applicant has had a number of jobs, some he left voluntarily and some he left involuntarily. A number of the SOR allegations relate to concerns about his employment.

Applicant was terminated from employment with a company where he worked from about 1994 to 1995. He admitted he was “fired,” and indicated that he believed it may have been related to his requesting a raise. He was working at a job site and was called back to a previous site and was informed they were letting him go. He further speculated that the termination may have been related to the quality of his installation work at the previous site, but he was never given a specific reason for the termination. No other evidence was submitted as to why the company ended his employment.²

Applicant left employment with a company where he worked from about January 1996 to August 1996, under “unfavorable circumstances.” Applicant did similar work on his own to what he did for the company for family, friends, and other people. He stated this could have been viewed as a conflict of interest. He did not use company tools or supplies on the side jobs. No other evidence was submitted as to why his employment was terminated.³

Applicant was terminated by his employer from a job he held from about March 2002 to August 2002. He was not given a reason for the termination, other than they told him that he had a brilliant mind, but they could not afford to keep him. He later was unable to locate the company and concluded that it went out of business and that he was therefore “laid off.” No other evidence was submitted as to why the company ended his employment.⁴

SOR ¶ 1.d alleges Applicant was terminated by his employer from a job he held from about October 2002 to June 2003, following charges of sexual harassment.

¹ Tr. at 172-173; GE 1, 2.

² Tr. at 34-38, 104-115; Applicant’s Answer to SOR; GE 1, 6, 8.

³ Tr. at 39-44, 115-119; Applicant’s Answer to SOR; GE 1, 6, 7.

⁴ Tr. at 45-48, 120-124; Applicant’s Answer to SOR; GE 1, 8.

Applicant admitted he was terminated from his employment and that it followed an allegation of sexual harassment, but he denied that he sexually harassed anyone. He stated that in June 2003, he and his wife were planning a trip to a vacation resort. A female co-worker had recently returned from the same area. He asked the co-worker for a picture intending to show it to his wife. The co-worker filed a complaint and Applicant was subsequently terminated and told that the company had a zero tolerance policy. Applicant believes the true reason for the termination was a salary dispute. No evidence was submitted to dispute Applicant's recitation of events.⁵

Applicant started working for a company in about November 2003. In about November 2004, the company initiated an investigation into allegations made by two females at his work site. The company concluded in a letter dated November 11, 2004:

[Company] was unable to substantiate the allegations made by the two non-[Company] employees. While the company has concluded that your words and actions did not amount to a violation of the law or of company policy, [Company] did conclude that you made insensitive comments inappropriate for the workplace, which contributed to the allegations being raised.⁶

Applicant stated that the allegations were related to a married male co-worker and a female employee at the work site. Applicant advised him that they should not spend so much time together, and at one point referred to her in front of him as a "chicken head," which he described as "someone who doesn't commit and walks around getting into everything." When the male co-worker stated that Applicant could lose his job for his comments, Applicant responded with words to the effect:

I have a perfect record, no write ups, I come to work everyday and do my job. If some one come after my job I will come after them and squash them like a bug legally.⁷

No evidence was submitted to counter Applicant's account of the events. At some point Applicant went to a part-time status, but he continued to work at the same company until he resigned almost a year later in about October 2005.⁸

Applicant was denied access to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) information and/or facilities on June 22, 2005. ATF based the denial in part on Applicant's unfavorable employment history and his "lack of candor in discussing the reasons for [his] termination with [Company alleged in SOR ¶ 1.d]."⁹

⁵ Tr. at 48-60, 124-139; Applicant's Answer to SOR; GE 1, 2, 8.

⁶ GE 2.

⁷ *Id.*

⁸ Tr. at 61-74, 100, 139-146; Applicant's Answer to SOR; GE 1, 2, 8; AE D.

⁹ Tr. at 66-73; Applicant's Answer to SOR; GE 2.

