



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-01123
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: Brendan Stautberg, Esq.

10/26/2023

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**Decision**

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DORSEY, Benjamin R., Administrative Judge:

Applicant mitigated the financial considerations security concerns, but he did not mitigate the personal conduct security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On November 9, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F (financial considerations) and E (personal conduct). Applicant provided a response to the SOR (Answer) on February 1, 2023, and requested a hearing before an administrative judge. The case was assigned to me on June 20, 2023.

The hearing was convened as scheduled on October 12, 2023. I admitted Government Exhibits (GE) 1 through 11 and Applicant Exhibits (AE) A and B, without objection. I marked the Government’s exhibit list and its e-mail dated October 10, 2023, as Hearing Exhibit (HE) 1 and 2, respectively. I marked Applicant’s witness and exhibit list and his e-mail dated October 11, 2023, as HE A and B, respectively. I received a transcript (Tr.) of the hearing on October 19, 2023.

## Findings of Fact

Applicant is a 41-year-old employee of a government contractor for whom he has worked since July 2021. He has been married and divorced twice. His first marriage was from 2005 until 2009. His second marriage was from 2014 until 2021. He resides with a cohabitant. He does not have any children. He obtained a graduate equivalency degree (GED), and he has taken many college courses but has not earned an undergraduate degree. He earned a certificate as a master educator in 2019. He served on active duty with the Army from 1999 until 2021, when he retired with an honorable discharge. He was assigned to multiple overseas deployments while he served. The Department of Veterans Affairs (VA) has rated him as a 100 percent disabled veteran. (Tr. 26-27, 32-39, 50, 55-58; Answer; GE 1, 3)

In the SOR, the Government alleged Applicant's five delinquent debts totaling approximately \$49,000 (SOR ¶¶ 1.a through 1.e). He admitted all the Guideline F SOR allegations with additional commentary. His admissions are adopted as findings of fact. The Guideline F SOR allegations are established by his admissions and the Government's 2021, 2022, and 2023 credit reports. (Tr. 42-78, 165-174; Answer; GE 1, 3-6, 10, 11; AE A)

The Guideline F SOR debts are being resolved. These debts consist of credit cards, a personal loan, and a line of credit. He became delinquent on these accounts because his first wife took advantage of his granting her a power of attorney while he was deployed, his divorces, the theft of one of his motorcycles, and the high cost of living where he was stationed in the military. (Tr. 42-78, 102, 165-174; Answer; GE 3-6, 10, 11; AE A)

In 2019, Applicant entered into an agreement with a debt consolidation company (DCC) to get a grip on his finances and to settle his consumer debts. He enrolled the SOR debts, as well as other consumer debts not listed in the SOR. Pursuant to their agreement, the DCC negotiates settlement agreements with enrolled creditors. Applicant pays a monthly fee into a DCC account that it uses to make payments to creditors with whom it has made a settlement agreement. (Tr. 42-78, 167; Answer; GE 3, 10, 11; AE A)

After about six months of his paying monthly fees to the DCC with no resolution of his debts, Applicant pulled out of the agreement and attempted to negotiate with creditors on his own. While attempting to resolve his delinquencies on his own, he was able to pay one debt that is not listed in the SOR, but because of his limited income at the time, he was unable to resolve any other delinquent debts. (Tr. 42-46, 167; Answer; GE 3, 10, 11; AE A)

In August 2021, when Applicant began his current employment and earned more income, he again enrolled with the DCC to resolve his delinquencies. Since that time, he has paid at least \$832 per month to the DCC toward the resolution of all his SOR debts and two other delinquent accounts not included in the SOR. Since he re-enrolled with the DCC in 2021, he has paid over \$15,000 towards the settlement of the enrolled

accounts. He has since paid three of the five SOR debts (SOR ¶¶ 1.a, 1.d, and 1.e) and two credit-card accounts not listed in the SOR. His intention is to continue to pay the DCC to negotiate and settle the remaining SOR debts (SOR ¶¶ 1.b and 1.c) on his behalf. He is not delinquent on any other accounts. (Tr. 42-78, 165-174; Answer; GE 1, 3-6, 10, 11; AE A)

