DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 24-01167
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Aubrey M. De Angelis, Esq., Department Counsel
For Applicant: *Pro se*

06/27/2025

Decision

HARVEY, Mark, Administrative Judge:

Guideline E (personal conduct) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case.

On June 14, 2012, and September 13, 2023, Applicant completed and signed Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance applications (SCA). (Government Exhibit (GE) 1; GE 2) On August 16, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to

determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline E. (HE 2) On August 16, 2024, Applicant provided a response to the SOR and requested a hearing. (HE 3) On January 6, 2025, the Defense Office of Hearings and Appeals (DOHA) issued an amended SOR, and on January 10, 2025, Applicant responded to the amended SOR. On January 28, 2025, Department Counsel was ready to proceed.

On March 3, 2025, the case was assigned to me. On March 4, 2025, DOHA issued a notice, scheduling the hearing for April 14, 2025, at 1 p.m. On April 10, 2025, DOHA issued an amended notice, scheduling the hearing for April 14, 2025, at 2 p.m. The hearing was held as scheduled on April 14, 2025, at 2 p.m.

Department Counsel offered nine exhibits into evidence; Applicant did not provide any exhibits for admission into evidence; there were no objections; and I admitted all proffered exhibits into evidence. (Transcript (Tr.) 12, 15-16; GE 1-GE 9) On April 24, 2025, DOHA received a transcript of the hearing. No post-hearing exhibits were offered into evidence. (Tr. 49-50)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

Applicant admitted the allegations alleged in SOR ¶¶ 1.a through 1.i. He also provided extenuating and mitigating information. He denied that he made intentionally false statements to the DOD. His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 56-year-old systems engineer who has worked for a defense contractor for two years. (Tr. 6-7, 10) He is a high school graduate. (Tr. 7) Around 1997, he received a degree in a foreign country, which is equivalent to a bachelor's degree. (Tr. 7) He has never served in the military. (Tr. 8) He was married the first time in 2005 for about six months. (Tr. 8, 23-24) He married his second spouse around 2007, and his second spouse passed away in 2012. (Tr. 8. 24) His third marriage was in 2023. (Tr. 9, 24) He does not have any children. (Tr. 10)

Personal Conduct

SOR ¶ 1.a alleges in about April 2019, Applicant's employer fired him for "engaging in unwelcome and inappropriate sexually based behavior directed toward a job applicant."

SOR ¶ 1.b alleges Applicant falsified facts on his September 13, 2023 SCA in his response to Section 13A, Employment Activities for his reasons for leaving employment in April 2019, he said "DOWNSIZING." He denied that he had been fired, quit after being told he would be fired, or left by mutual agreement, and therefore failed to disclose the information in SOR ¶ 1.a.

In December of 2018, Applicant interviewed a prospective employee. (GE 4) She said he touched her hand during the interview and asked for her phone number, which she provided. After the interview he sent her text messages. He offered to mentor her and give her an airplane ride. (GE 4) He has a private pilot license. (GE 4) The text communications were from a cell phone registered to Applicant. (GE 4) He denied that he recognized the cell phone number from the text messages. (GE 4) He denied that he offered to mentor the prospective employee; he denied that he gave her his cell phone number; and he denied that he sent her text messages. (AE D at 8)

In February 2019, Applicant's employer interviewed Applicant about the allegations of inappropriate conduct with a prospective employee. (Tr. 40) He initially denied that he attempted to contact her after the interview. (Tr. 41) Then he admitted he may have tried to contact her after the interview. (Tr. 41) The investigator showed him a text message he allegedly sent to the prospective employee; however, Applicant said he no longer used the cell number for the text messages. (Tr. 41) The investigator concluded that Applicant was not credible because he made a change in his written statement, denied sending the prospective employee text messages, and denied using the cell phone number registered to him. (GE 4 at 2-3) In April of 2019, the investigative report of sexual harassment was completed and it concluded that Applicant engaged in a persistent and unwanted relationship with a prospective employee. (GE 4 at 2)

