



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

In the matter of:)
)
) ISCR Case No. 20-03803
)
 Applicant for Security Clearance)

Appearances

For Government: Rhett Petcher, Esq., Department Counsel
 For Applicant: *Pro Se*

09/29/2021

Decision

BENSON, Pamela C., Administrative Judge:

Applicant failed to mitigate security concerns under Guideline I (Psychological Conditions), Guideline F (Financial Considerations), and E (Personal Conduct). National security eligibility for access to classified information is denied.

Statement of the Case

On January 30, 2020, Applicant submitted a security clearance application (SCA). On February 20, 2021, the Defense Counterintelligence and Security Agency (DCSA) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline I, Guideline F, and Guideline E. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines (AG) effective within the DOD on June 8, 2017.

Applicant provided an undated response to the SOR, and he admitted all of the SOR allegations, except SOR ¶ 3.a. He requested a hearing before an administrative

judge, and the case was assigned to me May 12, 2021. On July 30, 2021, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing for a video teleconference via the U.S. Cyber Command, Defense Collaboration Services, scheduled for August 26, 2021. The hearing was convened as scheduled.

During the hearing, Department Counsel offered Government Exhibits (GE) 1-8, and Applicant offered Applicant Exhibits (AE) A-D; there were no objections and all proffered documents were admitted into evidence. Applicant testified, and I held the record open until September 9, 2021, in the event either party wanted to submit additional documentation. DOHA received the hearing transcript (Tr.) on September 3, 2021. On September 8, 2021, Applicant provided three documents, which I labeled as AE E-G, and admitted into evidence without objection. The record closed on September 9, 2021.

Findings of Fact

Having thoroughly considered the evidence in the record, I make the following findings of fact: Applicant is 30 years old. He enlisted in the Army National Guard (ARNG) in July 2012, where he served as a signal support systems specialist. He received an honorable discharge due to a medical condition (seizure disorder) in August 2014. Since October 2017, he has worked for a DOD contractor and recently accepted a promotion as a numerical control programmer making approximately \$59,000 per year. He is currently married and has an 11-month old son. His wife is a stay-at-home mother. He does not currently possess a DOD security clearance. (Tr. 21-24, 27-30, 83; GE 1)

The Veterans Affairs (VA) determined Applicant's military disability was approximately 10 percent following his ARNG discharge. In early 2020 the VA decided Applicant had a 100 percent total and permanent disability. In July 2020 he received a lump-sum back-payment of \$17,000 from the VA due to the increased percentage of his disability. Since November 2020 Applicant has received \$3,450 per month for his military service disability. (Tr. 21-24, 27-30; AE F)

Psychological Conditions and Financial Considerations

SOR allegation ¶ 1.a alleges that Applicant was diagnosed in 2019 with major depressive disorder and gambling disorder. The therapist noted that Applicant struggled to control his gambling; he lied to his fiancé (now wife) about his gambling; and although his gambling adversely impacted his finances, he was not ready to completely stop gambling. Applicant admitted this allegation in his SOR response. (GE 8)

SOR allegation ¶ 1.b alleges that Applicant visited a therapist in August 2020, and he admitted that he continued to gamble. The therapist opined that there was a potential for Applicant's condition to adversely impact his judgment and reliability because he suffered from a lack of impulse control and did not continue any

recommended treatment for this condition. Applicant admitted this SOR allegation. (AE E)

In March 2013, Applicant filed for Chapter 13 bankruptcy, which was later converted to a Chapter 7 bankruptcy in December 2019. The bankruptcy was discharged in April 2020. (SOR ¶ 2.a) Applicant admitted this allegation and testified that he was not good at managing money. He also admitted that beginning in about 2017, he started gambling. His gambling increased to the point where he was going to the casino one or two times weekly, spending approximately \$400 on each occasion. Applicant's gambling losses eventually prevented him from continuing the Chapter 13 payments to the trustee, and a change was initiated by his attorney to deduct the payments directly from Applicant's paychecks. Applicant started relying on credit card cash advances and using speedy loans to pay for his gambling and living expenses. His financial situation steadily worsened and he made the decision to convert his current Chapter 13 bankruptcy to a Chapter 7 bankruptcy in December 2019. (Tr. 30-36, 87-88; GE 5, GE 6, GE 7; AE A, AE B, AE C, AE D)

The SOR alleged that Applicant's student loans totaling about \$6,732 were delinquent. (SOR ¶¶ 2.b, 2.c, and 2.d) Applicant provided post-hearing documentation dated March 2021 showing that the combined total of his student loans was \$15,210. The VA also notified the U.S. Department of Education that Applicant was eligible for a total and permanent disability discharge of his federal student loans, which canceled his obligation to repay the remaining student loan balances. (Tr. 36-38, 40; GE 3, GE 4; AE F)

