



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



In the matter of:)	
)	
)	ISCR Case No. 20-01786
)	
Applicant for Security Clearance)	

Appearances

For Government: Alison P. O’Connell, Esq., Department Counsel
For Applicant: Eden B. Gaines, Esq.

02/22/2023

Decision

GARCIA, Candace Le’i, Administrative Judge:

Applicant mitigated the financial considerations and personal conduct security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On April 2, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations) and Guideline E (personal conduct). The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on May 4, 2021, and he requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) issued a notice on August 24, 2022, scheduling the matter for a hearing on October 4, 2022. Due to Applicant’s scheduling conflict, DOHA issued an amended notice on September 23, 2022, rescheduling the hearing for October 5, 2022. I convened the hearing as rescheduled.

At the hearing, I admitted Government Exhibits (GE) 1-3, 6, 8, and 13, and Applicant's Exhibits (AE) A and C-K, without objection. Applicant objected to GE 4-5, 7, 9-12, and 14. GE 4 is Applicant's undated response to interrogatories. GE 5 is a February 2021 credit report. GE 7 is a July 2017 record from another U.S. government agency (AGA 1). GE 9 is Applicant's July 2017 signed statement. GE 10 is an October 2017 notice of proposed removal from AGA 1. GE 11 is Applicant's November 2017 response to GE 10. GE 12 is Applicant's November 2017 declaration. GE 14 is Applicant's May 2019 reply to a February 2019 letter of intent from AGA 1. Applicant objected to GE 4-5, 7, 9, 11-12, and 14 on the basis that they contained information not relevant to the SOR. Applicant objected to GE 10 on the basis that the proposed removal by AGA 1 was not effectuated. Applicant also objected to GE 11 on the basis that it was an incomplete document, as Department Counsel did not offer its attachments into evidence. I overruled Applicant's objections and admitted GE 4-5, 7, 9-12, and 14 into evidence. Department Counsel objected to AE B on the basis that it contained information not relevant to the SOR. AE B is a December 2018 AGA 1 memorandum of activity. I overruled Department Counsel's objection and admitted AE B into evidence.

Applicant testified. At his request, I kept the record open until October 19, 2022, for additional documentation. Applicant submitted additional documentation in a timely manner, which I marked collectively as AE L and admitted without objection. I marked Department Counsel's discovery letter and exhibit list collectively as Hearing Exhibit (HE) I. DOHA received the hearing transcript (Tr.) on October 19, 2022.

Findings of Fact

Applicant admitted SOR ¶¶ 1.a, 1.b, and 1.c; he admitted, in part, and denied, in part, SOR ¶ 2.a; and he denied SOR ¶¶ 2.b and 2.c. As he neither admitted nor denied SOR ¶ 2.d, I construe his silence as a denial. He is 47 years old. He married in 2003, separated in 2015, and divorced in 2017. He has three children; one is an adult and two are minors. According to his December 2019 security clearance application (SCA), he has owned his home in state A since May 2003. (Answer; Tr. at 55, 65-66, 70, 75-76, 218, 229; GE 1, 4; AE H)

Applicant earned a bachelor's degree in electrical engineering in 1999, and a master's degree in public administration in 2006. He served honorably in the U.S. military from May 1997 to May 2006, when he medically retired. He briefly worked for a DOD contractor from May 2006 to October 2006. He worked for another U.S. government agency (AGA 2) as a deputy director and program manager from October 2006 to February 2009, and as a director and program manager from February 2009 to February 2014. From October 2008 to November 2013, he was also a self-employed chief executive officer for a holistic health care facility that he co-owned with his then-spouse, who served as its chief physician officer. He worked as a chief information officer (CIO) for AGA 1 from February 2014 to March 2019, when AGA 1 removed him from employment because he did not hold a requisite security clearance. He was unemployed from March 2019 to December 2019. Since then, he worked as an executive advisor for his employer, a DOD contractor. He was first granted a security clearance in 1997. (Tr. at 6-7, 52-62, 66-69, 228, 232-234; GE 1, 4; AE I, J)

The SOR alleged, under Guidelines F and E, that Applicant filed Chapter 7 bankruptcy in September 2019, and his bankruptcy was discharged in December 2019. (SOR ¶¶ 1.a, 2.d) It also alleged that he failed to file, as required, his federal income tax returns for at least tax years (TY) 2012 through 2014. (SOR ¶¶ 1.b, 2.d) It also alleged that he failed to file, as required, his state income tax returns for at least TY 2012 and 2013. (SOR ¶¶ 1.c, 2.d) These SOR allegations are established by Applicant's admissions in his Answer; his SCA; his background interviews from 2015 and 2020; his response to interrogatories; tax account transcripts; bankruptcy records; court records; and a 2021 credit bureau report. (Answer; GE 1-6)

