



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



In the matter of: )  
 )  
----- ) ISCR Case No. 20-01686  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: John Lynch, Esq., Department Counsel  
For Applicant: Troy Nussbaum, Esq.

08/18/2021

**Decision**

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, and exhibits, Applicant did not mitigate personal conduct concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

**Statement of the Case**

On October 14, 2020, the Department of Defense (DoD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant detailing reasons why under the personal conduct guideline the DoD could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); *Defense Industrial Personnel Security Clearance Review Program*, DoD Directive 5220.6 (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR (undated), and requested a hearing. The case was assigned to me on February 21, 2021. A hearing was scheduled for April 23, 2021, and heard on the date as scheduled. At the hearing, the Government's case consisted of 12 exhibits. Applicant relied on two witnesses (including herself) and five exhibits. The transcript (Tr.) was received on May 12, 2021.

### **Procedural Issues**

Before the close of the hearing, the Government amended the SOR to add an allegation covering domestic violence charges filed against Applicant in 2020 and disputed by Applicant. Prior to the close of the hearing, the parties were afforded opportunities to supplement the record with written briefs covering appeal board decisions addressing raised security concerns over incurred multiple traffic offenses. Both parties submitted post-hearing briefs for consideration.

### **Summary of Pleadings**

Under Guideline E., Applicant allegedly was charged on multiple occasions between July 2007 and May 2018 with traffic-related offenses. Allegedly, only two of the charges resulted in convictions and sentencing. By pre-hearing amendment, the Government added an additional allegation of a charge of assault-second degree with the charges still pending.

In her response to the SOR, Applicant admitted all of the allegations under each of the cited SOR guidelines with explanations and clarifications.

### **Findings of Fact**

Applicant is a 36-year-old software tester for a defense contractor who seeks a security clearance. The admitted allegations are incorporated and adopted as relevant and material findings. Additional findings follow.

#### **Background**

Applicant has never married or entered into a legally recognized domestic partnership and has no children. (GE 1) She cohabited with another between 2016 and October 2020. (GEs 1 and 12) Applicant earned a high school diploma and attended some college classes without earning a degree or diploma. (Tr. 24, 62-63) Her completed post-college classes include defense courses related to cyber-security and understanding how to handle classified and unclassified information. (Tr. 63) Applicant reported no military service.

Since August 2018, Applicant has been employed by her current defense contractor as a software tester. (GE 1; Tr. 71, 109) Previously, she worked for other non-defense employers in various jobs (mostly in the restaurant industry). (GE 1; Tr. 64, 70) She has never held a security clearance. (GE 1)

## **Applicant's history of alcohol-related and other-traffic-related offenses**

Between 2007 and 2018, Applicant was involved in a number of traffic-related offenses. One of the incidents was alcohol-related that resulted in her arrest in August 2011 for driving under the influence (DUI). Arrest records confirm that she was charged with DUI in August 2011 (GEs 1 and 4), pled guilty, was fined \$250, and was sentenced to probation before judgment. (GE 4) Her probation conditions included suspension of her driving privileges for 30 days and avoidance of any repetitive behavior. (GE 4; Tr. 95-96) Upon satisfaction of her probation conditions, the DUI charges were court-dismissed without judgment. (Tr. 96-97,159) Since her 2011 DUI, Applicant rarely consumes alcohol and has never been charged with another DUI offense. (Tr. 97)

Records document that between July 2007 and January 2016, Applicant was charged with driving on a suspended license on six separate occasions (2007, 2008, 2012-2013, and 2015-2016). (GEs 1-2 and 4-8; Tr. 90-95) When she failed to appear on these traffic-related arrests and charges, the presiding courts issued bench warrants and license suspensions. Most of the time, she did not appear for her scheduled court hearings due to memory lapses and her failures to open her mail, but on a few occasions, the warrant notices did not reach her at her new addresses. (Tr. 78-87, 177) Applicant never requested any of the presiding courts to place one or more of the individual cases on the stet dockets. (Tr. 144-145)

