

5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG) effective within the DOD on June 8, 2017.

On March 31, 2020, Applicant responded to the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). Referral of the case to the Hearing Office was delayed because of the COVID pandemic. On February 17, 2021, Department Counsel indicated that the Government was ready to proceed to a hearing. On March 8, 2021, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national security interests of the United States to grant or continue a security clearance for Applicant. I received the case assignment and file on March 12, 2021. On March 15, 2021, I informed Applicant of the possibility of an online video hearing, which he accepted. Following a successful test of the Defense Collaboration Services (DCS) platform on March 17, 2021, Applicant expressed his preference for a hearing date of April 7, 2021, even though he was provided alternative dates that would have given him 15 days advance notice of the hearing. On March 26, 2021, DOHA issued a notice scheduling Applicant's DCS video teleconference hearing for April 7, 2021.

At the hearing, five Government exhibits (GEs 1-5) were admitted without objection. GE 3 consisted of documentation Applicant had provided to DOHA on November 12, 2020. Applicant submitted no exhibits, but he testified, as reflected in a hearing transcript (Tr.) received on April 16, 2021.

Findings of Fact

The SOR alleges under Guideline E (SOR ¶ 1.a) and cross-alleges under Guideline J (SOR ¶ 2.e) that Applicant submitted false time records to his then employer from about September 2015 through January 2016, claiming 1,035 in work hours that he had not performed for which he was paid \$21,735. Additionally, under Guideline J Applicant allegedly was arrested in December 2004 for assault and battery (SOR ¶ 2.a); in June 2007 for assault and battery with a dangerous weapon (SOR ¶ 2.b); in July 2010 on an outstanding bench warrant (SOR ¶ 2.c); and in July 2013 for OUI (SOR ¶ 2.d).

When Applicant responded to the SOR allegations, he admitted that he had made "a dishonest and terrible decision" by knowingly charging work hours after he had returned to college, and that he had committed the OUI offense in 2013, but asserted that he had learned from his past mistakes. Applicant denied any knowledge of a bench warrant, and indicated that a criminal records check showed no arrest from 2010. He admitted the arrests for assault and battery but stated that the 2007 incident was "a complicated situation of false identification" and the 2004 charge was nothing more than a verbal altercation with his mother and stepfather. He requested that he be given a chance to show he can be trusted handling classified information.

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 32-year-old engineer. He has never married and has no children. A native of Nigeria, he moved to the United States in 2003 and became a naturalized U.S. citizen on his own application in February 2016. He earned an associate's degree from a community college in May 2011, and began studies for a bachelor's degree in September 2011. He eventually earned his bachelor's degree in May 2018. He has worked for his defense-contractor employer since October 2018. (GE 1; Tr. 31-32.)

On December 27, 2004, Applicant had an altercation with his stepfather and mother because he refused to shovel snow. Applicant states that he had an interview for a part-time job and did not want to be late, but his stepfather and mother did not believe him. He denies that he hit either his mother or stepfather, but admits that "there was some yelling" (Tr. 26, 51); that the situation escalated; and that he had not let his mother or stepfather know that he had an interview scheduled. (Tr. 52-53.) His stepfather called the police, and he was arrested for assault and battery. (GE 5.) Applicant testified that he did not recall the disposition of the charge, although he then added that he had to meet with someone in the juvenile court system and was on probation "for a couple of months or so or maybe a year." (Tr. 50-51.) No police or court records were submitted in evidence showing the circumstances that led to his arrest or the disposition of the charge.

Applicant was arrested for assault and battery with a dangerous weapon on June 9, 2007. (GE 5.) No police or court records were submitted in evidence showing the circumstances that led to his arrest or the disposition of the charge. Applicant testified that it was a case of racial targeting, and he was misidentified as the perpetrator. (Tr. 27, 54-55.) He came upon the scene after an apparent assault, and the charge against him was dropped. (Tr. 28-29.)

After high school, Applicant matriculated in a private college so that he could play soccer at the collegiate level. His mother complained about the expense (Tr. 68-69), so he took a year off before studying for his associate's degree at a community college from September 2008 to May 2011. (GE 1.)

