



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



In the matter of:)
)
) ISCR Case No. 08-01827
)
Applicant for Security Clearance)

Appearances

For Government: Melvin A. Howry, Esq., Department Counsel
Braden M. Murphy, Esq., Department Counsel
For Applicant: Jim Lane, Esq.

January 31, 2011

Decision

LOUGHRAN, Edward W., Administrative Judge:

Applicant has not mitigated Personal Conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On January 12, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E, Personal Conduct. The action was taken under Executive Order (EO) 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 adjudicative guidelines (AG) implemented by the Department of Defense on September 1, 2006.

Applicant answered the SOR on January 25, 2010, and requested a hearing before an administrative judge. The case was assigned to another administrative judge on July 13, 2010, and reassigned to me on August 4, 2010. DOHA issued a notice of

hearing on August 18, 2010, as amended on August 19, 2010, and the hearing was convened as scheduled on September 14, 2010. The Government called two witnesses and offered Exhibits (GE) 1 through 13, which were admitted without objection. Applicant testified and submitted Exhibits (AE) A¹ through M, which were admitted without objection. DOHA received the hearing transcript (Tr.) on September 21, 2010.

Findings of Fact

Applicant is a 55-year-old engineer employed by a defense contractor. He served on active duty in the United States military from 1977 until he was honorably discharged in 1988. He served in the reserves from 1988 until 2005. He seeks to retain his security clearance. He has a bachelor's degree and a master's degree. He was married and divorced three times before he married his current wife. He does not have children.²

Applicant served as a reservist in a subordinate unified command (SUC) from 1990 through 2000. He served overseas and also worked at the command headquarters, which was located outside the continental United States (OCONUS). His officer evaluations indicate that he performed active duty for 17 days in 1995, 17 days in 1996, 17 days in 1997, and 13 days in 1998. He also "drilled" during other periods earning points for retirement. He was promoted to pay grade O-5 in 1996. He worked in the military intelligence (MI) field and held various titles and positions within the command. For a period, he performed duties as a Special Security Officer (SSO) for a task force and assistant SSO for the SUC. Because of his education, background, and civilian experience, he was "tasked to identify and implement solutions to intelligence collection, analysis and dissemination problems requiring acquisition and employment of advanced technology systems."³

At some point, Applicant was attached to a reserve detachment that supported the SUC. The detachment was located in a state that was far from where Applicant lived. The original mission of the detachment was to provide the SUC a pool of reserve personnel available to augment the SUC headquarters staff positions during the reservists' two-week annual training periods. The mission of the detachment evolved to where their personnel were training and deploying with combat units.⁴

The SOR in this case is based upon a letter of reprimand Applicant received from his reserve commander in January 2005. The SOR alleged that Applicant executed documents and correspondence for the purpose of misleading state and local law enforcement offices by 1) issuing courier orders, 2) authorizing military concealed carry of weapons, 3) falsely stating the mission of the detachment, 4) assisting in the renewal of a civilian concealed carry weapons permit, and 5) misrepresenting that he was

¹ AE A has many attachments. They will be referred to as AE A.1.1 through AE A.5.

² Tr. at 89-94, 182-183; GE 6, 9; AE A.2.1.1.

³ Tr. at 16-17, 21-22, 25, 93, 172-177; GE 2, 6, 9; AE A.2.1.1, A.2.1.2, A.5, E-H.

⁴ Tr. at 29, 65-67, 106-110, 118-125; Applicant's response to SOR; GE 1, 2, 6, 9; AE A.1.4, A.1.4.1-A1.4.5, A.1.6.2, A.1.6.3, A.2.1, A.5, E-L.

involved in the test and evaluation of weapons and ammunition on behalf of the SUC. The letter of reprimand stated:

[Y]ou executed documents and correspondence for the purpose of misleading state and local law enforcement offices. You did this to assist another [service member] in obtaining permits to possess illegal weapons and to facilitate unauthorized training by members of [detachment]. Your actions falsely reflected endorsement by the Department of Defense and [subordinate unified command].

You are hereby reprimanded. You were derelict in your duties when you issued courier orders, authorized military concealed carry of weapons, falsely stated the mission of the [detachment], and assisted in the renewal of a civilian concealed carry weapons permit. You were also derelict in your duties when you represented yourself as involved in the test and evaluation of weapons and ammunition on behalf of [subordinate unified command].⁵

The specific allegations in the SOR and the letter of reprimand are addressed individually below.