While driving home in May 2018, Applicant was stopped and charged with knowingly driving an uninsured vehicle and driving a vehicle on a highway with a suspended registration. (GEs 1 and 9; Tr. 97-99, 109, 159) For cited lack of monetary resources to cover her insurance billings, she avoided opening her mail and continued to drive her vehicle back and forth to work for over eight months before she was stopped and charged. (Tr. 101-102, 157,182) When she appeared in court to answer the charges, she was released by the court without any jail time. (Tr. 94) Applicant has more income now and promised to avoid driving in the future should she lack insurance and to faithfully attend scheduled hearings should she ever be issued a citation in the future. (Tr. 158)

Appearing in court to answer the pending driving an uninsured vehicle on a suspended registration, she pled guilty, was fined \$2,400 (covered by a court-approved payment plan), and was sentenced to probation before judgment. (GEs 9 and 11; Tr. 108) Probation conditions included insuring her vehicle, updating her registration, performing community service, and completing her already-enrolled substance abuse program. (GE 11) Applicant is credited with satisfying her court-approved payment plan and successfully completing all of the requirements of her substance abuse program and other imposed probation conditions. (GEs 2 and 4 and AE G; Tr. 40, 108-109, and 159) Pending charges were dismissed. (Tr. 159) Since her last traffic-related offense, in 2018, Applicant has never let her insurance lapse. (Tr. 109-110)

Between 2016 and February, Applicant and her ex-boyfriend cohabited. (GE 12; Tr. 98-99, 114-115) While their financial living arrangements were based on cost-sharing, her boyfriend often failed to cover his share of the bills (including her car

insurance) that he promised to take care of. (Tr. 100-102,109-112) Without financial assistance from her boyfriend, Applicant turned to working night shifts on other jobs to make more money. (Tr. 105) From the outset, their relationship included periodic heated arguments (to include screaming and yelling) and generally abusive treatment of her by her boyfriend. (Tr. 111-114) To improve their relationship, they attended couples counselling in 2019, albeit without any tangible success. (Tr.116, 151) Applicant struggled with mood swings during this time frame. To address her emotional issues, Applicant briefly consulted a therapist during the same period to address her bi-polar condition. (Tr. 151-152)

By February 2020, Applicant's co-habitation relationship with her ex-boyfriend had deteriorated to the breaking point. Looking for emotional relief, she temporarily moved home to her mother's place before finding her own apartment. (Tr. 34, 114-115) To this point, Applicant had not encountered any domestic violence incidents with her boyfriend. Police reports did not uncover any unreported domestic violence incidents involving Applicant and her ex-boyfriend. GE 12; Tr. 129)

In October 2020, Applicant and her boyfriend attended a wedding reception for his sister. (GE 12; Tr. 116-117) Because he had become intoxicated while she was sober, she drove him to her place to spend the evening. (GE 12, Tr. 117-126, 148) Once they returned to her apartment, Applicant's boyfriend initially positioned himself on the couch. (GE 12) After repairing to her bedroom at Applicant's request, he emerged from the bedroom to mount an argument with Applicant over her not joining him in the bed. (GE 12) Arguments ensued between the pair and quickly escalated into heated verbal exchanges before turning physical. (GE 12; Tr. 148-149) Applicant's acknowledged loud yelling prompted some unknown person to call the police. (Tr. 119)

Police accounts confirm arguments between Applicant and her boyfriend over their sleeping arrangements. (GE 12) The investigating officer recited pushing and shoving between the parties and Applicant's clawing her boyfriend's face after he struck her in the face. (GE 12) Photos were taken of both parties, and the investigating officer reported several lacerations on her boyfriend's face. (GE 12)

Asked to provide a complete a portion of the domestic violence supplement diagram, Applicant declined. (GE 12) While her boyfriend provided some details of his 2020 encounter with Applicant, he, too, refused to provide a written statement. (GE 12) Based on the investigating officer's findings, police filed domestic violence charges against Applicant and closed the case. (GE 12).