Applicant was laid off from employment with a company in about June 2005, as alleged in SOR ¶ 1.g, after he failed to obtain access to ATF information and/or facilities.¹⁰

Applicant started working for a company in June 2005. He was responsible for checking the room at the end of the day for classified materials. In about the fall of 2005, Applicant came to work in the morning. Two co-workers told him that they found a classified computer drive that had been left unsecured the previous night by one of his co-workers. The hard drive was in a cubicle out of plain sight. The hard drive was marked as classified, but it was brand new and had not yet been used, so no actual classified information was on the drive. They discussed reporting the incident. Applicant did not feel that it was his fault that the drive was left unsecured and the discussion became heated. He told them to do what they had to do and that he would see them later. The co-workers may have taken the statements as a veiled threat, something Applicant vehemently denies. Applicant requested and was granted a transfer to a different team. No disciplinary action was taken against him. He continued to work for the company until he voluntarily left the company in about April 2007.¹¹

Applicant has been attending college off and on since he first enrolled in July 1999. The college has a workplace mentor program. Material from the college describes the workplace mentor as “usually the student’s supervisor, but sometimes an experienced colleague, [who] assists the student in those aspects of the program that relate directly to the workplace.” Other options also exist when the above is not a viable option. Applicant had to repeat three classes that he took in 2002. He stated that his mentor was a member of the faculty who left employment with the school. A mentor was required to fill out an evaluation for certain class projects. When it came time for him to turn in his work, Applicant was unable to contact his mentor. He stated his instructor told him to sign the form himself, which he did. This ultimately resulted in Applicant having to retake three classes. Applicant’s faculty advisor wrote a letter on July 24, 2007, stating that Applicant was not suspended; he elected to discontinue classes and that “while there was an issue regarding certain classes, it was not plagiarism.”¹²

Applicant submitted an Electronic Questionnaire for National Security Positions (SF 86) certified as true on October 3, 2005. Applicant answered “Yes” to Question 22, which asked about adverse employment terminations. He listed that he was fired from the company alleged in SOR ¶ 1.d, and provided a detailed discussion about the termination and how it related to his salary dispute. SOR ¶ 1.j alleges that Applicant falsified the SF 86 by not fully discussing the circumstances surrounding his termination from the company alleged in SOR ¶ 1.d and by failing to list his termination of employment from the company alleged in SOR ¶ 1.g, following his inability to obtain

¹⁰ *Id.*

¹¹ Tr. at 73-79, 146-153; Applicant’s Answer to SOR; GE 2.

¹² Tr. at 80-84, 101, 153-164; Applicant’s Answer to SOR; GE 1, 2, 9; AE E.

access to ATF information and/or facilities. While he may not have included all the information directly on the SF 86, he attached 11 pages of documents to the questionnaire, which discussed both incidents in great detail.¹³

On the same SF 86, Applicant answered “No” to Question 26, which asked in part if he “ever had a clearance or access authorization denied, suspended, or revoked,” or if he had “ever been debarred from government employment.” SOR ¶ 1.k alleges Applicant falsified material facts on the SF 86 by deliberately failing to list that he was denied access to ATF information and/or facilities in 2005. Applicant testified he misinterpreted the question and he did not think the ATF denial had to be included in this question. He clearly was not trying to withhold this information from the government as he included a copy of the ATF denial letter in the attachments to the SF 86.¹⁴

Applicant submitted a Questionnaire for Public Trust Positions (SF 85P) certified as true on February 23, 2006. He answered “Yes” to Question 12, which asked about adverse employment terminations. He listed that he was fired from the company alleged in SOR ¶ 1.d, writing that the reason was because of a “[r]eduction in pay dispute.” Like the SF 86 he submitted approximately four and a half months earlier, he again answered “No” to the question which asked if he ever was denied a clearance or access. SOR ¶ 1.l alleges that Applicant falsified the SF 85P by not fully discussing the circumstances surrounding his termination from that company and by failing to list his termination of employment from the companies alleged in SOR ¶¶ 1.e and 1.g. Applicant listed all three companies in the employment history section of the questionnaire. SOR ¶ 1.m alleges Applicant falsified the SF 85P by not listing the denial of access to ATF information and/or facilities in 2005. Applicant testified that he gave the same attachments to his security officer as he provided with the previous questionnaire. When he was interviewed for his background investigation on May 22, 2006, the investigator had a copy of the attachments.¹⁵

I find that Applicant did not intentionally falsify either the 2005 SF 86 or the 2006 SF 85P. There is independent evidence that Applicant provided all the requested information as attachments to the 2005 SF 86. While there is no independent evidence that Applicant attached the same documents to the 2006 SF 85P, it is not logical to believe that he would attempt to hide from the government the facts that he previously divulged several months earlier.

A statement was not provided of Applicant’s background interview on May 22, 2006, but the interview was summarized in a Report of Investigation (ROI). Applicant was sent Interrogatories containing the ROI and was asked if the ROI accurately reflected the information that he provided to the investigator. He certified on July 23, 2007 that it was accurate, with some minor corrections. He was provided an opportunity

¹³ Tr. at 60, 85-88; Applicant’s Answer to SOR; GE 1, 2.