A check of criminal records by the Federal Bureau of Investigation (FBI) shows that Applicant was arrested on July 20, 2010, on a bench warrant. (GE 5.) Applicant denies any recollection of the warrant or the arrest and ever knowingly failing to appear in court on any charge. (Tr. 29-30, 58.) While Applicant apparently failed to timely register his vehicle in 2008 (Answer; Tr. 59), there is no evidence linking his late registration to the warrant. No police or court records were submitted in evidence showing the circumstances that led to the arrest or the disposition of the charge.

Applicant matriculated in his state's university on its main campus in September 2011. Through May 2013, he worked part time on campus in its financial aid office. At the end of the spring semester in 2013, he had an internship in system design with a telecommunications company. (GE 1.)

On July 28, 2013, Applicant was stopped by campus police for speeding. He had consumed one can of “Four Loko” while socializing at a friend’s house. (Tr. 44-45.) According to the National Institute on Alcohol Abuse and Alcoholism, “Four Loko” is a fruity-flavored beverage that comes in 23.5 ounce cans and is about 12% alcohol. Each can contains the equivalent of nearly five standard alcoholic drinks. See <http://www.spectrum.niaaa.nih.gov>. He had planned to stay at his friend’s home, but circumstances changed. He failed a field sobriety test, and a couple of Adderall pills, which Applicant submits belonged to a friend who had a prescription, were found in his vehicle. (Tr. 22.) Applicant was charged with possession of a class B drug, possession of a class E drug, OUI, negligent operation of a motor vehicle to endanger, speeding, and marked lanes violation. (GEs 4-5; Tr. 22.) Pursuant to a plea agreement, on April 2, 2014, the OUI charge was continued without a finding for ten months, and the other charges were dismissed. Applicant was placed on OUI supervision to February 2015 and ordered to pay costs, perform 82 hours of community service, and remain drug and alcohol free with random drug testing. He lost his driving privileges for 45 days. (GE 4.) Applicant was required to attend some Alcoholics Anonymous (AA) and Mother’s Against Drunk Driving (MADD) meetings to regain his driving privileges, and the university required that he receive some counseling. (Tr. 45-46.) He testified that he was deemed an alcoholic by the court (Tr. 48), but there is no evidence substantiating such a diagnosis. He submits that he paid the consequences for his poor judgment to drive a vehicle while intoxicated and that he “learned a lot of lessons that [he holds] to this day.” (Tr. 49.) He now rarely drinks alcohol. (*Id.*)

In August 2014, Applicant’s internship with the telecommunications company ended. He was kept on the project as a temporary contract data engineer under the employment of a consulting company that paid him \$21 per hour. At the end of each week, Applicant submitted a report to the consulting company showing the number of hours he worked on the project that week, and the consulting company paid him directly. The consulting company then invoiced the telecommunications company for the hours worked by Applicant. Before any payment by the telecommunications company, the hours worked by Applicant had to be approved by a manager at the telecommunications company. (GEs 1, 3; Tr. 32-34.)

At the end of the semester in December 2014, Applicant was on academic probation and not allowed to continue in his engineering program. (Tr. 23, 47-48.) He was advised to choose another major course of study, but he was passionate about engineering. (Tr. 23.) He withdrew from the university and enrolled in a community college to improve his grades so that he could pursue an engineering degree at another university within the state’s system of higher education. (Tr. 68.) He continued to work as a contractor for the telecommunications company. (GE 1.)

In September 2015, Applicant transferred to another campus within his state’s university system. On September 30, 2015, the telecommunications company ceased approving hours for Applicant, and he stopped working on the project. He was able to obtain one loan that did not fully cover his tuition and was not eligible for any additional subsidized or unsubsidized federal student loans. (Tr. 38, 69.) Struggling financially at