The SOR alleged that Applicant owed two First Premier credit cards in the total amount of \$1,910 that had been charged off. (SOR ¶¶ 2.e, and 2.f.) These allegations were withdrawn by Department Counsel as the debts were included in the Chapter 7 bankruptcy discharge. This information was also verified by the December 2020 credit report in evidence that listed both accounts with a zero balance. (Tr. 38-41; GE 3, GE 4; AE B, AE C)

The SOR alleged that Applicant owed a Credit One Bank credit card in the approximate amount of \$858. (SOR ¶ 2.g) This debt was also included in the bankruptcy discharge. (Tr. 41-43; GE 4; AE B, AE C)

SOR ¶ 2.h alleged that Applicant continued to gamble despite his delinquent accounts and pending bankruptcy, which he admitted in his SOR response. He testified that while the bankruptcy was pending, he was experiencing some depression, and gambling made him feel better about himself. Applicant's stated his last visit to a casino occurred in July 2020. (Tr. 33-36, 48)

In 2019, Applicant's fiancée confronted him about his gambling problem. He lied to her and denied he was gambling, but she threatened to call off their upcoming wedding unless he sought professional counseling. Applicant agreed and enrolled in a treatment program from June 6, 2019 through July 30, 2019. He was diagnosed with

major depressive disorder and gambling disorder. He admitted to the counselor that he had just recently lost \$1,000 at the casino. His family doctor prescribed an antidepressant medication (name unrecalled), but he quickly discontinued taking it after a couple of months as he did not like how the medication made him feel. Despite being in treatment, in part for his gambling addiction, Applicant continued gambling because he enjoyed it and believed he could responsibly control his gambling. He visited the casino one to two times weekly, and he told his counselor he only wished to reduce, not eliminate, his gambling visits. Applicant testified at the hearing he had permission from his therapist to continue visiting the casino to see if he really could control his gambling. He went to the casino with only \$100 to see if he could control it, and he continued this pattern until he acknowledged to the counselor that he could not control his gambling. His counselor advised him that he needed to completely stop gambling and to continue counseling to help him overcome his gambling addiction. After July 30, 2019, Applicant did not see a counselor for his gambling disorder for over a year because his counselor was on an indefinite leave of absence, and he did not want to see any other therapist for his treatment. (Tr. 34, 64-65, 67-71, 84-86, 89-90; AE E)

During Applicant's June 22, 2020 background interview, he volunteered to the investigator that he had a gambling addiction. Applicant reported that from August 2018 through July 2019 he lost on average \$300 to \$1,000 weekly due to gambling. During his Chapter 13 bankruptcy when the monthly payments were being deducted from his paychecks, Applicant opened about six to eight credit card accounts and payday loans to help pay for his gambling. The credit card cash advances and payday loans totaled about \$14,000, and he eventually included these debts in his December 2019 Chapter 7 bankruptcy conversion. Applicant also spent approximately \$9,000 of his personal savings to support his gambling addiction. He told the investigator that he received treatment for his gambling addiction from July 2019 through December 2019. Applicant's actual dates of treatment occurred from June 6, 2019 to July 30, 2019. He also reported that he stopped gambling in July 2019, and he did not anticipate that he would gamble in the future. (Tr. 30-31, 34-36, 60-62, 87; GE 2, GE 8)

In July 2020, Applicant received a lump-sum disability back-payment of \$17,000 from the VA. Applicant testified that he had resumed gambling in May or June 2020, and it was not until July 2020 that he realized that he did have an uncontrollable gambling problem, and he could never visit a casino again. He went to the casino to fill out an exclusionary ticket in July 2020, but he also took about \$300 with him to gamble one last time before filling out the paperwork. He won \$200, completed the exclusionary ticket, and the casino personnel escorted him to the parking lot. In August 2020, he took out a loan from his 401k in the amount of approximately \$2,124. He could not recall the reason why he took out that loan, but thought possibly to purchase items for the birth of his son. He is current on the bi-weekly loan payments of \$56.26 since it is taken directly out of his paychecks. Applicant reiterated that the last time he gambled was in July 2020. (Tr. 67-69, 73-75, 87-88; SOR response; AE G)

On August 22, 2020, Applicant visited another counselor because he stated that he needed help to control his gambling addiction. He reported to the counselor that he

had started gambling again a few months ago. The 2019 treatment he received was not successful. Applicant was diagnosed with major depression disorder, active, and gambling disorder, active. The treatment objective was to explore and resolve issues related to his addictive behavior, including gambling, and for Applicant to stay completely free of gambling. He was also to be referred to a psychiatrist due to his underlying depression that could be contributing to his addictive behavior. Applicant was supposed to contact the therapist to set up his next appointment, but he did not like this therapist, and he did not return for additional treatment. The therapist opined that there was a potential for Applicant's condition to adversely impact his judgment and reliability because he suffered from a lack of impulse control and did not continue any recommended treatment for this condition. (Tr. 29, 32, 56-58, 65, 70-71; AE E)