The SOR also alleged, under Guideline E, that Applicant provided at least three contractors with his username and password to an invoice processing platform (IPP), between approximately February 2014 and March 2017, in violation of security protocols while he was employed by AGA 1. (SOR ¶ 2.a) It also alleged that he improperly used the services of a contractor when he tasked her with his personal responsibilities, to include work related to an *au pair* handbook, in approximately August 2015. (SOR ¶ 2.b) It also alleged that he falsified material facts during an interview with an authorized DOD investigator, when he stated that the AGA 1 contracting officer (CO) gave him permission to share his IPP credentials with his executive assistant, as alleged in SOR ¶ 2.a. (SOR ¶ 2.c)

Applicant disclosed information about his Chapter 7 bankruptcy and failure to timely file his relevant federal and state income tax returns on his SCA, during his background interviews, and in his response to interrogatories. He attributed them to marital stress, his failed business with his ex-spouse, her financial mismanagement, his separation and divorce, and his period of unemployment. Two substantial judgments of \$117,707 for his business's unpaid rent and \$231,940 for a business loan, were entered against Applicant and his ex-spouse's business, in 2013 and 2015, respectively. His ex-spouse handled the judgment-related matters and told him that the judgments were entered solely against their business. He was unaware that he and his ex-spouse had personally guaranteed some of the contracts that resulted in the judgments, and that consequently the judgments were also entered against them individually. Simultaneously, he and his ex-spouse were negotiating the terms of their divorce settlement, to include debt allocation. (Tr. at 56-77, 159-162, 170-176, 218-230, 234-240, 246-247; GE 1-6)

Applicant learned of his personal liability for the judgments in 2017, when he was so counseled by his attorney, and he reached out to the creditor for the larger judgment to try to resolve it. His wages at AGA 1 were garnished for a period to satisfy the judgments, but once he was separated from AGA, he no longer had the assets to continue his resolution efforts. He then elected to resolve the judgments through Chapter 7 bankruptcy. Records of Applicant's Chapter 7 bankruptcy reflect that he claimed liabilities totaling \$818,412, which consisted primarily of business debts. He disclosed on his SCA that he agreed to pay the bankruptcy trustee \$18,000 over 12 months, at \$1,500 monthly, so that he could keep his home. (Tr. at 56-77, 159-162, 170-176, 218-230, 234-240, 246-247; GE 1-6)

During his period of personal and professional turmoil, Applicant was unable to locate documents and obtain necessary information from his ex-spouse to timely file his relevant federal and state income tax returns. His ex-spouse was an independent contractor during their marriage, and he discovered that she had not been paying her taxes. In addition, she wrote checks for their business without documenting them in the logs. He needed to ascertain the business expenses by locating copies of the checks and obtaining bank statements before he could file his relevant income tax returns. In 2013, he hired an accountant to file his federal and state income tax returns for TY 2010 to 2013. He indicated during his January 2020 background interview that he paid his outstanding federal and state taxes in 2018. He testified that his accountant electronically filed his federal and state income tax returns concurrently for TY 2012 to 2014, and that he did not owe any taxes for those tax years as of the date of the hearing. (Tr. at 56-77, 159-162, 170-176, 218-230, 234-240, 246-247; GE 1-6)

October 2022 IRS tax account transcripts reflect that Applicant filed his federal income tax returns for TY 2012 and 2014 in June 2020 and July 2020, respectively, and he did not owe federal taxes for those tax years. An April 2022 letter from the IRS reflects that the IRS accepted Applicant's August 2020 claim of identity theft pertaining to TY 2013. The IRS noted that it received tax returns with Applicant's taxpayer ID number (TIN) for TY 2013; identity theft occurred under Applicant's TIN; and the IRS removed the incorrect tax return information from Applicant's TIN. It instructed him that he did not need to take any further action. (Tr. at 68-77, 218-225, 234-238; GE 4; AE L)

As of the date of the hearing, Applicant's monthly income was \$8,000, of which he received \$4,000 from the U.S. Department of Veterans Affairs (VA) for a 100% disability rating. His monthly net remainder was \$6,000. His 2021 credit report reflects that he had no delinquent debts, and he was current on his mortgage. He completed a personal financial management course and he received credit counseling through his Chapter 7 bankruptcy, in 2019. He testified that he has since timely filed his federal and state income tax returns and he intends to continue to do so. IRS tax account transcripts from August 2020 reflect that he filed his federal income tax returns for TY 2015, 2016, 2018, and 2019, and he did not owe federal taxes for those tax years. He provided documentation reflecting that a \$2,629 tax lien, entered against him in May 2014 by state B for TY 2010, was released in July 2017. He testified that he owed approximately \$4,000 in state taxes to state A for TY 2021, and he intended to pay it. He testified that he learned a lot from his experience with attempting to run a business, and "I know for a fact that nothing will ever happen to my credit again." (Tr. at 76-77, 161, 176, 228-229, 233; GE 2, 4-5; AE K)