the time and “at the point in [his] life when [he] felt age was a factor for [him]” with respect to finishing his education and starting a career (Tr. 68-69), Applicant made “a bad decision” to continue to submit weekly reports to the consulting company, claiming falsely that he continued to provide data engineering services for the client telecommunications company through January 22, 2016. Applicant represented to the consulting company that the telecommunications company had approved his hours. Based on those reports, the consulting company paid him \$21,735 for a total of 1,035 hours that he did not work. (GEs 1-3; Tr. 19-20, 34-35.) Applicant used the unearned income to pay for his education and living expenses. (Tr. 38-39.) Applicant realized “after a month or halfway through” that it was not a good idea to submit false time records, but he continued to persist in his fraudulent activity. (Tr. 64-65.) He understood that it was “a dishonest and disloyal act,” but he needed to pay for college. He had a payment deadline to the university or he would be dropped from classes. (Tr. 19-20, 65-66.) His submission of false time records ceased when it was discovered. (Tr. 64-66.)

Applicant began working as a residential assistant at the university around March 1, 2016. He was transparent about his OUI and used his experience to instruct students about the consequences of drunk driving. (Tr. 24-25.) There is no evidence that he was candid with his university employer about his falsification of time records.

On March 26, 2016, attorneys for the consulting company informed Applicant that the company had recently learned of his falsification of work records from October 1, 2015 through January 22, 2016, and that he was being terminated from his employment for his deceit. Through its legal counsel, the company demanded that he remit \$21,735 by April 2016 or contact them before close of business on March 30, 2016, to discuss mutually agreeable terms of repayment. (GE 2.) When confronted about his fraudulent activity, Applicant had less than \$1,000 remaining of the income he did not earn. (Tr. 39.)

Facing a civil lawsuit by the company (GEs 1, 3; Tr. 37, 41) and fearing that he would be jailed (Tr. 40), Applicant entered into a confidential settlement agreement in August 2016 under which he was required to sign an agreement for judgment for \$21,735 to be executed if he defaulted on his repayment terms. (GE 3.) The consulting company was “kind enough” to postpone his repayment until he graduated from college. (Tr. 20, 70.) Under the settlement, Applicant agreed to repay \$21,735 at \$250 per month from October 2018 through December 2018; \$300 per month from January 2019 through March 2019; \$350 per month from April 2019 through June 2019; and \$500 per month from July 2019 through July 2022 with a final payment of \$535 due on August 1, 2022. Applicant provided documentation of his timely payments through November 2020 showing that he had paid \$10,535 with \$11,200 left to pay under the settlement agreement. (GE 3.) He testified credibly that he continued to make his monthly payments through April 2021. (Tr. 43, 70.) Applicant did not challenge the \$21,735 to be repaid because he knew he “was in the wrong.” (Tr. 36-37.)

Applicant’s campus jobs as a residential assistant and as an information technology technician ended when he received his bachelor’s degree in May 2018. After

he graduated from college, he began working as an engineering contractor for a robotics company. (GE 1.)

Applicant completed and certified a Questionnaire for National Security Positions (SF 86) on July 19, 2018, seeking a security clearance to work on a military base. He indicated that he left his employment with the consulting company in January 2016 “by mutual agreement following charges or allegations of misconduct.” In response to police record inquiries, he listed the charges filed against him in July 2013. About the drug charges, he explained that Adderall had been found in his vehicle; that the drug belonged to a friend who had a prescription and the charges were “removed” when the friend “gave a sworn statement.” He stated with respect to the OUI, “I am very apologetic and I regretted my actions and I am thankful that there was no accident and nobody got hurt.” (GE 1.)

On October 1, 2018, Applicant started working for his employer, who is currently sponsoring him for security clearance eligibility. He was not required to submit a new SF 86. (Tr. 32.) Applicant presently earns \$74,000 annually at his defense-contractor employment. (Tr. 67.) He has never held a security clearance and works on unclassified projects. (Tr. 60.)

As of November 2020, Applicant had one revolving charge account with an outstanding balance. The account was current with a balance of \$196. His installment loan debt of \$101,094 was for student loans. (Answer; GE 3.) He had \$10,031 in a savings account. (GE 3; Tr. 71.)

Applicant acknowledges that “[he] made one too many bad decisions,” and submits that he has endeavored to be a law-abiding citizen since his falsification of time records from October 1, 2015 through January 22, 2016. (Tr. 21.) He is remorseful for his deceitful conduct and realizes that being financially pressed to pay for college does not justify his misconduct. (Tr. 65.) He plans on pursuing a master’s degree in the near future. (Tr. 22.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has 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). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered 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 overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.”