The SOR and letter of reprimand state that Applicant was derelict in his duties when he issued courier orders. In 1995, he issued courier orders to an officer from the detachment (Officer A), who was then in the pay grade O-2. The orders authorized the officer to carry classified documents between the command's headquarters and necessary destinations. The orders were for an indefinite period. Applicant signed the orders as the command's Deputy Special Security Officer. Applicant admitted that he signed the courier orders using the standard form letters that he received from the command. The command SSO wrote an affidavit certifying that he was aware that Applicant issued the courier orders and he approved of the action. In April 1998, additional courier orders were issued to Officer A to transfer computer and hard drives from the SUC's OCONUS location to his detachment's location in the United States. The orders were effective for the day that Officer A flew with the equipment and were signed by another SUC officer in the pay grade O-5.⁶ I find Applicant was acting within the scope of his duties as SSO when he issued the courier orders to Officer A in 1995.

In October 1996, two military cards were issued to Officer A, who had been promoted to O-3, authorizing him to carry a concealed .45 caliber pistol and a 9 millimeter (mm) pistol "in connection with his official duties." The cards were valid from October 1996 through October 1997. The cards bore a signature that is strikingly similar to Applicant's signature. Applicant denied any memory of signing the cards. He stated it was very unlikely that he signed the cards because the cards report Officer A as having a middle initial, and everyone involved with the unit knew that Officer A did not have a

⁵ GE 5.

⁶ Tr. at 53-55, 103-106, 111-112, 137; Applicant's response to SOR; GE 5; AE A.1.2, A.1.2.5, E, F, I, K, L.

middle name. As proof of that assertion, Applicant submitted an officer evaluation for Officer A that did not list a middle name or initial. There are other documents in evidence, including the federal charges against Officer A and his death record, that report officer A with the same initial or a middle name that starts with the same letter as the initial on the weapon's cards. The dates on the cards do not coincide with Applicant's 17 days of active duty in 1996. That does not preclude the cards from being signed while drilling. The authority to issue the cards was questioned because the cards, even if valid, should only have been issued for the short period that Officer A served on active duty with the SUC, not for a full year. The cards were only supposed to authorize the carrying of official military weapons. It is unclear if the .45 caliber and 9 mm pistols were military-issued weapons or Officer A's personal weapons.⁷

The SOR and letter of reprimand state that Applicant was derelict in his duties when he assisted in the renewal of a civilian concealed carry weapons (CCW) permit. In January 1997, a letter was sent to the chief of police of Officer A's hometown using letterhead with the seals of the Department of Defense and the SUC. The letterhead contained the name of the SUC, Applicant's directorate, and his branch. It also included the detachment and that it was "Airborne." The street address was in the geographic location of the detachment. Applicant's name and rank were printed on the letter and the signature appeared to be Applicant's. The letter thanked the chief of police for his:

personal attention and unequalled professional courtesy in securing a concealed weapons permit for [Officer A]. The camaraderie you extended to [Officer A] is deeply appreciated by this Directorate and by [SUC]. Your actions help to ensure the safety of a highly valued federal officer and clearly exemplify the highest standards of mutual respect and cooperation which we, as professional officers, strive to achieve.⁸

The reserve commander who issued the letter of reprimand questioned the designation of the detachment as "Airborne," and several other irregularities in the letterhead.⁹

In March 1998, a memorandum "To Whom It May Concern" with the subject "Notice to State and Local Authorities" was issued. The memorandum used letterhead with the seals of the Department of Defense and the SUC. The letterhead contained the name of the SUC and the detachment. The detachment line on the letterhead included the designation "ABN," short for Airborne. Applicant's name and rank were printed on the memorandum, and the signature appeared to be Applicant's. Applicant denied signing the memorandum. Officer A's name was contained in the memorandum, listing the middle initial that was on the military weapons cards.¹⁰ The memorandum stated:

⁷ Tr. at 56-57, 112-118, 170-172; Applicant's response to SOR; GE 5, 12; AE A.1.3.1, A.1.3.4, J, M.

⁸ GE 5.

⁹ Tr. at 57-59, 125-126; GE 5; Applicant's response to SOR.

¹⁰ Tr. at 59-63; Applicant's response to SOR; GE 5.

During the period 15 March 1998 through 15 March 1999, [Officer A] will be on special assignment in the continental United States, conducting official business for the [SUC], as commander of the [detachment].

Local and state officials are requested to extend to [Officer A] the courtesies generally granted to a United States Federal Officer. At all times, when he is in possession of DD Form 2501, Courier Authorization, no attempt should be made to detain the service member, to search the service member or his possessions, to confiscate any possession of the service member, to view any material being carried by the service member other than identifying documents, or to otherwise impede the service member in performance of his duties. Such interference or obstruction may be deemed a felony under federal law.

[Officer A] may be identified by a valid military identification card, DD Form 2, Geneva Conventions Identification Card. When armed, he will comply with [military regulation controlling carrying of weapons and use of force for law enforcement and security duties] and will carry a [military weapons card] signed by a field grade officer. The document will be presented to legal authorities who question the carrying of weapons.¹¹

In March 1999, a letter was written with letterhead with the seals of the Department of Defense and the SUC. Applicant's name and rank were printed on the letter, and the signature appeared to be Applicant's. Applicant denied signing the letter. The letter requested assistance in the renewal of Officer A's CCW permit. The request stated that Officer A was assigned to the SUC and he served as a "courier of classified Department of Defense material in the United States." The letter stated that Officer A was in possession of a military form authorizing him to carry concealed weapons while conducting official duties. It further stated that members of the detachment often are required to conduct official duties in civilian attire and are required to carry firearms to protect documents and materials.¹²

I wish to avoid chance encounters with Police officers who in the past have threatened our couriers with deadly force. To alleviate these situations, I have requested all personnel in possession of [military weapons card] to also obtain concealed carry permits from local law enforcement authorities and I have encouraged close coordination of our activities with local law enforcement.¹³

The letter of reprimand states Applicant was derelict in his duties when he represented himself as involved in the test and evaluation of weapons and ammunition on behalf of the SUC. By invitation, Applicant traveled to a weapons manufacturer's

¹¹ GE 5.

¹² Tr. at 64-67, 70-71; GE 5; Applicant's response to SOR.

¹³ *Id.*

facility to test fire a prototype firearm and ammunition. In May 1999, he wrote a letter to the weapons manufacturer using letterhead with the seals of the Department of Defense and the SUC. The letterhead contained the name of the SUC and Applicant's section, but the address was a post office box in Applicant's city of residence. He requested information on the production status of the weapon system. He wrote that he had provided some of the ammunition to various components of the SUC for evaluation and distributed the unedited videotape of the test firing. Applicant admitted writing the letter.¹⁴ The letter contained the following warning that Applicant stated was provided by a lawyer from the SUC:

Please note that this communication is a simple request for information. It is not intended to constitute an offer of any kind or commit the United States to the purchase of any material or service. I can state, however, with caveat in place, that the [ammunition] and the [manufacturer's] weapon system are of great interest to me and other [SUC] officers and men, and that we thoroughly appreciate the lethality and versatility your weapons and ammunition offer.

I encourage you to continue your unique and insightful weapons system developments and request you provide me with your projected date for entry into Low Rate Initial Production for the [weapon].¹⁵

The letter of reprimand included copies of all the documents discussed above purporting to be signed by Applicant. It advised Applicant that the commander would consider any matters submitted by Applicant before making the decision whether to recommend the filing of the letter in Applicant's Official Military Personnel File (OMPF). Applicant sent two letters to the commander. After considering Applicant's response, the commander decided not to recommend filing the letter of reprimand in Applicant's OMPF. The letter would remain in Applicant's "local" file until he transferred or was discharged, at which time it would be destroyed.¹⁶

Officer A, Applicant, several other members of the detachment, and at least one civilian were subjects of an investigation conducted by military investigators, state investigators, the Bureau of Alcohol, Tobacco, and Firearms (ATF), and the Federal Bureau of Investigation (FBI). Officer A wrote documents on behalf of his detachment to the Defense Reutilization and Marketing Office (DRMO) to obtain equipment. He also wrote letters to firearms dealers wherein he requested and received automatic weapons under the guise that the weapons would be tested and evaluated for use by Special Forces operatives. Officer A used documents to convince local law enforcement officers that members of his detachment were authorized to carry automatic weapons while performing military training exercises in the area. Officer A worked for a company that supplied weapons to be used in the entertainment industry. Officer A stored the

¹⁴ Tr. at 71-74, 132-134, 186; Applicant's response to SOR; GE 5; AE A.1.6, A.1.6.1-A.1.6.4.

¹⁵ GE 5.

¹⁶ Tr. at 52, 74-78, 84-86, 102; GE 5, 7; AE A.1.1, A.1.1.2, B, C.

weapons obtained from the weapons manufacturers in the company's armory. In turn, the weapons and military property obtained from DRMO were rented to the entertainment industry. Officer A forged a signature on one of the detachment member's reenlistment package. He also prepared and forwarded false enlistment packages for two other individuals.¹⁷

Officer A was interviewed by military investigators and provided a written statement in December 2003. He admitted that he forged a signature on one of the detachment member's reenlistment package. Nowhere in the statement did Officer A admit or imply that he forged any of the documents that bore Applicant's signature. He indicated that Applicant was advised of the detachment's training and where and when it would take place, but the approval authority was the SUC. He stated that Applicant was aware that the detachment used the company's armory to obtain and store weapons. He stated Applicant was introduced to the owner and toured the armory. Officer A stated that he provided to the armory owner documents that were used to procure weapons for training. He stated that Applicant received copies of the documents.¹⁸

Officer A was asked how he obtained a CCW permit. He stated that Applicant and people at the SUC told him about the possibility of standing up the detachment for courier duties. Officer A moved to a new city in 1996. The local police department told him that he needed a letter from a superior officer in order to obtain a CCW permit. He stated that he contacted Applicant and told him that he wanted a CCW permit for his work as a gun handler and for his courier duties. He asked Applicant to write a letter on his behalf, which he did. Officer A stated that he was "astonished" when he read the letter. He stated that in "[his] opinion the letter [Applicant] prepared was false. It was not truthful as [their] unit was not designated as couriers and the letter was generally exaggerated." He also stated:

[Applicant] gave me a badge that he said he purchased. He gave it to me to use as identifying myself as an MI officer. He gave it to me to use in conjunction with my concealed weapons permit to identify myself as an MI officer.¹⁹

Applicant testified that he never had a "shield" type badge such as a law enforcement officer would carry, and that Officer A was describing a standard flat plastic badge like one that is used as identification in a command or to enter a SCIF (Sensitive Compartmented Information Facility).²⁰

¹⁷ Tr. at 26-27, 183 ; GE 3, 4, 8, 10.

¹⁸ GE 3.

¹⁹ *Id.*

²⁰ Tr. at 155-156.

In March 2006, Officer A pleaded guilty in U.S. District Court to unlawful possession of a machine gun, aiding and abetting (18 U.S.C. § 922(o),2(a)); unlawful production of identification document (18 U.S.C. § 1028(a)(1)); impersonating a federal officer or employee (18 U.S.C. § 912); and false statement, causing an act to be done (18 U.S.C. § 1001,2(b)). He was placed on probation for three years. Officer A died of cancer the following year.²¹

Applicant testified that Officer A worked for the company that supplied weapons to be used in the entertainment industry. He stated that Officer A borrowed the company's weapons so that the detachment could do live-fire training. He denied knowledge of where the training occurred. He stated there were no government-issued weapons kept at the company's armory. He admitted that he visited the armory on one occasion. He also admitted that, at Officer A's invitation, he visited the chief of police who issued the CCW permit.²²

In his response to the SOR, Applicant cited to his response to the letter of reprimand:

Exculpatory evidence exists that frees me from any credible accusation of misleading state and local law enforcement offices. [Officer A] gave a full confession to forging memoranda, and a variety of other documents, and specifically acknowledged my absence of involvement in any wrongdoing. His confession was made to [military investigators] and the US Attorney prior to his plea agreement. He specifically exculpated me, a fact which should be contained within the [military] ROI. While you may have overlooked that bit of exculpatory evidence, it is unlikely that you failed to notice that [Officer A] was found guilty, pursuant to his guilty plea, of Wrongful Acquisition of Machine Guns, Counterfeiting, Making False Writings, and Conspiracy to Impersonate Authorized U.S. Military Personnel. The counterfeiting and false writings correspond to the memorandum and firearms you attribute, incorrectly, to me.