Applicant testified that in July 2020 he stopped gambling cold turkey, and without the benefit of continued counseling or a gambling support group. After questioning, he admitted that he had contacted the treatment center again in early 2021. When asked why he made this contact since he reportedly stopped gambling in July 2020, he said he did so because he does not like being told he cannot do something or that he cannot overcome a personal problem, such as gambling. This all started after Applicant was having a conversation with his brother-in-law, an alcoholic, and he asked him why he could not just have one beer? Applicant's brother-in-law told him the reason he could not have a beer is due to the same reason Applicant could not gamble again; they were both addicts. Applicant stated that a part of him wanted to prove his brother-in-law wrong and show him he could control his gambling. So in early 2021 Applicant called a therapist to see if this was a good idea, but after he could not get in touch with the therapist, he decided it was not worth it. He does not intend to participate in any additional counseling for his gambling problem because he does not think about gambling anymore. He estimated that overall he lost about \$10,000 over the years due to gambling. (Tr. 71-72, 89-94)

Personal Conduct:

The SOR alleged that Applicant falsified information on his January 2020 security clearance application (SCA) when he answered "No" to the following question: "Section 21- Psychological and Emotional Health – Adversely Affected: Do you have a mental health or other health condition that substantially adversely affects your judgment, reliability, or trustworthiness even if you are not experiencing such symptoms today?" Applicant deliberately failed to disclose his 2019 diagnoses of major depressive disorder and gambling disorder. (SOR ¶ 3.a) In his SOR response, Applicant denied this allegation, stating that he never agreed with his therapist's diagnosis of major depressive disorder. He was merely going through an emotional period of his life. Applicant did not address or explain why he failed to disclose his diagnosis of gambling disorder on the SCA. (Tr. 23-24, 63, 76-78; GE 1, GE 2, GE 8; SOR response)

Under Guideline E, the SOR also alleged that Applicant falsified information on his January 2020 SCA in his response to the following question: "Section 26- Financial Record – Gambling: Have you EVER experienced financial problems due to gambling?"

Applicant answered this question “No” and deliberately failed to disclose that he opened multiple lines of credit totaling \$14,000 and also spent approximately \$9,000 of his savings to support his gambling, which ultimately led to his filing for Chapter 7 bankruptcy in December 2019. (SOR ¶ 3.b) Applicant admitted this information in his SOR response, but he denied that he answered the question with the intent to deceive the government. He made a mistake when he read the question and failed to disclose his financial issues developed from his gambling problem. At the hearing, he admitted he filled out the SCA before he made the decision to quit gambling altogether. (Tr. 75, 78-79; GE 1; SOR response)

Policies

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used 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 overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard

classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of 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 *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline I: Psychological Conditions

AG ¶ 27 expresses the security concern for psychological conditions:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

The medical diagnoses and records in evidence raised the following Psychological Conditions Disqualifying Conditions under AG ¶ 28:

- (a) behavior that casts doubt on an individual’s judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
- (d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions; and

(e) pathological gambling, the associated behaviors of which may include unsuccessful attempts to stop gambling; gambling for increasingly higher stakes, usually in an attempt to cover losses; concealing gambling losses; borrowing or stealing money to fund gambling or pay gambling debts; and family conflict resulting from gambling.

The SOR alleges psychological conditions security concerns based on Applicant's 2019 diagnoses of major depressive disorder and gambling disorder. It is important to note that he has never successfully completed a treatment program. Applicant claimed that he last gambled in July 2020, but he visited a therapist in August 2020, and he admitted during that session that he continued to gamble. The therapist opined that there was a potential for Applicant's condition to adversely impact his judgment and reliability because he suffered from a lack of impulse control and did not continue any recommended treatment for this condition. The therapist recommended that he continue counseling and not go to casinos, and he did comply with those therapeutic recommendations.

I considered the following mitigating conditions under AG ¶ 29:

(a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer has indications of emotional instability; and

(e) there is no indication of a current problem.