The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. 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 to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline E: Personal Conduct

The security concern about personal conduct is articulated 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 or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

Applicant admits that, while employed as a temporary contract worker on a project for a telecommunications company, he falsely claimed work hours that he did not perform from October 1, 2015 through January 22, 2016. At the time his deception was discovered, he did not challenge his then employer’s assertion that he was paid \$21,735 for 1,035 in work hours fraudulently claimed. His exercise of extremely poor judgment was repeated on a weekly basis for 16 weeks. In addition to establishing serious personal conduct security concerns under AG ¶ 15, his fraudulent conduct supports a “whole-

person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, [and] unwillingness to comply with rules and regulations,” as contemplated within disqualifying conditions AG ¶¶ 16(c) and 16(d), which state:

(c) credible adverse information in several adjudicative 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 individual may not properly safeguard classified or sensitive information; and

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

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

(2) any disruptive, violent, or other inappropriate behavior;

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

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

Applicant’s repeated submission of knowingly false time records was clearly untrustworthy or unreliable behavior under AG ¶ 16(d)(1), inappropriate behavior under AG ¶ 16(d)(2), a pattern of dishonesty under AG ¶ 16(d)(3), and evidence of significant misuse of his employer’s resources under AG ¶ 16(d)(4). That being said, it was also conduct alleged under Guideline J, albeit without a proffer from the Government about what law Applicant violated, and, in light of its seriousness and recidivism, conduct that is sufficient by itself for an adverse determination under the personal conduct guideline.

Applicant has the burden of establishing one or more of the mitigating conditions under AG ¶ 17. AG ¶¶ 17(c) and 17(d) could have some applicability. They provide:

(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; and

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

Applicant's theft of \$21,735 from his employer by falsifying weekly time reports for some 16 weeks is too serious for mitigation under AG ¶ 17(c), despite the passage of five years since his last fraudulent submission. His status as a student with tuition bills is not an unusual circumstance that could possibly justify his recidivist behavior. Neither his age in terms of the years it was taking for him to earn his bachelor's degree nor his apparent exhaustion of his federal student loan eligibility can reasonably excuse his repeated malfeasance.

AG ¶ 17(d) has some applicability in that Applicant acknowledges his wrongdoing and realizes it was not justified. He has taken some positive steps to alleviate the financial issues that led to his untrustworthy behavior. He earned his bachelor's degree, has full-time employment at an income of \$74,000 annually with a defense contractor, manages his consumer credit responsibly, and has accumulated more than \$10,000 in savings. The salient issue under AG ¶ 17(d) is whether those steps are sufficient to reasonably conclude that the behavior is unlikely to recur. His evidence in that regard falls somewhat short. The evidence shows that Applicant had some misgivings about his fraudulent activity but persisted in the behavior until he was caught. Had his falsification of time records not been discovered by his employer, it is likely that it would have continued beyond January 22, 2016. Moreover, while Applicant has expressed remorse, and has been timely in his restitution payments, the unpaid restitution stands at \$8,700, assuming timely payments at \$500 a month for December 2020 through April 2021. It is difficult to find that he is fully rehabilitated when he remains under the threat of a court judgment should he default on any payments. Applicant benefitted from the good will of his former employer, who could have filed criminal charges against him but instead allowed him to earn his bachelor's degree before requiring him to start repayment. While Applicant is not required to accelerate his repayment of the restitution, he would have had a stronger case in mitigation if the consequences of his serious misconduct were fully behind him. The personal conduct security concerns are not fully mitigated.

Guideline J: Criminal Conduct

The security concern about criminal conduct is articulated in AG ¶ 30:

Criminal activity creates doubt about a person'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.