Court records document criminal charges filed against Applicant in October 2020 for assault-second degree (a misdemeanor). (GEs 1, 12 and AE D) The case was *nolle prossed* in March 2021 without any assigned reasons. Neither police arrest reports nor court records reveal any changed or supplemental accounts provided by Applicant concerning the October 2020 domestic violence incident. (AE D; Tr. 161-163) Whether Applicant's boyfriend declined to support the charges going forward is unclear as well. Surprised initially of criminal charges being filed against her, Applicant first learned of the police charges from her manager who she had contemporaneously disclosed the

incident to in October 2020. (Tr. 133-134) Applicant herself has no history of ever assaulting anyone. (Tr. 129)

Photos of Applicant taken at the scene of the October 2020 incident reveal deep bruises to her arms and face. (AE E; Tr. 120-121) Applicant attributed the bruises to her boyfriend's aggressive attacks to her face and arms. (Tr. 122-125) She attributed the deep scratches to his face to her efforts to repel his choking her with his hand over her mouth. (Tr. 122-126) Asked at hearing why she withheld her current accounts of her boyfriend's aggressive actions when questioned by investigating police, she expressed concerns about (a) his being on probation at the time and at risk of being sent to jail for any future arrests and charges and (b) his blaming her for any charges filed against him and taking retaliatory measures against her. (Tr. 120,125-128, 148-149) She terminated her relationship with her boyfriend the day of the incident and has taken no initiatives since the 2020 incident to resume one with him. (Tr. 122, 126-127, and 131) In none of her previous relationships was she ever assaulted by any of her boyfriends. (Tr. 169)

Since the October 2020 incident, Applicant has taken concerted steps to address her emotional issues and to ensure she never misses court notices again. (Tr. 87, 135-136) She has a coach to help her with her decision-making and is looking for a counselor to help her with her emotional-stress issues. (Tr. 136) She believes she has matured and is better able to manage her personal affairs. (Tr. 139) She has a pending petition to expunge the domestic violence charge against her. (AE D; Tr. 160-161) No further details are available on the status of her petition. (Tr. 160)

### **Endorsements and certificates of training and achievement**

Applicant is well-regarded by her project managers, coworkers, Navy and DoD contractor customers, parents, friends, and managers and coworkers of former restaurant employers. (AE A; Tr. 23-25, 171) All credit her with good moral character, strong work ethic, honesty, reliability, and professional integrity. Except for her mother who testified on her behalf, none of her character references expressed any knowledge of the Government's security concerns. (AE A; Tr. 24-25, 169-176)

Testifying in her daughter's behalf, Applicant's mother and close friend provided important details about Applicant's mental health condition. She recited that in the Spring of 2003, Applicant was medically diagnosed to have a bi-polar condition with an attention deficit disorder (ADD) sub-diagnosis. (Tr. 24-25, 46-47) Since the October 2020 incident, Applicant has retained a life coach (in January 2021) to help her with her coping issues while she and her mother look for a mental health provider to evaluate and treat her ADD and bi-polar conditions.

Corroborated by Applicant's mother and close personal friend (a senior IT projects manager) were the stressors Applicant experienced from her abusive relationship with her ex-boyfriend. (Tr. 39-49) These stressors exacerbated her ADD and bipolar conditions and contributed to the erratic behavior displayed by Applicant in her cited 2007-2018 traffic-related incidents. (Tr. 39-49) With the coaching help she is currently receiving, her mother was optimistic of Applicant's ability to succeed in a

structured environment at work, free of the stresses she encountered in her relationship with her ex-boyfriend. (Tr. 25, 33, 171-172)

Documented performance evaluations for calendar years 2019 and 2020 credit Applicant with successfully meeting expectations. (AE B; Tr. 172-173) The evaluations credit her with continued growth, and acceptance of greater responsibility. They underscore her positive pursuit of training and her gains in proficiency in a number of her employer's technical processes. (AEs B-C; Tr. 73-75)

### **Policies**

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." As Commander in Chief, "the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. Eligibility for access to classified information may only be granted "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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These AG guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. The AG guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any.