In August 2008, while he was serving in the Army and deployed abroad, Applicant's command found that he had created a toxic work environment for his subordinates. His command disciplined him with an Article 15 under the Uniform Code of Military Justice (UCMJ). He forfeited part of his pay, and he had to serve extra duty. His command also disqualified him for the Good Conduct Medal for that deployment. He claimed that this discipline resulted from a personality clash with one of his leaders who Applicant believes created the toxic work environment. He also claimed that an Article 15 is not a serious punishment because it is non-judicial, is often used for "minor conduct issues," and that the Army requires the destruction of Article 15 documentation no more than two years after the punishment is imposed. He also provided positive character reference letters from soldiers who served with him on this deployment. (Tr. 78-81, 174-181; Answer; GE 3; AE B)

In April 2012, Applicant inappropriately certified an Army Physical Fitness Score Card (APFSC). Despite knowing he was required to witness a soldier's physical fitness test to sign an APFSC, he signed one of his subordinate soldier's APFSC without witnessing the fitness test. When his command learned that the soldier had, in fact, failed his physical fitness test, Applicant was disciplined under Article 15 of the UCMJ for a violation of Article 107. He claimed that he signed the APFSC as a favor to the soldier, who he trusted, based upon that soldier's misrepresentations to him and the soldier's past physical fitness test results. When he signed the APFSC, he claimed he did not know that the contents on the card were inaccurate. However, he acknowledged that he should not have signed it without witnessing the soldier's physical fitness test. He was reduced in rank, forfeited part of his pay for two months, and ordered to perform extra duty. He claimed that, as a result of this incident, he learned to trust but verify and that he has not falsified a document since then. (Tr. 81-95, 181-184; Answer; GE 3, 9)

In about May 2019, after an AR 15-6 investigation, Applicant's commanding officer (COL A) found that Applicant engaged in sexual harassment while he was instructing Reserve Officers' Training Corps (ROTC) cadets as a supervisor on a college campus. He vehemently denies that he engaged in any behavior that could be considered sexual harassment, but he acknowledged engaging in unprofessional conduct. He claimed that the decision to conduct the AR 15-6 investigation was made after an Army Captain made a complaint to Applicant's superior officer (COL B) about Applicant's conduct towards a female cadet during a large ROTC training exercise. He claimed that the Army Captain made this complaint despite the cadet in question saying that she had no issues or complaints about Applicant's behavior. (Tr. 95-97, 106-107, 113-118, 184-202, 206-211; Answer; GE 3, 7-9)

Based upon the Army Captain's complaint, COL B tasked Master Sergeant (MSG) C with gathering information to determine whether COL B should pass the information up his chain of command for a formal AR 15-6 investigation. Applicant claimed that he did not get along with either COL B or MSG C and both may have had ulterior motives with respect to their role. For example, Applicant had been sent to replace MSG C, but MSG C stayed, creating an uncomfortable work environment where MSG C saw Applicant as a rival. Applicant claimed that MSG C coached and pressured witnesses, thus unfairly biasing the resulting investigation and findings. However, he does not claim that COL A had any ulterior motives or was biased towards him. (Tr. 97-102, 106-110, 184-202, 226-228; Answer; GE 3, 7-9)

The AR 15-6 investigation revealed that, while many cadets had no issues with Applicant's behavior towards them, several female ROTC cadets at the college were made to feel uncomfortable by comments he made about their appearance and the manner in which he said them. At least one of these cadets said his comments made her sick to her stomach. Several claimed that they avoided him based upon how uncomfortable he made them feel. The investigating officer found that Applicant had not engaged in actions that could be considered sexual harassment, but that Applicant did engage in inappropriate and unprofessional conduct. However, COL A disagreed and found that Applicant had engaged in sexual harassment towards female cadets. (Tr. 113-118, 184-202, 206-211; Answer; GE 3, 8)

