



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



In the matter of:)
)
) ISCR Case No. 20-00414
)
Applicant for Security Clearance)

Appearances

For Government: John Lynch, Esq., Department Counsel
For Applicant: Martin P. Hogan, Esq.
07/26/2021

Decision

RIVERA, Juan J., Administrative Judge:

Applicant’s last alcohol-related incident was in February 2017. Since then, she has established a pattern of modified, responsible alcohol consumption. Applicant has a close romantic relationship with an Indian citizen living in the United States. On balance, because of her service and deep and longstanding relationships and loyalties in and to the United States, she can be expected to resolve any conflict of interest in favor of the U.S. interest. Foreign influence (Guideline B) and alcohol consumption (Guideline G) security concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 11, 2017, seeking continuation of her clearance eligibility, required for a position with a federal contractor. After reviewing the information gathered during the background investigation, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) on November 9, 2020, alleging security concerns under Guideline G and Guideline B. Applicant answered the SOR on November 13, 2020, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA).

The case was assigned to me on February 25, 2021. On May 14, 2021, DOHA notified Applicant that the hearing was scheduled for June 10, 2021. I convened the hearing as scheduled.

Government exhibits (GE) 1 through 12, and Applicant exhibit (AE) A (comprised of Tabs 1 through 20), were admitted in evidence without objections. GE 11 for identification (comprised of the Government's Request for Administrative Notice concerning Saudi Arabia and India), and GE 12 (the Government's discovery letter) were marked and made part of the record, but not admitted as evidence. DOHA received the transcript (Tr.) on June 21, 2021.

Procedural Issues

At the hearing, Department Counsel moved to amend SOR ¶ 2.a to conform the allegation to the evidence presented, as follows: "Your boyfriend, with whom you have cohabited, is a citizen of India residing in the United States." Applicant did not object. I granted the motion as requested. (Tr. 114-115)

Department Counsel requested that I take administrative notice of facts concerning Saudi Arabia and India. In Guideline B cases, I am required to consider, among other things, the nature of a nation's government, its internal and external affairs, its relations with the United States, and its human rights record to assess the likelihood that an applicant or his family members are vulnerable to pressure or coercion - to determine whether foreign influence security concerns are raised by Applicant's connections to citizens of other countries. Applicant did not object, and I took administrative notice as noted in the decision.

The facts administratively noticed are set out in the source documents and summarized in Department Counsel's written request and will not be repeated verbatim in this decision. (GE 11) It is sufficient to note that India has engaged in technological, economic, and industrial espionage against the United States. India is one of the countries with the highest numbers of terrorist incidents. Human rights abuses continue without punishment for those involved. (GE 11)

Findings of Fact

The SOR alleges that Applicant has consumed alcohol, at times in excess and to the point of intoxication, from about 2005 to present, and that she continues to consume alcohol despite two diagnoses of alcohol use disorder, one qualified as moderate in 2019, and the other as mild in 2017. (SOR ¶ 1.d) Specifically, the SOR alleged that: in 2005, while in the Army, Applicant was reprimanded for being involved in a physical altercation where alcohol was involved (SOR ¶ 1.g); in 2008, Applicant participated in the Army's Alcohol Substance Abuse Program (ASAP) (SOR ¶ 1.c); in 2015, she was arrested and charged with alcohol-related misconduct (breaking and entering, receiving stolen property, criminal mischief, and theft) (SOR ¶ 1.f); and in 2017, she was arrested and charged with alcohol-related misconduct (criminal mischief, aggravated assault, public

drunkenness, and disorderly conduct). It also alleged that in 2017, she was treated for alcohol abuse and diagnosed with alcohol use disorder, mild (SOR ¶ 1.b); and in 2019, she was diagnosed with alcohol use disorder, moderate (SOR ¶ 1.a).

Under Guideline B, the SOR alleged that: “Your boyfriend, with whom you have cohabited, is a citizen of India residing in the United States.” (SOR ¶ 2.a, as amended); and that she continues to associate with an ex-boyfriend who is a Saudi Arabian citizen working for the Saudi embassy (SOR ¶ 2.b).