These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period

of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

### **Personal Conduct**

*The Concern:* Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . . AG ¶ 15.

### **Burdens of Proof**

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk 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. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. See also Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

### **Analysis**

Security concerns are raised over Applicant’s lengthy history of traffic-related offenses spanning the years of 2007 through 2018. Additional security concerns arise out of charges of domestic violence filed against Applicant in October 2020 that were *nolle prossed* before they could be tested at trial. Considered together, these charges raise security concerns over whether Applicant’s actions reflect pattern misbehavior incompatible with the judgment, reliability, and trustworthiness requirements for gaining access to classified information.

Applicant’s proven track record of traffic-related offenses consists of eight traffic-related offenses between 2007 and 2018 (inclusive of Applicant’s 2011 DUI offense), six driving on a suspended license offenses, and one driving without insurance in an unregistered vehicle in 2018. The eight combined traffic-related offenses and one DUI incident, while spaced, share a common thread of security concerns over questionable exercises in judgment. These collective errors in judgment, when stitched together contextually, reflect an overall pattern of poor judgment, unreliability, and untrustworthiness under the personal conduct guideline.

To be sure, Applicant’s lone DUI offense in 2011 would likely not meet the track record requirements for denying clearances under Guideline G (alcohol consumption), if cross-alleged separately under that guideline. Historically, the Appeal Board has generally required a track record of alcohol-related incidents of more recent occurrence than the dated 2011 incident in this record. See ISCR Case No. 95-0731 at 3 (Sept. 1996); ISCR Case No. 94-1081 at 5 (August 1995). Applicant’s lone 2011 DUI incident has not been cross-alleged under Guideline G, and for good reason.

Based on the evidence produced at hearing, one of the DCs covered by the personal conduct guideline is applicable to the developed facts in evidence. DC ¶ 16(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 . . . (3) a pattern of dishonesty or rule violations. . . .,” applies to Applicant’s situation.



Applicant's series of traffic-related incidents (most of which were either dropped or placed on stet dockets) and single 2011 DUI incident that occurred over an 11-year period reflect multiple lapses of Applicant judgment and maturity. When considered together in this context, the eight SOR-covered incidents support a troubling pattern of questionable judgment, untrustworthiness, and unreliability, properly alleged and pursued under Guideline E.

In the past, the Appeal Board has addressed traffic-related offenses stitched together to raise security concerns over an applicant's overall judgment, trustworthiness, and reliability. In ISCR Case No. 03-08475 at 5-8 (App. Bd. Sept. 14, 2007), the applicant accumulated seven traffic-related offenses and one DUI offense. Similar to the array of offenses cited in this case, the traffic-related offenses considered in ISCR Case No. 03-08475 were comprised of speeding, license plate offenses, disobeying road sign, driving with a suspended license, and a DUI. Like the traffic-related instances cited in ISCR Case No. 03-08475, most of the incidents individually could be expected to fall into minor categories if assessed individually.

Considered together in the context of a pattern display of lapses in judgment, Applicant's covered actions reflected, in the Appeal Board's judgment in ISCR Case No. 03-08475, an unwillingness to comply with rules and regulations. While Applicant is correct in her noting that the Appeal Board did not make any independent findings itself on the security significance of multiple traffic-related offenses, its sustaining of the trial court's decision reflects its concurrence with the trial court's findings that the applicant's multiple traffic-related offenses when considered together with a DUI offense reflected the applicant's reckless disregard for applicable rules and regulations.