¹⁴ Tr. at 89-91, 168-171; GE 1, 2.

¹⁵ Tr. at 92-96, 165-167; GE 2, 3, 8.

to add additional information regarding the matters discussed during his interview and submitted a statement about the issue with the mentor, as discussed above, and the letter from his faculty advisor. The ROI contains information about Applicant's education, and includes the sentence, "He is unknown to school disciplinarians." This sentence forms the basis for SOR ¶ 1.n, which alleges that Applicant "deliberately failed to disclose that [he was] required to retake classes following an inquiry into allegations of improper conduct." Applicant has admitted that he was required to retake three courses.¹⁶ That is not enough to extrapolate that there was "an inquiry into allegations of improper conduct." This was not a sworn or a signed statement; it is a summarized ROI, without the testimony of the interviewer. Applicant stated the interview was about five hours long. He stated the interviewer asked him if he had any problems at the college and he responded that he did not. His having to retake classes did not come to his mind at that time. He testified that he was never disciplined at the school, but acknowledged that some people could interpret the retaking of the classes as a form of disciplinary action. There is insufficient evidence for a finding that Applicant intentionally provided false or misleading information to the investigator, or concealed information.

Applicant's first day with his current employer was the day before the hearing. He changed jobs for greater compensation. His supervisor at his previous employment testified on his behalf. He rated Applicant's job performance as outstanding and described him as reliable, trustworthy and someone who gets along with everybody. Thirteen character letters were submitted on his behalf. Applicant is described as competent, dependable, efficient, honest, responsible, hard working, reliable, compassionate, and resourceful, with a high degree of integrity.¹⁷

Policies

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions 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 the adjudicative process. The Administrative Judge's over-arching adjudicative goal is a fair, impartial and common sense 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.

¹⁶ Tr. at 96-99; Applicant's Answer to SOR; GE 1, 2, 8.

¹⁷ Tr. at 21-32, 99; AE C.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of 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. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The Applicant 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 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 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

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

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

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

(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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative;

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information;

(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 person may not properly safeguard protected information. This includes but is not limited to consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or other government protected information;

(2) disruptive, violent, or other inappropriate behavior in the workplace;

(3) a pattern of dishonesty or rule violations;

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

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing; and

(f) violation of a written or recorded commitment made by the individual to the employer as a condition of employment.

Applicant did not deliberately omit, conceal, or falsify relevant facts on his questionnaires. SOR ¶¶ 1.j through 1.m are concluded for Applicant. The government has not established that Applicant deliberately provided false or misleading information about his college education during his background interview. SOR ¶1.n is also concluded for Applicant.

A number of the SOR allegations refer to Applicant being terminated from employment. There can be a number of reasons for a job termination that have absolutely no correlation with a person's conduct or security worthiness. SOR ¶¶ 1.a and 1.c allege that Applicant was fired from employment in 1995 and 2002, but does not provide a reason for the termination. No evidence was submitted that Applicant's personal conduct was the basis for the terminations. Applicant left employment under unfavorable circumstances in 1996, as alleged in SOR ¶1.b, when there was a potential conflict of interest because he was working on the side doing similar business as his company.

Applicant was terminated from employment in 2003, as alleged in SOR ¶1.d, following charges of sexual harassment. Applicant admitted he was terminated but denied that his actions of asking a co-worker for a picture constituted sexual harassment. The government presented no evidence that the incident happened in any way other than described by Applicant. I find that the incident as described by Applicant did not amount to sexual harassment.

SOR ¶1.e alleges Applicant resigned from employment in October 2005, following an investigation into allegations of sexual harassment. The allegations and investigation were in November 2004. The company was unable to substantiate the allegations but concluded Applicant made insensitive comments inappropriate for the workplace. No evidence was submitted at the hearing for a finding that Applicant sexually harassed anyone during this period. There is sufficient evidence that he made insensitive comments in the workplace. There is no evidence that his resignation almost a year later was connected to the allegations.

Applicant was denied access to ATF information and/or facilities in June 2005, as alleged in SOR ¶1.f, essentially for the same reasons as the allegations in the SOR. The government did not submit evidence of personal conduct additional to what was already alleged in other allegations of the SOR. Applicant was terminated from employment in June 2005, because he was unable to obtain ATF access. This does not allege inappropriate personal conduct on Applicant's behalf. It alleges a consequence of other personal conduct by Applicant, which is discussed under other allegations.