Applicant denied all of the SOR allegations, except for (SOR ¶ 1.e), which she admitted. Applicant’s SOR admission and those at her hearing are incorporated herein as findings of fact. After a thorough review of the record evidence, I make the following additional findings of fact:

Applicant, 35, graduated from high school in 2004, and received her bachelor’s degree in 2014. She enlisted in the U.S. Army after high school and honorably served until November 2008, when she was discharged as an E-4. During her service, she held a clearance; was deployed twice for 15-months to a combat area; and was awarded three Army Commendation Medals for distinguished performance, a Good Conduct Medal, and received a highly prestigious award for exceptional performance. Applicant married in 2010 and divorced in 2012. She has a daughter, age 12, of this relationship.

In 2005, while deployed abroad, Applicant, a friend, and two other soldiers were consuming alcoholic beverages. After a verbal altercation, she threw a drink into a soldier’s face and all four were involved in a physical altercation. The two other soldiers were intoxicated. There is no evidence Applicant and her friend were intoxicated. She received an oral reprimand for the offense. (GE 6) In May 2008, Applicant completed 16 hours of ASAP. She testified that she attended ASAP to earn promotion points, and not because she was ordered to do so. (AE 14; GE 3)

Applicant attended college between 2009 and 2014. While in college, Applicant studied Arabic. The Arabic class also hosted Middle East students learning English. The professor required students to interact and teach each other their respective languages. In early 2014, Applicant met a citizen of Saudi Arabia in the Arabic class, and they developed a romantic relationship. (Tr. 19-20) In December 2014, he graduated and moved back to Saudi Arabia. He returned to the United States in early 2015, but the relationship had ended in May 2015, except for a few emails.

Applicant has had no personal contact with the Saudi national since 2015. In April 2017, he contacted Applicant by email to tell her he was back in the United States to complete his doctorate degree, and informed her he was working at the Saudi embassy. They had infrequent email contact until June 2017. Applicant has had no contact with the Saudi Arabian citizen during the last three years. She reported her contact with the Saudi national in her April 2017 SCA. (GE 1; Tr. 31)

Applicant has a romantic relationship with a citizen of India (IC) residing in the United States under a work visa. He is 38 years old and entered the United States in 2010 on a student visa and never left. They met via a dating website in November 2015. After some dating in early 2016, they started living together as a couple in July 2016. Apparently, he moved out of her apartment in July 2017, and the relationship ended in February 2018 for 10 months.

In December 2018, Applicant and IC rekindled their relationship and are now in a long-distance romantic relationship. He is a chemical engineer working on developing batteries for a company in another state. Applicant and IC communicate daily via telephone calls, emails, or text messages. The relationship is getting more serious. He is scheduled to visit Applicant's parents sometime after the hearing. Applicant has met his parents and other family member via the internet. (Tr. 65-73)

According to Applicant, IC never worked for the Indian government and is not involved with its military or intelligence services. She does not know what IC's parents do for a living in India or whether he has relatives with connections to the Indian government, its military, or intelligence services. She does not know how IC paid for his master's education in the United States; however, she believes he did a work-study program for his doctorate, and either the Indian government helped him or he received a scholarship. (Tr. 113-114) She reported her contact with IC in her April 2017 SCA. (GE 1)

In 2015, Applicant consumed alcoholic beverages to excess. While intoxicated, she fell through a pharmacy door and used the pharmacy's bathroom. While in the bathroom, she stole about \$289 of merchandise. The next day, Applicant walked into a police station and self-reported her misconduct. She was charged with burglary, theft, receiving stolen property, and criminal mischief. In December 2015, pursuant to a pre-trial agreement, Applicant plead guilty to simple criminal trespass. She was fined \$300, plus court costs, and paid \$300 in restitution. All other charges were dismissed. (GE 7) Following this incident, Applicant did not seek substance abuse counseling.

In February 2017, Applicant consumed alcoholic beverages to excess while taking Chantix, a smoke cessation drug. Chantix was prescribed to Applicant by a Veterans Affairs physicians' assistant. (AE 15) Chantix's literature indicates that some people develop changes in behavior including agitation, hostility, depression, suicidal thoughts, aggression, hallucinations, and paranoia. The drug also increases the impairment due to alcohol consumption. (AE 16)

While intoxicated, Applicant's behavior became aberrational, as if suffering a psychotic episode. She abruptly left her apartment without proper clothing or shoes for the weather conditions. She had suicidal ideations, and climbed a tree, from which she fell. She was screaming belligerently and police officers responded. Applicant resisted arrest and physically assaulted several police officers. She was charged with aggravated assault, drunkenness, and disorderly conduct. In September 2017, she pled guilty to disorderly conduct hazardous/physical offense. She was fined \$300 and required to pay court costs and fees. The court required Applicant to attend anger management classes

(AE 18), and to participate in a mental health and substance use disorder evaluation. Applicant stopped taking Chantix after the February 2017 incident.

In April 2017, Applicant participated on a mental health and substance use disorder evaluation. The evaluation was performed by a Veterans Affairs physician with a doctorate degree in psychology. Applicant told the psychologist she first consumed alcohol when she enlisted in the Army at age 18. Her heaviest consumption period occurred while in the service, from age 18 to 21. She reported having about a dozen blackouts during that period. After her discharge, she substantially reduced her alcohol consumption because she was raising her daughter as a sole parent. She claimed that prior to the February 2017 incident, she was consuming about a six-pack of beer or a pint of vodka over the course of a weekend. Applicant was diagnosed with alcohol use disorder – mild. No follow-up treatment was recommended. (AE 17; GE 3)

After her February 2017 incident, Applicant did not seek alcohol counseling. She stopped drinking for about three months, and then started consuming light beer. She consumed approximately six light beers during a period of three to five hours, twice a month while socializing. The consumption of six beers made her feel a little giddy. (GE 5) Applicant testified that she has not been involved in any alcohol-related misconduct after February 2017. However, she has continued consuming alcohol to the point of intoxication. The last time she remembers drinking to intoxication was in May 2019. In her July 2020 answer to interrogatories, Applicant indicated she was consuming three to five beers daily with dinner, about two mixed drinks once a month, and two to four glasses of wine monthly. Her most recent consumption of alcohol was two weeks before the hearing, after returning from a deployment. (Tr. 105)

In May 2019, Applicant participated in a psychological evaluation requested by the DOD CAF. It was performed by a licensed psychologist. (GE 2) The report indicates that after the February 2017 incident, Applicant resumed consuming alcoholic beverages in June 2017. She claimed she was consuming light beers, five or more drinks on a bi-monthly basis. In May 2019, Applicant stated she does not consume alcohol while deployed - about seven times since she was hired, for a period of about three months at a time.

Applicant reported to the psychologist in 2019 that she currently consumes approximately eight glasses of wine per week, but not every day. She noted the greatest number of drinks she will consume include a six-pack of light beer over a weekend, approximately five times per month.

According to the psychologist, Applicant has engaged in habitual binge drinking to the point of impaired judgment; used alcohol to cope with emotional distress; does not acknowledge her substance abuse issues; and continues to engage in binge drinking and regular use of alcohol. The psychologist concluded Applicant has an alcohol use disorder, moderate. Because Applicant continued to drink after her history of legal charges, the psychologist believes her drinking behavior seems imprudent and considered her diagnosis as guarded. She concluded Applicant presents a condition that could pose a

significant risk to her judgment, reliability, or trustworthiness concerning classified information. (GE 2)

Applicant has been working for her current employer and clearance sponsor, a federal contractor, since September 2015. Her eligibility for access to classified information was continued during her current employment. Applicant has excelled in her job, and was promoted to a leadership position. She is a team technical lead handling important projects with direct impact on deployed U.S. personnel. She has received commendations from her employer, supervisors, coworkers, and clients for her exceptional performance. She is the “go-to” person for help with the company programs when there are problems. Applicant is considered to be trustworthy, reliable, dependable, knowledgeable, and demonstrates excellent communication skills and leadership. Applicant has deployed abroad about seven times since she was hired, sometimes to dangerous conflict areas. (Tr. 31-33; AE 8, 9, 10)

Policies

The SOR was issued under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; and DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended. The case will be adjudicated under the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), applicable to all adjudicative decisions issued on or after June 8, 2017.