While Applicant does not have any criminal convictions on his record, he admits culpability with respect to the OUI alleged in SOR ¶ 2.d and the falsification of his time records leading to the theft of \$21,735 from his now former employer (SOR ¶ 2.e). The Government did not cite the law Applicant violated by submitting fraudulent work records and accepting \$21,735 in pay to which he was not entitled. Chapter 266, Section 30 of the pertinent state's statutes provides in part:

Whoever steals, or with intent to defraud obtains by a false pretense, or whoever unlawfully, and with intent to steal or embezzle, converts, or secretes with intent to convert the property of another as defined in this section, whether such property is or is not in his possession at the time of such conversion or secreting, shall be guilty of larceny, . . . or, if the value of the property stolen exceeds \$1,200, be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than twenty-five thousand dollars and imprisonment in jail for not more than two years. . . .

AG ¶ 31(b) is established. It provides:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant does not dispute his arrests for assault and battery in 2004 (SOR ¶ 2.a) and 2007 (SOR ¶ 2.b), which are a matter of public record. (GE 5.) He admits that there was some yelling involved in the 2004 incident but denies striking either his mother or stepfather. He admits to having served some type of probation in the juvenile system, but even so, given his age at the time and his undisputed account of the circumstances, it is of little security concern with respect to his current judgment, reliability, and trustworthiness. His arrest, without more, is not enough to establish culpability with respect to the alleged assault in 2007 or of a violation that led to his arrest on an outstanding warrant in 2010. The AGs provide for mitigation under AG ¶ 32(c) when there is "no reliable evidence to support that the individual committed the offense."

Application of disqualifying condition AG ¶ 31(b) because of the OUI and repeated submission of falsified time cards warrants consideration of the mitigating conditions under AG ¶ 32. The following two conditions could apply in whole or in part:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher

education, good employment record, or constructive community involvement.

Applicant's drunk driving is not condoned, but it appears to have been an isolated incident that occurred more than seven years ago, when he was drinking "Four Loko," an inexpensive but potent malt beverage enjoyed by college students wanting a cheap way to get drunk. Applicant regrets the incident and realizes that he was fortunate in that no one was injured. He completed the court-ordered terms of his probation and additional counseling required of him by the university. He used the incident as a teaching moment when he was a student residential advisor. He also exhibited reform by moderating his alcohol consumption to where he now drinks rarely. His present circumstances are no longer conducive to abusing alcohol. AG ¶¶ 32(a) and 32(d) apply in mitigation of his OUI, an offense which, unlike his falsification of time records, lacked moral turpitude. For the reasons discussed under Guideline E, *supra*, neither AG ¶¶ 32(a) nor 32(d) are fully satisfied with respect to mitigation of the recidivist submission of falsified time records to knowingly obtain unearned income. That felonious conduct continues to cast doubt about his judgment, trustworthiness, and reliability.

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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(d), which are as follows:

- (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.

Some of the adjudicative process factors were addressed under Guidelines E and J, but some warrant additional comment. Applicant was a 26-year-old college student when he falsified his time records. He is now 32 years old and in a job that he enjoys with a defense contractor. He submits that he is no longer the person that he was when he betrayed the trust of his then employer. He has been reliable in repaying his restitution under the terms of a confidential settlement.

Security clearance decisions are not intended to punish applicants for specific past conduct. The security clearance assessment is a reasonable and careful evaluation of an applicant's circumstances and whether they cast doubt upon his judgment, self-control, and other characteristics essential to protecting national security information. When there is an issue of significant security concern, there is a strong presumption against the grant

or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). The Government must be able to rely on those persons granted security clearance eligibility to fulfill their responsibilities consistent with laws, regulations, and policies, and without regard to their personal interests. Applicant's submission of falsified time records was not an isolated instance of extremely poor judgment borne out of desperation. Each submission of a falsified time record constituted a separate offense, raising serious doubts about his judgment, reliability, and trustworthiness. Perhaps at some future date, Applicant may be able to demonstrate persuasively that he deserves the opportunity to prove his trustworthiness. However, for the reasons discussed above, I am unable to find that it is clearly consistent with the interests of national security to grant Applicant security clearance eligibility at this time.

Formal Findings

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

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a-2.d:	For Applicant
Subparagraph 2.e:	Against Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the interests of national security to grant eligibility for a security clearance for Applicant. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge