



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



In the matter of:	)	
	)	
	)	ISCR Case No. 07-17247
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Emilio Jaksetic, Esq., Department Counsel  
For Applicant: Mark Zaid, Esq. and Bradley Moss, Esq.

November 28, 2008

**Decision**

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the government’s security concerns under Guideline E, Personal Conduct, and Guideline J, Criminal Conduct. Applicant’s eligibility for a security clearance is denied.

On June 20, 2008, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) detailing the security concerns under Guidelines E and J.<sup>1</sup> The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR in writing on August 1, 2008, and requested a hearing before an administrative judge. The case was assigned to me on September

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<sup>1</sup> The SOR has a mark striking “ISCR” and replacing it with “ADP.” Department Counsel confirmed the case is an ISCR.

23, 2008. DOHA issued a notice of hearing on September 29, 2008, and I convened the hearing as scheduled on October 28, 2008. The government offered Exhibits (GE) 1 through 4. Applicant did not object and they were admitted. The government also offered GE 5, which was marked for identification and was used to refresh Applicant's recollection, but was not admitted. An additional exhibit was marked as Hearing Exhibit (HE) I. Applicant and three witnesses testified. Applicant submitted Exhibits (AE) A-B. Department Counsel did not object and they were admitted. DOHA received the transcript of the hearing (Tr.) on November 6, 2008.

### **Findings of Fact**

Applicant denied the allegations in the SOR. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 32 years old and works as an information technology technician/project manager for a defense contractor. He graduated from high school in 1994. He served in the Marines for six years and was honorably discharged at the rank of sergeant. He earned an associate's degree and has approximately 16 credits remaining to complete a bachelor's degree. He is engaged to be married.

On December 21, 1996, Applicant was charged with Driving Under the Influence of Alcohol.<sup>2</sup> On about September 17, 1997, the court granted Applicant Probation Before Judgment, and he was required to pay a fine of approximately \$255, successfully complete an alcohol counseling session and was placed on probation for 18 months.

On July 12, 1997, Applicant was arrested and charged with (1) DUI with a Blood Alcohol Content of .10% or above, and (2) Violation of Provisional License Restriction. On about November 13, 1997, Applicant was found guilty of DUI, fined approximately \$1,000, with \$800 suspended, plus \$20 court cost, his driver's license was suspended, and he was placed on supervised probation for three years. Count (2) was nolle prossed. Applicant was ordered to attend a 26-week Problem Drinkers Program and Alcohol Anonymous Meetings for about six months. On September 29, 1998, the state medical advisory board imposed an alcohol restriction on Applicant's driver's license, and it was still in effect in 2003.

On December 13, 2002, Applicant was charged with 4<sup>th</sup> Degree Burglary. He was intoxicated at the time he was arrested. The charge was subsequently nolle prossed.

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<sup>2</sup> The actual charge was "Driving While Intoxicated." Both "Driving While Intoxicated" and "Driving Under the Influence" are essentially the same offense, but are referred to differently depending on the jurisdiction. To eliminate confusion they both will be referred to as DUI.

Applicant testified he has been arrested three times, twice for DUI and once for burglary.<sup>3</sup> He claimed that when he was interviewed for his first security clearance he revealed his three arrests.<sup>4</sup>

In a sworn statement provided to a special agent of the Defense Security Agency on September 15, 2003, Applicant stated he had been arrested in December 2002 for 4<sup>th</sup> Degree Burglary and had twice been arrested for DUI sometime in 1995 or 1996. In this statement Applicant stated:

When I completed my security forms, I neglected to list both of my offenses. I thought that the DUI offense for which I received Probation Before Judgment had been expunged from my record, and I therefore was not required to list i[t] on my security forms. I made no attempt to intentionally withhold information or to falsify my forms. I thought that I had truthfully and accurately answered all questions.<sup>5</sup>

Applicant was asked “why didn’t you disclose the other offense on your security form in 2003” He responded, “I don’t recall any information regarding that. I mean, I don’t know.”<sup>6</sup> Applicant claimed he listed his other two offenses on his 2003 SCA.<sup>7</sup>

Applicant testified that after he completed the SCA in 2003 he received a Top Secret clearance through the Department of State. In 2005, he was given interim access to sensitive compartmented information (SCI). Later he was working as a contractor for an agency that required a polygraph and an updated background check. He was required to complete another SCA for access to SCI. He stated he was given very little time to complete the forms.<sup>8</sup>

Applicant completed another SCA and signed it on November 21, 2006. In that SCA Question 23 asked him about his police record and if he had “ever been charged with or convicted of any offense(s) related to alcohol or drugs,” to which he answered

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<sup>3</sup> Tr. 98.

<sup>4</sup> Tr. 99.