I herein state that, with the exception of the two classified information courier documents that were issued as part of my military duties and in my capacity as SSO, and, possibly, one of the memoranda, which is a legal, and authorized communication, to the best of my knowledge and belief, each and every other document attributed to me is a forgery. Some are better than others, however, with the exception of the two or three I have previously identified, each of the documents you claim I have written were forged – and these were among the documents that [Officer A] acknowledged he forged when he entered into the plea agreement with the United States Attorney. (emphasis in response to SOR)

²¹ Tr. at 127; GE 13; AE M.

²² Tr. at 107, 152, 183-184.

Applicant denied signing the two military weapons cards in 1996, as discussed above. He testified that he did not see anything objectionable about the January 1997 thank you letter to the chief of police, but he did not recall signing it. He stated that he signed a document similar to the March 1998 “Notice to State and Local Authorities” memorandum, but he did not sign the memorandum in evidence. He testified that he did not remember signing the March 1999 letter requesting assistance in the renewal of Officer A’s CCW permit. He stated the document was inaccurate because he had never issued the military cards authorizing members of the detachment to carry weapons in connection with their official duties. He stated that he signed a similar document requesting the initial CCW permit, but he believed the March 1999 letter was a forgery because he would have more memory of the document if he signed it. He admitted that he signed the May 1999 letter to the weapons manufacturer. Despite Applicant’s responses to the letter of reprimand and the SOR, he testified that Officer A was an outstanding officer, and he did not believe that Officer A forged Applicant’s signature to the documents. He testified that he thought it was another officer assigned to the detachment. He stated that Officer A told him that he forged the documents, but Applicant found it hard to believe that he would do such a thing.²³

After considering all the evidence, I find that Applicant signed all the documents in evidence containing his signature. I did not find his statements and testimony to the contrary to be credible. I find that the weapons cards were improperly issued for a period beyond when Officer A was on active duty. I also find that, in the letter to the chief of police requesting assistance in the renewal of Officer A’s CCW permit and in the “Notice to State and Local Authorities” memorandum, Applicant intentionally embellished, and in parts, fabricated the duties of Officer A and other members of the detachment and their requirement to carry concealed weapons for military purposes. I further find that Applicant’s response to the commander who issued the letter of reprimand, his response to the SOR, and his testimony at the hearing were intentionally false.²⁴ Applicant’s motive for providing the false documents is unclear. There is insufficient evidence for a finding that Applicant was a co-conspirator to all the illegal acts committed by officer A. However, I find that Applicant’s actions, at a minimum, were used by Officer A in completing some of his crimes.

Applicant submitted several letters attesting to his outstanding job performance, integrity, professionalism, and trustworthiness. His officer evaluations described him as an outstanding officer with a bright future and recommended him for promotion.²⁵

²³ Tr. at 57-59, 112-116, 125-131, 181, 184-192; Applicant’s response to SOR; GE 5; AE A.1.5.

²⁴ Any false statements that were not specifically alleged in the SOR will not be used for disqualification purposes. They will be used in assessing Applicant’s credibility, in the application of mitigating conditions, and in analyzing the “whole person.”

²⁵ AE A.4.1-A.4.4, A.5.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(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.

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 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 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 conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative; and

(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 person may not properly safeguard protected information.

Applicant intentionally provided false and misleading information to law enforcement officials about the duties and responsibilities of Officer A and other members of the detachment. AG ¶ 16(b) is applicable. He improperly issued concealed weapons cards to Officer A for a period that extended beyond when Officer A was on active duty. His actions, when considered as a whole, support a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, and unwillingness to comply with rules and regulations. AG ¶¶ 16(c) is also applicable.

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. 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 caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

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

Applicant admitted that he signed the courier orders and the letters to the weapons manufacturer. Any concerns generated by those documents have been mitigated by the passage of time. As discussed above, he has been intentionally dishonest about the other documents. Those documents were all generated more than 11 years ago. Despite the length of time since they were written, without complete candor, I am unable to find mitigation.²⁶ No Personal Conduct mitigating conditions are applicable to the security concerns raised by those documents.

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(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 for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

²⁶ See ISCR Case No. 03-22819 (App. Bd. Mar. 20, 2006).

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline E in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

I considered Applicant's honorable service in the U.S. military. I also considered the favorable character evidence. Applicant intentionally provided false information up to and during his hearing. As a career military officer, he should have known that the most important character trait is integrity. He failed to display that attribute. I have significant unresolved doubts about his honesty, judgment, trustworthiness, and willingness to comply with rules and regulations.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant has not mitigated 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:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Edward W. Loughran
Administrative Judge