Other Appeal Board cases cited by the Government involving multiple traffic-related offenses also sustained clearance denials for reasons of demonstrated lack of overall judgment sufficient to raise security concerns over applicant's cited inability to follow rules and regulations over a prolonged period of years. See ISCR Case No. 11-14899 at 1-3 (App. Bd. April 15, 2015; ISCR Case No. 10-0928 at 4 (App. Bd. March 5, 2012)

Adding to raised security concerns over Applicant's judgment lapses over the course of many years are the charges filed against her in October 2020 stemming from her determined role in an October 2020 domestic violent incident involving her ex-boyfriend and herself. In the developed police findings covering the incident, Applicant minimized her boyfriend's initiating assaults and essentially accepted responsibility for her boyfriend's photographed injuries.

Based on the developed accounts of the participants and their own observations in this 2020 incident, the investigating police officers placed criminal responsibility on Applicant for the incident and charged her with one misdemeanor account of domestic violence. At no time before the date set for hearing in March 2021 did Applicant make any attempt to correct her account with either the investigating police or prosecutors. The case was ultimately *nolle prossed* for unspecified reasons but without any advance assistance from Applicant in changing her account of the incident. While Applicant's

cited recited reasons at hearing for her withholding her real story from investigating police of what happened in her physical exchange with her boyfriend in October 2020 (i.e., fear for her boyfriend's having his probation lifted and blaming her she incurred her failures to correct her false accounting before the charges were filed and developed for trial. Significant investigation resources were expended by state law enforcement officials that might have been avoided by Applicant's earlier corrections to her story.

Looking to the future, Applicant has shown marked improvement in her judgment and maturity level. She has engaged a reliable coach to help her achieve more responsible decision-making in her personal life. She is looking for a mental health consultant to help her address her emotional stressors associated with her ADD and bipolar conditions. And, she has manifestly impressed her managers and colleagues with her professional contributions to her employer. Whether she retains any lingering affections for her ex-boyfriend are difficult to calculate. Less than a year has elapsed since she ended her relationship with him. And her ties of affection to him were still not completely dissolved at the time of the 2020 domestic assault incident.

While time is on Applicant's side, she still has much to do overcome her years of trauma with her ex-boyfriend. Added stresses associated with holding a security clearance and exercising the heavy fiducial responsibilities associated with granted access to the nation's secrets may not be in her best recovery interests, or the Government's at this time

Mitigating conditions for the most part have only partial applicability to the facts of this case. In recognition of her improved understanding of the importance of adhering to state driving rules and regulations designed to protect others using state highways and roadways, her recognition of her need to find counseling assistance to help her overcome the stressors associated with her unstable relationship with her ex-boyfriend, and her evidenced maturity in her current employment practices and relationships, some application of MC ¶¶ 17(e), "the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress," and MC 17(g), "association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations," are available to Applicant.

### **Whole-person assessment**

Whole-person assessment of Applicant's clearance eligibility requires consideration of whether her history of traffic-related incidents (inclusive of a prior DUI incident) and more recent domestic violence incident with her revised accounts of responsibility and accountability over an extended period of time (spaced over 13 years) when taken together contextually reflect collective judgment lapses incompatible with her holding a security clearance. While Applicant is entitled to credit for her civilian contributions to the defense industry, her contributions are not enough at this time to overcome her pattern history of traffic-related and more recent domestic violence-related incidents covered by the personal conduct guideline.

Summarized, more time is needed for Applicant to demonstrate her understanding and commitment to adhering to the rules and regulations placed in force by her state's traffic laws and civil laws covering domestic partners. Applicant's collective actions to date fall short of what is required to carry her persuasive burden of demonstrating she meets the minimum eligibility criteria for gaining access to classified and sensitive information.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude personal conduct security concerns are not mitigated. Eligibility for access to classified information is denied.

### **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:

GUIDELINE E (PERSONAL CONDUCT):	AGAINST APPLICANT
Subparagraph 1.a-1.i	Against Applicant

### **Conclusion**

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

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Roger C. Wesley  
Administrative Judge