Applicant stated repeatedly that he last gambled in July 2020, but the records in evidence show that he continued to gamble after July 2020. The August 22, 2020 treatment records report that he initiated treatment because he "has a gambling addiction. He wants help to control it." He admitted during that session that he had struggled with gambling for several years and had to file for bankruptcy twice (Chapter 13 and Chapter 7) due to gambling losses. He had stopped gambling for about a year following treatment in 2019, but admitted during his August 2020 session that he had

started gambling again a few months ago. In June 2020, Applicant participated in a background interview and told the investigator that he stopped gambling in July 2019, and did not intend to gamble again. The current treatment records show that Applicant could have been gambling at the time he had his background interview, or at the very least he started gambling again immediately after he reported to the investigator that he did not intend to gamble in the future. Either scenario raises security concerns.

Applicant has not successfully completed professional treatment for his diagnosed conditions, and he does not have any plans to seek mental health counseling in the future. In August 2020, a qualified mental health professional determined that Applicant's condition was not fully under control and may negatively impact his judgment and trustworthiness if left untreated. None of the mitigating conditions fully apply. Psychological conditions security concerns are not mitigated.

Guideline F: Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

AG ¶ 19 includes two disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(h) borrowing money or engaging in significant financial transactions to fund gambling or pay gambling debts"; and "(i) concealing gambling losses, family conflict, or other problems caused by gambling." The evidence of record establishes AG ¶¶ 19(h) and 19(i). Further inquiry about the applicability of mitigating conditions is required.

The following financial considerations mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business

downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control.

Applicant provided inconsistent information about his history of gambling. He told a counselor in August 2020 that his gambling losses caused him to file for bankruptcy twice, so at the very least, he has gambled since 2013 when he initially filed for Chapter 13 bankruptcy protection. During his Chapter 13 bankruptcy when the monthly payments were being deducted from his paychecks, Applicant opened about six to eight credit card accounts and payday loans to help pay for his gambling. The credit card cash advances and payday loans totaled about \$14,000, and he eventually included these debts in his December 2019 Chapter 7 bankruptcy conversion, which was initiated due to his worsening financial situation. He also spent approximately \$9,000 of his personal savings to support his gambling addiction. In 2019, after being confronted by his fiancée about his gambling, he lied to her about his gambling. He only attended treatment after she gave him an ultimatum to either get treatment for his gambling or else their wedding would be called off.

Uncontrolled gambling has caused Applicant to experience serious financial problems over the years. He has not successfully completed treatment for his diagnosed conditions, and as such, his gambling addiction and financial issues are likely to recur. He has not acted responsibly under the circumstances in dealing with his gambling disorder, and his inconsistent statements cast doubt on his current reliability, trustworthiness, and use of good judgment. There are no clear indications that his finances will remain stable and under control. The potential for future gambling continues to be a security concern because he failed to demonstrate a history of abstention from gambling. None of the mitigating conditions fully apply. Financial conditions security concerns are not mitigated.

Guideline E: Personal Conduct

AG ¶ 15 expresses the security concern for personal conduct:

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 provide truthful and candid answers during national security investigative or adjudicative processes. ...

AG ¶ 16 describes conditions that could raise a security concern and be disqualifying. The following is potentially applicable under the established facts in this case:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

The SOR alleges Applicant deliberately falsified relevant and material information on his SCA he completed in January 2020. The above disqualifying condition applies.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. The following mitigating conditions under AG ¶ 17 are potentially applicable:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor or so much time has passed, or the behavior is so infrequent, or 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 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 did not disclose on the SCA that he had been diagnosed in June 2019 with any mental health conditions or disorders, as required, and he deliberately answered the question with a negative response. Applicant explained the reason he did not disclose his therapist's diagnosis of major depressive disorder was because he did not agree with the diagnosis since he was merely going through an emotional period of his life. Applicant did not adequately address or explain why he also failed to disclose his 2019 diagnosis of gambling disorder on the SCA.

Applicant was asked to respond to the following question on his January 2020 SCA: "Section 26- Financial Record – Gambling: Have you EVER experienced financial problems due to gambling?" He answered this question with a negative response. Applicant stated this was a mistake, and it was not his intent to falsify this information. He merely misread the question and answered it incorrectly. The question itself is straight-forward and comprehensible. In light of the two omissions on his SCA and his inconsistent statements during the security clearance investigation and hearing, I find that Applicant is not a credible witness. Overall, Applicant's failure to be honest and candid casts doubt on his reliability, trustworthiness, and good judgment. Personal conduct security concerns are not mitigated.

Whole-Person Concept

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. This SOR highlights serious concerns that provides insight to a person's character and integrity. I conclude that Applicant has not mitigated security concerns raised by Guidelines I, F, and E. Accordingly, Applicant has not carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

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 I:	AGAINST APPLICANT
Subparagraphs 1.a, 1.b:	Against Applicant

Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraphs 2.b-2.g:	For Applicant
Subparagraph 2.h:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a, 3.b:	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 security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Pamela C. Benson
Administrative Judge