When Applicant worked as a CIO for AGA 1, he was also tasked with serving as a contracting officer representative (COR)--a certification he received years before he worked for AGA 1. He testified that he was the only CIO within AGA 1 that also was a designated COR, and that his deputy was the only other individual who was COR-certified. Due to staffing shortages, AGA 1 necessitated that an executive such as himself, not normally tasked with junior-level-COR responsibilities, perform the COR function. In his capacity as a COR, he acted as the liaison between the CO and approximately 200 contractors. He was responsible for accessing the IPP to verify that the contractors worked the hours claimed on their invoices, then approving their invoices in a timely

manner so that they were paid. (Tr. at 85-87, 89-110, 162-164, 168, 176-196, 205-217, 224, 240-246; GE 1, 4, 7-14; AE A)

On various occasions between approximately 2014 and 2017, Applicant gave his IPP username and password to two to three of his executive assistants, who were also contractors, so they could access the IPP to assist him. His repeated requests for more COR-certified personnel were unanswered. Unable to timely review and approve all the contractors' submitted invoices while also performing his CIO duties, he sought and received authorization from an individual whom he mistakenly believed at the time to be the CO, to delegate his authority and allow his executive assistants to assist him with reviewing the data. He did not recall this individual informing him that he could delegate his authority to a back-up COR. He acknowledged that he did not explicitly inform this individual that he would be giving his executive assistants access to the IPP using his IPP credentials. He testified that his executive assistants reviewed the contractors' submitted time and work, but only he approved the contractors' invoices. (Tr. at 85-87, 89-110, 162-164, 168, 176-196, 205-217, 224, 240-246; GE 1, 4, 7-14; AE A)

Applicant denied telling a DOD background investigator, in February 2020, that the CO told him he could give his executive assistants his IPP credentials. He testified that when he adopted the February 2020 ROI in his response to interrogatories, he overlooked the portion of the ROI in which he discussed this issue and that he should have provided clarification. He testified that the individual, whom he believed to be the CO, never told him he could give out his IPP credentials. He acknowledged that he did and that doing so was in violation of security protocols. In 2016, a CO from another U.S. government agency (AGA 3) learned of Applicant's executive assistants accessing the IPP using his IPP credentials. That CO informed him that such a practice was impermissible and should be immediately stopped, and he did so. Applicant learned, in 2017, that the individual he believed was a CO from whom he sought authorization was also a contractor. He testified that he learned from this experience and intends to abide by all security protocols in the future. (Tr. at 85-87, 89-110, 162-164, 168, 176-196, 205-217, 224, 240-246; GE 1, 4, 7-14; AE A)

In approximately 2015, Applicant's executive assistant compiled an *au pair* handbook for him. He maintained that he did not task her with doing so. He testified that she worked on it voluntarily after learning through his work and personal to-do lists, that it was a priority for him to find an *au pair* because he was separated from his then-spouse and needed childcare. He acknowledged that once she compiled the handbook, he sent her an email asking her to make certain changes to it. He testified that he should have instructed her not to perform any tasks on his personal to-do list. He testified that he also learned from this experience and will ensure that no one at work performs any personal tasks for him in the future. (Tr. at 150-158, 162-164, 166, 168, 196-205, 238-239, 243-244; GE 1, 4, 7-14)

Applicant disclosed the information about sharing his IPP credentials with his support staff and about using a contractor to perform personal tasks on his SCA, during his background interviews, and in his response to interrogatories. He maintained that these were among a host of unsubstantiated allegations brought against him by AGA 1

in retaliation for him being a whistleblower. (Tr. at 77-150, 162-170, 230-232; GE 1, 4, 8; AE A-G, I, J)

Policies

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 to be 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, administrative judges apply the guidelines 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(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."

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 the 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information. Section 7 of Exec. Or. 10865 provides that adverse 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F: Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18: 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 . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant filed Chapter 7 bankruptcy in 2019 because he was unable to meet his financial obligations. He also failed to timely file his relevant federal and state income tax returns. The evidence is sufficient to raise AG ¶¶ 19(a), 19(c), and 19(f).