Applicant voluntarily transferred to a different office in 2005, after a somewhat heated discussion with co-workers after a classified hard drive was left unsecured overnight. Department Counsel stated the personal conduct concern in SOR ¶1.h was not the potential security violation, but was Applicant's conduct during the heated discussion. Applicant admitted the discussion became heated and that he told them to do what they had to do and that he would see them later. He denied that he meant this in any way to be a threat.

Applicant had to repeat three college classes that he took in 2002, after he signed a form that was to be signed by his mentor. He stated his instructor told him to sign the form himself, after Applicant was unable to contact his mentor. His faculty advisor wrote a letter stating that Applicant was not suspended, and there was an issue regarding certain classes, but it did not amount to plagiarism.

Virtually all the information which formed the basis for the allegations in the SOR came from Applicant, through his questionnaires, his attachments to his questionnaires, his interviews with investigators, and his responses to Interrogatories. Some allegations of the SOR were not established by evidence, as discussed above. Several other allegations were true but did not invoke a security concern. The admitted information of concern is that Applicant's side job in 1996 involved a potential conflict of interest with his employment; he retok college classes in 2002 after he signed a form at the direction of his instructor; he asked a co-worker for a picture in 2003; he made insensitive comments in 2004; and he had a heated discussion with co-workers in 2005. This information is sufficient to raise AG ¶¶ 16(d) and 16(e). On a number of occasions Department Counsel raised suggestions of personal conduct, but did not submit any evidence to rebut Applicant's account of events. Questions by Department Counsel, without admissions by an applicant, do not constitute record evidence. A credibility determination is not a substitute for record evidence.¹⁸

AG ¶ 17 provides conditions that could mitigate security concerns:

- (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 improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

¹⁸ In ISCR Case No. 02-12789 at 4 (App. Bd. May 13, 2005) (citing ISCR Case No. 02-24452 at 4-5 (App. Bd. Aug. 4, 2004), the Appeal Board stated:

An unfavorable credibility determination provides an Administrative Judge with a basis for deciding to disbelieve an applicant's testimony. However, mere disbelief of that testimony, standing alone, is not a sufficient basis for a Judge to conclude that an applicant did something (e.g., engaged in drug use or other acts constituting poor judgment other than on a given date) for which there is no independent evidence. An applicant does not have the burden of disproving a controverted fact; rather, the burden of proving controverted facts falls on Department Counsel. If an applicant has not admitted to engaging in specific acts of misconduct, and if there is no record evidence in that regard, then a Judge has no rational basis to find such misconduct occurred. (internal citations omitted)

(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 caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

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

(f) the information was unsubstantiated or from a source of questionable reliability;

(g) association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, judgment, or willingness to comply with rules and the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

I contrast the established nominal personal conduct with the very favorable character evidence presented by Applicant. On balance, I find the conduct is minor, so much time has passed, and it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on Applicant's reliability, trustworthiness, and good judgment. AG ¶ 16(c) is applicable.

Guideline J, Criminal Conduct

The security concern relating to the guideline for Criminal Conduct is set out in AG ¶ 30:

Criminal activity creates doubt about an applicant's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

It is a criminal offense to knowingly and willfully make any materially false, fictitious, or fraudulent statement or representation in any matter within the executive branch of the Government of the United States. 18 U.S.C. § 1001. Security clearances are within the jurisdiction of the executive branch of the Government of the United States. A violation of 18 U.S.C. § 1001 is a serious offense as it may be punished by imprisonment for up to five years. Applicant did not knowingly and willfully make materially false statements on his questionnaires and interview, as discussed above. No Criminal Conduct Disqualifying Condition is applicable.

Whole Person Concept

Under the whole person concept, the Administrative Judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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 eligibility for a security clearance must be an overall common sense 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. Applicant has held many different jobs, some of which he left involuntarily. He has been involved in several minor incidents of questionable personal conduct, the most recent in the fall of 2005. Department Counsel asked about other conduct, which Applicant denied, but submitted no evidence to substantiate the conduct. Virtually every piece of adverse information about Applicant came directly or indirectly from him. I also considered the testimony of his witness and the very favorable character letters. I do not find that Applicant's conduct can be a basis for pressure, coercion, exploitation, or duress.

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the security concerns arising from his personal and criminal conduct.

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:	FOR APPLICANT
Subparagraphs 1.a-1.n:	For Applicant
Paragraph 2, Guideline J:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Edward W. Loughran
Administrative Judge