Eligibility for access to classified information may be granted “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

The AG list disqualifying and mitigating conditions for evaluating a person’s suitability for access to classified information. Any one disqualifying or mitigating condition is not, by itself, conclusive. However, the AG should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Each decision must reflect a fair, impartial, and commonsense consideration of the whole person and the factors listed in SEAD 4, App. A ¶¶ 2(d) and 2(f). All available, reliable information about the person, past and present, favorable and unfavorable, must be considered.

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant’s security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. The

applicant bears the heavy burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of those who must protect national interest as their own. The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant’s suitability for access in favor of the Government. “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; SEAD 4, ¶ E(4); SEAD 4, App. A, ¶¶ 1(d) and 2(b). Clearance decisions are not a determination of the loyalty of the applicant concerned. They are merely an indication that the applicant has or has not met the strict guidelines the Government has established for issuing a clearance.

Analysis

Guideline G, Alcohol Consumption

The concern under this guideline is set out in AG ¶ 21: Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

Appellant was involved in three alcohol-related incidents that occurred in 2005, 2015, and February 2017. The 2015 and 2017 incidents demonstrate that she has consumed alcohol excessively and to the point of impaired judgment, establishing the following disqualifying conditions under AG ¶ 22:

- (a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder;
- (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder; and
- (d) diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder.

AG ¶ 23 provides for mitigating conditions that may be applicable to this case:

- (a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations; and

(d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant's 2005 incident appears to be loosely related to her alcohol consumption. The military police reports do not show she was intoxicated or that alcohol was a factor in her throwing her drink into another soldier's face. She was only orally reprimanded because of her misconduct.

The 2015 alcohol-related misconduct shows that Applicant engaged in binge alcohol consumption. To her credit, the next morning she self-reported her misconduct to the police. Her most recent alcohol-related misconduct occurred in February 2017. Applicant drank alcohol while taking Chantix. The medication's literature indicates that some people develop changes in behavior including agitation, hostility, depression, suicidal thoughts, aggression, hallucinations, and paranoia. The drug also increases the effects of alcohol intoxication. Applicant's behavior became aberrational, as if suffering a psychotic episode. Thus, this incident could be attributed to the drug reaction with alcohol. She stopped taking Chantix after the February 2017 incident.

Applicant abstained from consuming alcohol during a period of three months after February 2017, and subsequently established a pattern of modified, responsible alcohol consumption. She successfully completed all court-mandated substance abuse counseling. Considering the evidence as a whole – particularly the lack of any additional alcohol-related misconduct after February 2017 - Applicant has demonstrated an established pattern of modified, responsible consumption of alcohol.

I considered that Applicant has continued consuming alcohol after the two diagnoses of alcohol use disorder (both mild and moderate); that she only completed the court-ordered substance abuse counseling; that she has not participated in any aftercare treatment; and that she believes she does not have an alcohol problem. I also considered that the DOD CAF psychologist considered Applicant's prognosis as guarded, and her drinking imprudent, because she continued to drink after her history of legal charges. She concluded that Applicant presents a condition that could pose a significant risk to her judgment, reliability, or trustworthiness concerning classified information.

Notwithstanding, Applicant made lifestyle changes to eliminate her alcohol-related problems, and she abstained from consuming alcohol for a period and has established a pattern of modified consumption after February 2017. I believe that it is unlikely that Appellant will engage in alcohol-related misconduct. As a result of the security clearance process, she is aware that any additional alcohol-related misconduct could cause her to

lose her clearance eligibility, and potentially her job. Applicant's supervisors believe that her performance is excellent and would like her to continue working for them. Another coworker recommended she retain her clearance eligibility. In light of the evidence as a whole, I find that Applicant has demonstrated a sufficient pattern of modified behavior to conclude that the questionable judgment associated with her alcohol-related misconduct is behind her.