In April 2019, Applicant signed a developmental counseling form acknowledging that he was being counseled for inappropriate behavior towards cadets. He further acknowledged that he was being removed as a cadet instructor and that he was not permitted to be alone with female cadets until further notice. I find this action constitutes him being "disciplined for misconduct." He certified a statement from the summary of one of his security interviews that he also received a Letter of Reprimand (LOR), but he later testified that he did not receive an official LOR. After COL A made his findings after the conclusion of the AR 15-6 investigation, Applicant had an opportunity to appeal those findings. He did not appeal because the result of not appealing was that the Army would reassign him to another role, which is what he desired. After waiving his appeal, he was removed from his role at the college because he could no longer hold a special trust authority role. However, he also testified that he was not formally disciplined, and that he was permitted to be around cadets unsupervised after the AR 15 investigation concluded if it was incidental to tasks he was assigned. However, the action removing him as a cadet supervisor and the order prohibiting his interaction with female cadets unsupervised was never formally lifted. Despite these actions and the sexual harassment finding, COL B sent Applicant to supervise ROTC cadets at a six-week training course during the summer of 2019, because MSG C did not want to attend. Applicant claims that this fact tends to show that COL B and MSG C knew that the AR 15-6 investigation findings were unfounded. (Tr. 111-113, 120-132, 153-154, 189-202, 206-212, 224, 229-230; Answer, GE 3, 7, 8)

In August 2019, in relation to his security clearance eligibility, Applicant wrote a memorandum entitled, Matters for Consideration for Secret Security Clearance Adjudication Decision (2019 Memo) and sent it to the Department of Defense

Consolidated Adjudications Facility (DOD CAF), now the Department of Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS). In the 2019 Memo, among other things, he wrote that the May 2019 sexual harassment finding was the “only allegation of misconduct during my entire military career.” Immediately after this sentence, he more specifically stated that he had never been the recipient of an Army Sexual Harassment/Assault Response and Prevention (SHARP) complaint. Therefore, in the 2019 Memo, he claimed that he had not had any other allegations of misconduct *and* he had never had a SHARP complaint. This statement that he had no other allegations of misconduct was inaccurate, as the Army disciplined him for misconduct in 2008 and 2012, as referenced herein. He claimed that he mistakenly wrote this sentence and meant to write that he had not been disciplined before or after in the context of a SHARP allegation. However, he specifically made that statement in the next sentence, which would have made the first sentence superfluous if he truly was limiting the scope to the SHARP context. He claimed that he is a poor writer and the words he wrote are not what he meant. He also asserted that he did not intend to mislead or deceive by making this statement and that he assumed that his Army records were readily available to the DOD CAF. (Tr. 141-147, 179, 202-204; Answer; GE 3, 9)

With respect to his role as an ROTC cadet supervisor, Applicant certified that he had not received a written warning and had not been disciplined for misconduct in the workplace in the last seven years on his certified Electronic Questionnaire for Investigations Processing dated December 14, 2021 (2021 SF 86). He was required to divulge this information as a result of the 2019 sexual harassment finding and the discipline for misconduct he received of not being permitted to interact with female cadets, and his subsequent removal from his post. He claimed that he did not divulge this information because he had not been formally disciplined or suspended as a result of the AR 15-6 investigation. He also claimed that he misread the plain meaning of the questions in the 2021 SF 86 and thought that he was only required to divulge security violations. Finally, he assumed that his Army records were readily available to those making decisions about his security clearance eligibility. He claimed that he never meant to hide information, or to mislead or deceive when he failed to divulge this information. He did not volunteer this discipline or suspension before the DOD investigator confronted him with it during his January 2022 security interview. During a follow-up interview with another DOD investigator in April 2022, Applicant was forthcoming with information regarding the 2019 AR 15-6 investigation. (Tr. 135-141, 204-217; Answer; GE 1, 3, 7, 8)

Authorized DOD investigators interviewed Applicant on January 14, 2022, January 18, 2022, and April 6, 2022. These investigators drafted summaries of the interviews they conducted with him. The investigator who drafted the summary from the January 28, 2022 interview wrote that Applicant told him that Applicant did not have any disciplinary issues before or after he was a supervisor of ROTC cadets. On August 14, 2022, he certified, in writing, that he made this statement to the investigator. He appended to this certification over 250 pages of additional documents. Therefore, it is hard to believe that he rushed through this certification or did not provide it the attention it deserved. Despite this certification, he later claimed that, as with his similar statement

in the 2019 Memo, he had only meant that he did not have other disciplinary issues in the context of SHARP allegations. He claimed that he did not intend to imply that he had no other disciplinary actions in the Army. Despite certifying other similar statements about his lack of Army discipline in his interview summaries, he claimed that the investigators either misquoted him or he misunderstood the scope of their questions. He also claimed that he made mistakes by not clarifying or appending some of the statements from his security interviews that he certified. (Tr. 147-162, 179, 213-217; Answer; GE 3)

Applicant cited to the fact that he disclosed the aforementioned 2012 UCMJ Article 15 discipline in his March 20, 2017 Electronic Questionnaire for Investigations Processing (2017 SF 86) as evidence that he was not trying to hide his prior Army discipline. He also claimed that he thought anyone making a decision regarding his security clearance eligibility would have access to his military records, so he assumed that anything he did not disclose would be readily available. He provided a plethora of positive whole-person evidence in the form of character-reference letters, his testimony, the testimony of one of his friends who is also a former Army colleague and superior, and his almost exclusively positive Army performance evaluations. The individual who testified at hearing on Applicant's behalf felt so strongly about Applicant's character that he paid for an airline ticket and flew to the hearing from out of state. Applicant's character evidence, that at least 36 individuals provided, reflects that he is honest, reliable, hard-working, of good moral character, and loves his country. Many of those who provided character references are current or former servicemembers and some hold security clearances. Some were ROTC cadets under Applicant's supervision. Nearly all these individuals opined that they believe Applicant should keep his security clearance. Applicant also received numerous commendations and awards throughout his military career. He has also earned many professional awards and has been commended for his performance with his current employer. (Tr. 31-32, 35-41, 135, 145-147, 162-163, 205-206, 220-235; Answer; GE 2, 3; AE B)

Applicant provided evidence that he received mental health counseling from a Doctor of Psychology for post-traumatic stress disorder (PTSD) between 2017 and 2021. This counselor opined that Applicant does not suffer from a mental health condition that would impair his judgment, and that she believed he should be permitted to hold a security clearance. She noted that he was receptive to her counseling and proactive in implementing it. (Tr.134-135; Answer; GE 3)

## **Policies**

This case is adjudicated under Executive Order (EO) 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), which became effective on June 8, 2017.

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(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."

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 EO 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* EO 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; and
- (c) a history of not meeting financial obligations.

Applicant had five delinquent debts totaling approximately \$49,000. Several of these debts were delinquent for many years. The above-referenced disqualifying conditions are applicable.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

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

Applicant's delinquencies were caused by divorce, underemployment, and the theft of his motorcycle. These conditions were largely beyond his control. By engaging the services of the DCC, regularly paying into the fund that the DCC uses to settle his debts, and satisfying several SOR and other debts, all before the SOR was issued, Applicant has shown that he has acted responsibly under the circumstances. Through these efforts, he has also shown that he initiated and is adhering to a good-faith effort to repay overdue creditors. AG ¶ 20(b) and AG ¶ 20(d) fully apply. He has mitigated the financial considerations security concerns.

### **Guideline E, Personal Conduct**

The security concern for personal conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect



classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following are potentially applicable 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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(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 government official;

(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; and

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

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

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

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

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

In 2008, 2012, and 2019, while he was serving in the Army, Applicant engaged in instances of workplace misconduct for which he was disciplined. Two of these incidents involved him creating hostile work environments. The 2019 incident resulted in a finding that he had engaged in sexual harassment.

Applicant's explanations for why he omitted or misstated his disciplinary information strain credulity. He was clearly disciplined for misconduct by his superior officer while he was supervising ROTC cadets in 2019. The plain meaning of the question in the 2021 SF 86 required him to report this discipline.