Applicant said that contracts to purchase aircraft were cancelled, and the company was being downsized. (Tr. 21, 43-44) He knew he was at high risk of being "downsized." (Tr. 44) He was never told he was being terminated because of the company being downsized. (Tr. 44) He had been discussing a transfer with his employer before he was terminated. (Tr. 20) He said he had submitted his resignation about 10 days before he received the termination letter, and this was his primary justification for not disclosing that he was being fired. (Tr. 37, 45) He said, "The fact that this fake allegation was then thrown on top of him, I kind of - - personally discounted it." (Tr. 45) He believed his "case was clean and that it—he shouldn't report it" on his SCA. (Tr. 20)

SOR ¶ 1.c alleges Applicant falsified facts during his October 20, 2023 interview with an investigator for the DOD about his termination from employment in April 2019 when he said, "today is the first time" he had "ever been notified of having been fired" from this employment. On April 22, 2019, he signed a document notifying him that he was terminated from his employment effective immediately based on the information in SOR ¶ 1.a.

Applicant said he forgot that he received the employee corrective action (ECA) memo, which said he was "discharged from the company effective immediately." (Tr. 22, 46-47; GE 5) He wrote on the bottom of the ECA memo that he wished to challenge the corrective action. (GE 5) That same day he cleared out his desk and left his employment. (Tr. 43)

Applicant's October 20, 2023 interview with a DOD investigator about his termination from employment in April 2019 states that the investigator notified him about being terminated from employment, and he told the investigator, "today is the first time"

he had "ever been notified of having been fired." (GE 3 at 9) Later in the DOD investigative interview, he reiterated "that this is the first time [he] has ever been informed that [his employer] considered that he was fired." (GE 3 at 10) Applicant said at his hearing, "I genuinely was very, very shocked and surprised. I was actually very embarrassed. When I received that letter, I was like, holy cow, that did happen, didn't it?" (Tr. 47) Applicant told the DOD investigator that he never had access to the cell phone from which the text messages to the prospective employee originated; he denied that he made inappropriate comments to the prospective employee; and he denied that he contacted the prospective employee after the job interview. (GE 3 at 10)

In his SOR response, Applicant said the ECA memo must have been in a file of materials he received when he was leaving the employment, and he must have signed the memo without being aware of signing it. (SOR response at 2) He said, "I naively assumed all the forms I quickly signed were merely standard business closure forms post my resignation. I humbly deny intentionally providing false information to the Department of Defense." *Id*. (emphasis in original). He further said, "Whilst I admit it appears I provided false information to the investigator; I deny intentionally providing falsified information to the Department of Defense. As stated above, it was genuinely the first time I heard [that my employer] portrayed my resignation as a termination to legally protect the company." *Id*. (emphasis in original).

SOR ¶ 1.d alleges on about June 2, 2005, Applicant's first spouse requested emergency assistance from the police. She reported that she had an altercation with Applicant during which he unplugged the telephone while she was using it.

SOR ¶ 1.e alleges on about June 7, 2005, Applicant's first spouse filed a petition for an order for protection in which she requested that a temporary restraining order be issued against him for acts of domestic violence, which was granted. The terms prohibited Applicant from causing her any physical harm, restrained him from having contact with her, and required him to vacate their shared residence immediately. On about June 14, 2005, the petition for order for protection was dismissed after Applicant and his former spouse agreed to have the restraining order entered in their dissolution proceedings.

Applicant's first spouse said she was trying to call 911, and he disconnected the telephone. (Tr. 29; GE 7) She accused him of keeping her in a bedroom closet against her will and holding her arms. (Tr. 29) Applicant admitted that they had verbal arguments; however, he denied that he was in any physical altercations with her. (Tr. 29)

Applicant said he discussed the necessity of using the phone line with his spouse to plug into his computer so he could participate in a meeting. (Tr. 26) She refused to cooperate with him; he unplugged the telephone she was using; and he plugged the line into his computer. (Tr. 26) She left their residence and called the police. (Tr. 27) Applicant voluntarily stayed in a hotel that night because the police wanted them to be separate from each other. (Tr. 27) Applicant said he believed the restraining order was part of his divorce. (Tr. 17-18, 27-28)

SOR ¶ 1.f alleges on about October 10, 2010, Applicant was arrested and charged with 4th degree assault – domestic violence after an altercation with his second former spouse. He pleaded not guilty. On about October 11, 2010, a no contact order was issued against him, which was subsequently modified to allow Applicant and his second former spouse to attend counseling sessions together. On about October 26, 2010, the charge was amended to disorderly conduct in accordance with a stipulated agreement. Applicant was found guilty and granted deferred adjudication, the terms of which prohibited him from having any criminal violations for two years, required him to notify the court of any address changes for two years, required him to attend anger management treatment, and required him to pay a fine.