Guideline B, Foreign Influence

The security concern for foreign influence is set out in AG ¶ 6:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

Between early 2014 and May 2015, Applicant dated a Saudi Arabian citizen residing in the United States under a student visa. Apparently, his father has connections to the Saudi government, and in 2017, the ex-boyfriend was working in the Saudi embassy. Applicant no longer maintains a relationship with the Saudi citizen. He last contacted her in June 2017. She reported the relationship in her 2017 SCA. Considering that the relationship ended in 2017, Applicant's past relationship with the Saudi citizen no longer raises a Guideline B security concern.

Applicant has an ongoing romantic relationship with an Indian citizen (IC) residing in the United States on a work visa. IC is 39 years old. He entered the United States in 2010 under a student visa and never left the country. They met in November 2015. After some dating, they started living together as a couple in July 2016. He moved out of her apartment in July 2017, and the relationship temporarily ended in February 2018. In December 2018, Applicant and IC rekindled their relationship and are now in a long-distance romantic relationship, apparently with a view toward getting married.

Applicant's evidence did not indicate whether IC's parents or other relatives living in India have connections to the Indian government, its military, or intelligence services. It is also not clear whether the Indian government sponsored IC's education in the United States.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. The following are potentially applicable in this case:

(a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to coercion from foreign governments or other entities. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, the country is known to conduct intelligence operations against the United States, or the foreign country is associated with a risk of terrorism.

There is evidence of a threat of domestic terror, sectarian violence, criminal activity, and ongoing human rights problems in India. Additionally, India and its citizens have engaged in technological, economic, and industrial espionage against the United States. Applicant's foreign contacts may create a potential conflict of interest, and there is evidence of a risk of foreign exploitation, inducement, manipulation, pressure, and coercion. The evidence of Applicant's connections to IC, her possible in-laws, and their connections to India are sufficient to establish disqualifying conditions AG ¶¶ 7(a) and 7(b).

Conditions that could mitigate foreign influence security concerns are provided under AG ¶ 8. The following are potentially applicable:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States; and

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.

I considered the totality of Applicant ties to IC and his connections to close relatives in India. India is generally regarded in the United States as a friendly country. However, Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

The distinctions between friendly and unfriendly governments must be made with caution. Relations between nations can shift, sometimes dramatically and unexpectedly. Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields.

The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. India has significant human rights abuses that continue without punishment for those involved; and that terrorist incidents have occurred throughout India. Additionally, India and its citizens have engaged in technological, economic, and industrial espionage against the United States.

The evidence shows that the government of India conducts intelligence operations against the United States. Because of IC's relatives and their property and financial interests in India, Applicant, directly or through IC, could be placed in a position of having to choose between the interests of IC's family members and the interests of the United States.

Applicant is a solid American citizen. She served in the Army and was deployed to combat areas. She attended college in the United States and has established herself firmly as a solid American citizen. She is respected at work for her performance, trustworthiness, and reliability. She has been promoted to a lead position because of her excellent performance. All of Applicant's financial and property interests are in the United States. She shares custody of her 12-year-old daughter, born in the United States, with her ex-spouse.

Applicant credibly testified that her loyalty is only to the United States, she is not interested in visiting India, and she would promptly report any efforts by anyone to obtain any classified information from her, even if it was her boyfriend. She does not have any contacts with her boyfriend's relatives in India, except for one virtual meeting.

On balance, I find that Applicant submitted sufficient evidence of her ties to the United States. There is no conflict of interest because Applicant has established longstanding relationships and loyalties in the United States. She can be expected to resolve any possible conflict of interest in favor of the U.S. interest. Her most important family interests all reside in the United States. AG ¶¶ 8(a) and 8(b) are established.

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall commonsense judgment based upon careful consideration of the guidelines, each of which is to be evaluated in the context of the whole person. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

I have incorporated my comments under the guidelines at issue in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under these guidelines, and evaluating all the evidence in the context of the whole person, Applicant has mitigated the security concerns.

Formal Findings

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

Paragraph 1, Guideline G:	For APPLICANT
Subparagraphs 1.a through 1.g:	For Applicant
Paragraph 2, Guideline B:	For APPLICANT
Subparagraphs 1.a and 1.b:	For Applicant

Conclusion

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national security interest of the United States to grant Applicant's eligibility for a security clearance. Clearance is granted.

JUAN J. RIVERA
Administrative Judge