<sup>5</sup> GE2 at 5. I have not considered for disqualifying purposes the fact that Applicant failed to divulge his criminal conduct on his 2003 security application, but will consider it in the whole person analysis and to analyze a pattern, credibility, honest mistake, and a course of conduct. Conduct not alleged in the SOR may be considered: “(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.” ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) (citations omitted).

<sup>6</sup> Tr. 121.

<sup>7</sup> The 2003 Security Application was not provided by either party.

<sup>8</sup> Tr. 95-98.

“no.” Question 26 asked him if he had “ever had a clearance or access authorization denied, suspended, or revoked,” to which he answered “no.”

Applicant was interviewed twice by an OPM investigator in 2007, but could not recall the specifics of the interview.<sup>9</sup> He could not recall if he told the investigator that his security manager had told him that his SCI had been revoked.

Applicant completed a signed, sworn statement dated February 11, 2008. In that statement Applicant stated he had been arrested on two occasions in his life, one arrest in 1996 for DUI, and one arrest in 2001 for 4<sup>th</sup> Degree Burglary. This statement is not true. Applicant was arrested twice for DUI and once for Burglary.

In a sworn affidavit of February 11, 2008, provided to a Special Agent for the Office of Personnel Management (OPM), Applicant stated:<sup>10</sup>

As I have always fully divulged during prior background investigations, I have been arrested on two occasions over the course of my life. The first arrest came in 1996 (exact date unrecalled). I was arrested in City B by City B police for driving under the influence of alcohol (DUI).<sup>11</sup>

\* \* \*

My other arrest occurred in 2001 (exact date unrecalled), and also occurred in City B.<sup>12</sup>

\* \* \*

Aside from my aforementioned 1996 DUI arrest and 2001 arrest for burglary, I have never been questioned, detained, or arrested by any law enforcement body. Aside from my 1996 DUI arrest, I have never been charged or convicted of any offenses related to alcohol, regardless of whether they have been expunged, sealed, or stricken from court records. There will be no arrest or court records found that will allude to me being involved in any other criminal-related acts other than the two I have already discussed.<sup>13</sup>

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<sup>9</sup> Tr. 125.

<sup>10</sup> GE 3.

<sup>11</sup> *Id.* at 3.

<sup>12</sup> This was the 4<sup>th</sup> degree burglary arrest.

<sup>13</sup> GE 3.

Aside from my 1996 court-mandated alcohol counseling, I have never been counseled or medically treated for alcohol abuse or misuse.<sup>14</sup>

\* \* \*

Despite my affirmation immediately above about full disclosure of my criminal past, it was brought to my attention during my interview with the OPM Investigator that I did not admit to any arrests on my most recently submitted Standard Form 86 (SF86). I was unable to offer a response as to why I failed to list these arrests on my SF86. However, as I explained to the OPM Investigator, there is no way I would attempt to conceal my arrest information because I fully divulged it to the Defense Security Service (DSS) Investigator during my last background investigation which occurred in 2003. Additionally, I could not offer reasons why I failed to list the fact that I had my TS/SCI security clearance revoked on my SF86. Despite not being able to provide said reasoning, I affirmed during my interview that I was not attempting to withhold or conceal a material fact.<sup>15</sup>

Throughout his statement of February 11, 2008, Applicant refers to his TS/SCI clearance as being “revoked.” He stated:

Upon being read-off the contract, I was allowed to stay employed with .... However, since my TS/SCI clearance was revoked, which limited my capabilities and usefulness at work, I began to seek employment elsewhere.<sup>16</sup>

• \* \*

[T]o present day, I have never been told why my clearance was revoked.

\* \* \*

The ...representatives informed me that there were inconsistencies in my polygraph examination responses which specifically pertained to my past criminal history. I have no idea why this was the case. I have been previously arrested on two occasions, and I fully divulged that to the ... during the polygraph examination.<sup>17</sup>

Applicant refers to only two arrests that he divulged.

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

Applicant testified that he was interviewed twice in 2007. After the last interview the investigator prepared a written statement and he met with the investigator to go over the statement in February 2008. Applicant confirmed that he was provided the written statement that was prepared by the investigator; he had an opportunity to read it and make corrections. Applicant testified:

I did notice that the '97 arrest was missing, but I figured, you know, the investigator, you know, had that information, you know, in the two-week time period would have brought it up and certainly asked questions about it. I asked the investigator, 'is this, you know, the last time we're going to have to talk about this?' He said, 'Yes, you'll probably never see me again, and you probably won't have to worry about this for five years.' So, I signed the paperwork and I have not seen him again.<sup>18</sup>

I explained everything, you know, to the investigator. You know, we looked over everything. You know, I've already explained everything in the past before, so, why—why it isn't on there, you know, I don't know.<sup>19</sup>

Applicant stated he did not intentionally omit the pertinent information and he did not fail to discuss all of his arrests to the investigator. He further stated: "I thought it was an update and I didn't need to."<sup>20</sup> Applicant was asked if he knew when he read the statement that it was not "totally correct" and he admitted he was aware it was not. He admitted that when he signed it he knew there were mistakes in the statement.<sup>21</sup> He was asked why he did not correct them. He stated:

Well, the investigator had it for two years—I mean, I mean two months—or two weeks. I figured if he had any problems with it he would have addressed it at the time. And this is all information that was already revealed in 2003.<sup>22</sup>

He stated: "I know it isn't in there, and I didn't read it thoroughly enough and I wish that I had."<sup>23</sup> He confirmed that he initialed grammatical changes made by the investigator but not substantive matters.

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<sup>18</sup> Tr. 103.

<sup>19</sup> Tr. 105-106.

<sup>20</sup> Tr. 99.

<sup>21</sup> Tr. 135-136.

<sup>22</sup> *Id.*

<sup>23</sup> Tr. 153-155.

Regarding Applicant's failure to divulge the revocation of TS/SCI access, he stated he had not received a "formal letter or reasoning" for being read-off the government contract. He stated:

You know, when I met with the investigator, you know, he and I spoke about that and the investigator brought up the term, you know, 'revoked.' So I don't know if it's been revoked. I don't know if it was downgrade[d].<sup>24</sup>

He stated that it was never explained to him what "revoked" meant. When asked what his understanding of the word "revoked" was, he stated "taken away... or to tell you the truth, I really don't have a full understanding of that word."<sup>25</sup> After further questioning he stated he did not know a "Webster's version, you know of the...not a Webster's Dictionary version,"<sup>26</sup> but then stated it meant "to be taken away."<sup>27</sup>

Applicant admitted that when he worked for a different defense contractor he was told by his facilities security officer that he was being read-off the contract because he did not pass the polygraph. He understood that he did not have access to SCI. He understood that a decision was made that he was not going to have access to SCI. Applicant was concerned because "I never received any reasons for that."<sup>28</sup>

I find Applicant's testimony throughout the proceeding was not credible or believable. I find he was evasive and lacked candor. His explanations regarding his omissions on his SCA were not believable. His testimony as to why he failed to list his revocation of his TS/SCI security clearance was not believable. He was aware his TS/SCI security clearance had been revoked and deliberately omitted it on his SCA. Even if he were to be believed that he was in a hurry when he completed his SCA in 2006, when he was interviewed later he failed to ensure the investigator had all of his correct information. In his written statement of February 11, 2008, he had an opportunity to correct the omissions and mistakes and he intentionally and deliberately chose not too. He repeatedly provided conflicting statements that contradicted sworn statements previously made.

Three witnesses testified on Applicant's behalf and a character letter was provided. One a former coworkers/friend considers Applicant an excellent worker, who is reliable and dependable. He and Applicant lived together for a period of time and socialized. He did not notice any alcohol-related issues during this time. He believes

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<sup>24</sup> Tr. 109, 150-151. Apparently Applicant was interviewed twice by the OPM investigator, once regarding his criminal activity and another time regarding his SCI revocation.

<sup>25</sup> Tr. 111.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Tr. 132-133, 144.

Applicant is thorough and not forgetful.<sup>29</sup> The other considers Applicant an honorable person that he trusts and respects. Both recommend he be granted a security clearance.<sup>30</sup>

Applicant's fiancé testified that she believes Applicant is truthful and he made a mistake. She believed he forgot to divulge the omitted information and did not understand the questions and thought he only had to go back five years. She recommends Applicant for a position of trust.<sup>31</sup>

Applicant's supervisor testified on his behalf. The supervisor received positive feedback from customers about Applicant. He trusts Applicant and recommended that he be given a security clearance.<sup>32</sup>

### **Policies**

When evaluating an Applicant's suitability for a security clearance, the Administrative Judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The Administrative Judge's over-arching adjudicative goal is a fair, impartial and common sense 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 access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is

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<sup>29</sup> Tr. 29-51.

<sup>30</sup> AE B.

<sup>31</sup> Tr. 55-74.