SOR ¶ 1.g alleges Applicant falsified facts on his June 14, 2012 SCA when he failed to provide the information in SOR ¶ 1.f. In his response to Section 22 – Police Record, he was supposed to "Provide a description of the specific nature of the offense," and he said:

> My separated [spouse] and I had an argument as we prepared for church on 10/10/10. My wife (who was arrested in her first marriage for DV) struck me several times & drove off from our property. I called the police & as they went to arrest her[,] in a panic she told them her husband hit her first. It is [state] law that if the wife alleges such the husband should be arrested. Realizing this she tried to rescind her allegation but by law you cannot. I was arrested but released the next day and not prosecuted in any manner or form.

Applicant substantially repeated the quoted information at his hearing. (Tr. 19-20) He was held overnight in jail. (Tr. 31) Applicant said during the physical altercation with his second wife, he "may have pushed her away." (Tr. 30) Applicant denied that he had physical altercations with his second wife on other occasions. (Tr. 31) He denied that he ever punched or hit her. (Tr. 31) He believed that the charge was dismissed. (Tr. 33) He said he did not remember going to court and entering a guilty plea to disorderly conduct. (Tr. 34) He said he did not remember signing a stipulated agreement. (Tr. 34-35) He remembered going to court-ordered anger management and recommended marriage counseling. (Tr. 35) He said his wife appeared in court and "she refuted what she'd said." (Tr. 35)

When his second spouse filed for divorce in 2012, she requested a restraining order or a permanent order of protection. (Tr. 35) Applicant said he was unsure whether the requested orders were granted. (Tr. 36)

SOR ¶ 1.h alleges Applicant falsified facts on his June 14, 2012 SCA, when he failed to provide the information in SOR ¶ 1.f. In his response to Section 22 – Police Record, he was supposed to answer the following question about the result of the offense: "As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you?" Applicant answered no and failed to disclose that he was charged with 4th degree assault – domestic violence,

that he was ordered to appear in court to enter a plea, and that the charge was subsequently amended to disorderly conduct as part of a stipulated agreement.

SOR ¶ 1.i alleges Applicant falsified facts on his June 14, 2012 SCA, in response to Section 22 – Police Record, Charges, he responded no to the following question: "As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you?" and he provided the same explanation as quoted in SOR ¶ 1.g. He failed to disclose the information in SOR ¶ 1.f about the charge and its disposition.

Applicant said he did not disclose the 4th degree assault – domestic violence charge and his appearance in court because his "legal record was clear, because it was kind of the allegation was overturned and [he] was not prosecuted." (Tr. 36) He said his legal team advised him "your record is as clean as a whistle." (Tr. 36)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id*. at 527. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See* Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the

President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

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

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

Analysis

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

> 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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. . . .

AG ¶ 16 lists personal conduct disqualifying conditions that are potentially relevant in this case as follows:

> (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;
>
> (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;

(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.

The record evidence establishes AG ¶¶ 16(a); 16(b); 16(d), and 16(e). Further details will be discussed in the mitigation analysis, *infra*.

AG ¶ 17 lists conditions that could mitigate personal conduct security concerns:

(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 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;
>
> (f) the information was unsubstantiated or from a source of questionable reliability; and
>
> (g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

> Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. *See* Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan*, *supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2, [App. A] ¶ 2(b).