I also find it difficult to believe that both he (in the 2019 Memo) and the DOD investigator mistakenly reported the same information (no discipline before or after the 2019 incident) regarding his lack of disciplinary actions. I also find it hard to believe that Applicant failed to include any reference that his broad statements about his lack of discipline before or after the 2019 incident were limited to the SHARP context. In fact, in the 2019 Memo he made separate claims about not having any disciplinary actions and not having any SHARP allegations. He also clearly expended significant time and effort on certifying the security interviews where he adopted the false information.

I acknowledge that he included information in the 2017 SF 86 related to his 2012 misconduct, but that fact cuts both for and against him. It shows that he was willing to divulge this derogatory information, but it also shows that he understood that he should include disciplinary actions within seven years on his security questionnaire. It also shows that he understood that these reporting requirements were not limited to security incidents. For these reasons, I find that he deliberately omitted relevant facts from the 2021 SF 86. I also find that he deliberately provided false information concerning relevant facts to investigators and security officials. All the above-referenced Guideline E disqualifying conditions are established.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following mitigating conditions potentially apply in Applicant's case:

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

(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;

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

(f) the information was unsubstantiated or from a source of questionable reliability.

With respect to Applicant's 2008, 2012, and 2019 conduct that resulted in his discipline, I find that, considering his lengthy military and other professional career, he engaged in this conduct infrequently enough that it is unlikely to recur and does not cast doubt on his reliability, trustworthiness, and good judgment. It has also been over four years since he last engaged in conduct that resulted in discipline. Therefore, I find that he has mitigated the security concerns related to his conduct resulting in those disciplinary actions (SOR ¶¶ 2.a through 2.c).

Applicant did not provide sufficient evidence that he corrected his omission of relevant facts in the 2021 SF 86 or falsifications in his 2019 Memo or security interviews before being confronted with the facts. AG ¶ 17(a) is not applicable.

Deliberately omitting or providing false relevant information is not minor as it strikes at the heart of the security clearance process. Moreover, Applicant's omission, and his false statements were not infrequent, and they did not happen under unique circumstances. Instead, he omitted relevant information or provided false information on at least three occasions. He has not provided sufficient evidence that the behavior is unlikely to recur. AG ¶ 17(b) does not apply.

Applicant has undergone counseling. However, while I understand that he maintains that his omission and falsifications were not deliberate, this continued reliance has the unfortunate effect of meaning that he has not acknowledged his behavior. AG ¶ 17(c) partially applies.

AG ¶ 17(e) has some applicability as well. Applicant's character reference letters and the testimony from his friend and former colleague show that others know about the allegations in the SOR, thus reducing his vulnerability to exploitation, manipulation, and duress. The fact that he eventually spoke at length about his omission and falsifications to the DOD investigator after being confronted also reduces this vulnerability.

Applicant's misconduct and discipline that led to his omission and falsifications are supported by official records and, in many cases, by his own statements. While I understand that he claimed that some of the allegations of misconduct against him were from sources of questionable reliability, this belief does not excuse his omission or false statements. AG ¶ 17(f) is not applicable.

### **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 have incorporated my comments under Guidelines F and E in my whole-person analysis. I have also considered Applicant's honorable, high performing, and decorated military service. I considered the unwavering support that he enjoys among his friends, colleagues, and peers. However, I also considered that too often, Applicant asks me to believe his version of events over official findings. He also asks me to make too many unreasonable leaps of faith about the intent behind his actions and his overly nuanced justifications for his omission and falsifications. Moreover, he asks me to disbelieve some of his own written statements and certifications when they do not fit his narrative.

Considering the totality of the evidence and its context, I doubt the sincerity of his explanations for not disclosing his conduct when required, and for making false statements. There are simply too many instances of omitting relevant facts or providing false information and too many different, untimely, and illogical explanations for his doing so. He has not provided sufficient mitigating evidence. It is not clearly consistent with the national interest to grant or continue his eligibility for a security clearance.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns, but he did not mitigate the personal conduct security concerns.

### **Formal Findings**

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

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

Subparagraphs 2.a-2.c:

For Applicant

Subparagraphs 2.d-2.f:

Against Applicant

### **Conclusion**

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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Benjamin R. Dorsey  
Administrative Judge