<sup>32</sup> Tr.78-90.



responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline 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 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 describes two conditions that could raise a security concern and may be disqualifying. I have specifically considered (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”); and (b) (“deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative”) under this guideline. I have considered all of the facts and find Applicant deliberately omitted, concealed, misled, and falsified information on his September 2006 SCA, on his signed sworn statement of February 11, 2008, and at this hearing. I find he deliberately failed to divulge all of his criminal conduct and the revocation of his TS/SCI security clearance by another government agency. I find in his signed sworn statement of February 11, 2008, he deliberately failed to disclose he had been arrested twice for DUI. I find both disqualifying conditions apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from personal conduct. I have considered all of the mitigating conditions and especially considered AG ¶ 17(a) (“the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts”); (b) (“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”); and (e) (“the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress”). Applicant did not make an effort to correct the omissions and falsifications on his SCA or in his February 11, 2008, sworn statement. To the contrary, he was aware of mistakes in his sworn statement, had an opportunity to correct them and did not act to do so. Applicant did not divulge all of his criminal conduct in his first SCA.<sup>33</sup> When he was interviewed in 2003, he provided an explanation for why he failed to divulge all of his criminal conduct. Later he stated he relied on previous admissions of his conduct to supplement his 2006 SCA. However, he provided different reasons why he did not fully divulge all of the information when he completed his 2006 SCA, and, when he was later interviewed and signed and swore to his statement. His explanations were: He believed it was an update and the information was already available; he was in a hurry; he did not understand what “revoked” meant; he forgot; he assumed the investigator chose not to address one of his DUI convictions when he transcribed the statement. Based on his numerous explanations, I find Applicant’s actions were not the result of an honest mistake, but were deliberate. He perpetrated a falsification and continued his affirmation of it throughout his hearing. Applicant’s actions can not be considered minor because he failed to divulge information that was pertinent to his security clearance investigation at various stages throughout the process, thereby casting doubt on his reliability, trustworthiness and good judgment. Applicant’s testimony was unreliable and untruthful. I find insufficient evidence was presented to confirm he has taken steps to reduce his vulnerability. I find none of the mitigating conditions apply.

## **Criminal Conduct**

AG ¶ 30 expresses the security concern pertaining to criminal conduct: “Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules and regulations.”

The SOR cross-alleges Applicant’s falsifications regarding his failure to fully divulge his criminal conduct, his security clearance revocation and statements in his February 11, 2008, signed sworn statement. I previously found his falsifications and omissions were deliberate and intentional. I have considered the disqualifying conditions under Criminal Conduct AG ¶ 31 (a) (“a single serious crime or multiple

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<sup>33</sup> I have not considered for disqualifying purposes any possible omissions made in his 2003 SCA or statement. However, I have considered them, as stated above, when analyzing the whole person or as a course of conduct, including analysis of a deliberate falsification or a mistake.

lesser offenses”), and (c) (“allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted”).

It is a felony, punishable by a fine or imprisonment for not more than five years or both, to knowingly and willfully make any materially false, fictitious, or fraudulent statement or representation in any matter within the jurisdiction of the executive branch of the government of the United States.<sup>34</sup> Security clearances are matters within the jurisdiction of the executive branch of the government of the United States. A deliberately false answer on a security clearance application is a serious crime within the meaning of Guideline J. Applicant’s false answers on his security clearance application and signed sworn statement raise disqualifying conditions (a) and (c).

I have also considered all of the mitigating conditions for criminal conduct and especially considered AG ¶ 32 (a) (“so much time has elapsed since the criminal behavior happened, or it happened under unusual circumstances that is it unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness or good judgment”), and (d) (“there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement”). Appellant provided incomplete and false information throughout the course of the security investigation and at his hearing. For example, when confronted with the inconsistencies regarding why he did not list the revocation of his security clearance and access to SCI, he elaborated that he never received formal notification; he did not know what the word “revoked” meant; and he did not know the Webster’s definition of it. When directly confronted, he admitted it meant “taken away.” His actions did not happen under unusual circumstances, and consequently they do cast doubt on his reliability, trustworthiness and good judgment. Due to Applicant’s continuing conduct and lack of credibility during his testimony, I find there is insufficient evidence of successful rehabilitation. I find none of the mitigating conditions apply.

### **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(a): “(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

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<sup>34</sup> 18 U.S.C. § 1001.

for a security clearance must be an overall common sense 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. Applicant is a 32-year-old man who is a valued dependable worker. He has served his country for six years as a Marine. He failed to be completely honest and provide a complete picture of his criminal history and that he previously had his security clearance and access to SCI revoked. He had opportunities to correct the omissions, but did not. Even if he were to be believed that he had listed everything on his 2003 SCA regarding his criminal conduct, his statement of February 11, 2008, clearly asserts he was arrested only twice, which was false. He failed to provide a credible explanation why he did not list his security clearance revocation. Overall, the record evidence leaves me with serious questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising from personal conduct and criminal conduct.

### **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:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a:	Against Applicant

### **Conclusion**

In light of all of the circumstances it is not clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Carol G. Ricciardello  
Administrative Judge