SOR ¶¶ 1.a, 1.d, 1.e, and 1.f are mitigated. The domestic violence between Applicant and his first spouse occurred in June of 2005, and between Applicant and his second wife in October of 2010. The inappropriate conduct with a prospective employee occurred in December of 2018 and resulted in termination of his employment. These incidents are not recent. He was not prosecuted for the 2005 and 2018 incidents, and his conviction in 2010 was for disorderly conduct, which is a misdemeanor. He was not sentenced to jail. These incidents have not recurred since December of 2018. These incidents do not cast doubt on his current reliability, trustworthiness, and judgment AG ¶ 17(c) applies to these four SOR incidents.

Personal Conduct—Falsifications of SCAs and DOD Investigative Interview

"Applicant's statements about his intent and state of mind when he executed his [SCA and during his DOD investigative interview] were relevant evidence, but they [are] not binding on the Administrative Judge." ISCR Case No. 04-09488 at 2 (App. Bd. Nov. 29, 2006) (citation omitted). In ADP Case No. 17-03932 at 3 (App. Bd. Feb. 14, 2019), the Appeal Board recognized the importance of circumstantial evidence of intent in falsification cases:

> When evaluating the deliberate nature of an alleged falsification, a Judge should consider the applicant's *mens rea* in light of the entirety of the record evidence. *See, e.g.*, ADP Case No. 15-07979 at 5 (App. Bd. May 30, 2017). As a practical matter, a finding regarding an applicant's intent or state of mind may not always be based on an applicant's statements, but rather may rely on circumstantial evidence. *Id*.

When Applicant completed his June 14, 2012 SCA he provided false or misleading answers in three places about his October 2010 physical altercation with his second spouse. He said he was not charged, even though he was charged with 4th degree assault-domestic violence. He said he was "not prosecuted in any manner or form," when in fact, he was convicted of disorderly conduct. SOR ¶¶ 1.g, 1.h, and 1.i are established.

When Applicant completed his September 13, 2023 SCA he provided a false or misleading answer to the question about the termination of his employment in April of 2019. He said he left the employment due to downsizing, when in fact he was terminated for inappropriate conduct with a prospective employee. SOR ¶ 1.b is established.

A DOD investigator interviewed Applicant on October 20, 2023, about his termination of employment in April of 2019. Applicant said twice that the first time he saw the ECA memo was the day of his DOD interview. His signature and a handwritten comment are on the ECA memo. SOR ¶ 1.c is established.

Applicant made false statements to his employer and at his hearing about not sending text messages to the prospective employee. He falsely stated in his SOR response that "it was genuinely the first time I heard [his employer] portrayed my resignation as a termination." He falsely stated at his hearing, "I genuinely was very, very shocked and surprised. I was actually very embarrassed. When I received that letter, I was like, holy cow, that did happen, didn't it?" (Tr. 47) These false statements were not alleged in the SOR. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

> (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation;

> (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

Id. (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). *See also* ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). These non-SOR allegations will not be considered except for the five purposes listed above.

Applicant's explanations at his hearing for not disclosing accurate information on his SCAs, to the DOD investigator, and at his hearing are not credible. He is intelligent and experienced in the U.S. justice system. The questions are clear and easy to understand. Applicant knows what charges are, and he understands that he was terminated from his employment in 2019. He knew he should have disclosed the required information about the existence of charges and his termination of employment in 2019.

No mitigating conditions apply to the falsifications of Applicant's June 14, 2012, and September 13, 2023 SCAs, and his October 20, 2023 DOD investigative interview. His failure to accept full responsibility for his conduct casts doubt on his rehabilitation, reliability, trustworthiness, and 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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 56-year-old systems engineer who has worked for a defense contractor for two years. Around 1997, he received a degree which is equivalent to a bachelor's degree. He has not engaged in any recent criminal conduct.

The reasons for revocation of his security clearance are more persuasive. Falsification of two SCAs and a false statement to an DOD investigator strike at the heart of the security clearance process. The personal conduct-falsification of two SCAs and to a DOD investigator, *supra,* explains why the Guideline E security concerns are not mitigated.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person.

Formal Findings

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

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b and 1.c:	Against Applicant
Subparagraphs 1.d through 1.f:	For Applicant
Subparagraphs 1.g through 1.i:	Against Applicant

Conclusion

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

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Mark Harvey
Administrative Judge