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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;
- (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;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Conditions beyond Applicant's control contributed to his financial problems. The first prong of AG ¶ 20(b) applies. For the full application of AG ¶ 20(b), he must provide evidence that he acted responsibly under his circumstances. He hired an accountant in 2013 to help him file his relevant federal and state income tax returns. In 2017, he reached out to the creditor and attempted to resolve the larger of the two judgments when he learned that he was personally liable for them. His wages were garnished to satisfy the judgments until he was separated from AGA 1 in 2019. When he no longer had any assets to continue his own resolution efforts, he resolved the judgments through his Chapter 7 bankruptcy. In 2020, he filed his federal income tax returns for TY 2012 and 2014, and he stated that he concurrently filed his state income tax returns for TY 2012 and 2013. He did not owe federal or state taxes for those tax years. In 2022, the IRS accepted his claim of identity theft pertaining to TY 2013, noting that it received tax returns with Applicant's TIN for that tax year and he did not need to take any further action.

As of the date of the hearing, Applicant's monthly net remainder was \$6,000, he was current on his mortgage, and he did not have any delinquent debts. He completed a personal financial management course and he received credit counseling through his Chapter 7 bankruptcy. He testified that he has intends to timely file his federal and state income tax returns in the future, and resolve any taxes owed. Applicant's finances, to include his tax situation, are under control, and it does not continue to cast doubt on his judgment, trustworthiness, and reliability. I find that AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(g) are established.

Guideline E: Personal Conduct

AG ¶ 15 expresses the security concern pertaining to 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 cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I considered the following relevant:

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved

in making a recommendation relevant to a national security eligibility determination, or other official government representative;

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

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

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

(1) engaging in activities which, if known, could affect the person's personal, professional, or community standing. . . .

Applicant did not deliberately provide false information during his February 2020 background interview about his unauthorized sharing of his IPP credentials. He credibly testified that when he adopted the February 2020 ROI in his response to interrogatories, he overlooked the portion of the ROI in which he discussed this issue, and he should have clarified that he simply sought permission from the individual whom he believed to be the CO to delegate his authority to his support staff to review contractors' submitted time and work. He acknowledged that this individual never told him he could give out his IPP credentials. His voluntary disclosure of his unauthorized sharing of his IPP credentials

on his SCA further establishes that he did not intend to falsify information about the authorization he received from the individual he believed to be the CO during his background interview. AG ¶¶ 16(b) is not established for SOR ¶ 2.c and I find that allegation in Applicant's favor.

Applicant's 2019 Chapter 7 bankruptcy and his failure to timely file his relevant federal and state income tax returns are discussed above in my analysis under Guideline F. No disqualifying conditions under Guideline E apply to the cross-allegation at SOR ¶ 2.d, and I find that allegation in Applicant's favor.

Applicant provided his IPP credentials to his contractor support staff and used a contractor to perform personal tasks between 2014 and 2017. AG ¶¶ 16(c), 16(d)(1) to 16(d)(4) are established for SOR ¶ 2.a and 2.b.

AG ¶ 17 describes the following conditions that could mitigate the personal conduct security concerns:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

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

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

Applicant disclosed the information about sharing his IPP credentials with his support staff and about using a contractor to perform personal tasks, on his SCA, during his background interviews, and in his response to interrogatories. He engaged in this conduct between 2014 and 2017, and he had no prior or subsequent conduct of a similar nature. He acknowledged that he violated security protocols when he shared his IPP credentials with his support staff, and that he should have ensured that his support staff did not perform any of his personal tasks. He credibly testified that he learned from these experiences, and he intends to not repeat them in the future. AG ¶¶ 17(c), 17(d), and 17(e) are established for SOR ¶¶ 2.a and 2.b.

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 relevant 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. I have incorporated my comments under Guidelines F and E in my whole-person analysis. I found Applicant to be credible and candid at the hearing. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that Applicant mitigate the financial considerations and personal conduct security concerns.

I have considered Presidential Policy Directive 19 (PPD-19), *Protecting Whistleblowers with Access to Classified Information* (October 10, 2012), Security Executive Agent Directive 9 (SEAD 9), "Whistleblower Protection: Appellate Review of Retaliation Regarding Security Clearances and Access Determinations," effective May 28, 2022, and 50 U.S.C. § 3341(j)(4), and I am satisfied that the decision to deny his clearance was not a reprisal for protected disclosures. Applicant freely admitted the conduct alleged in the SOR in his Answer, SCA, background interviews, response to interrogatories, and testimony at the hearing. My favorable decision in this matter also moots any claim of reprisal.

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 F: Subparagraphs 1.a - 1.c:	FOR APPLICANT For Applicant
Paragraph 2, Guideline E: Subparagraphs 2.a - 2.d:	FOR APPLICANT For Applicant

Conclusion

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

Candace Le'i Garcia
Administrative Judge