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

| In the matter of: | ) | |
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| -------------- | ) | ISCR Case No. 08-05420 |
| SSN: ----------- | ) | |
| | ) | |
| Applicant for Security Clearance | ) | |

**Appearances**

For Government: Fahryn E. Hoffman, Esq., Department Counsel
For Applicant: Brian E. Kaveney, Esq.

October 30, 2009

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**Decision**

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FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines E (Personal Conduct) and J (Criminal Conduct). Eligibility for access to classified information is denied.

## Statement of the Case

Applicant submitted a security clearance application on November 2, 2005. On April 9, 2009, the Defense Office of Hearings and Appeals (DOHA) sent Applicant a Statement of Reasons (SOR) detailing the basis for its preliminary decision to deny his application, citing security concerns under Guidelines E and J. 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 adjudicative guidelines (AG) promulgated by the President on December 29, 2005.

Applicant received the SOR on April 15, 2009; answered it on May 1, 2009; and requested a hearing before an administrative judge. DOHA received the request on May 4, 2009. Department Counsel was ready to proceed on June 18, 2009, and the case was assigned to me on July 9, 2009. The hearing was tentatively scheduled for August 19, 2009. Applicant's counsel requested a continuance until September 16, 2009, due to conflicting obligations (Hearing Exhibit (HX) I). I granted his request, and DOHA issued a notice of hearing on August 13, 2009, rescheduling the hearing for September 16, 2009. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 4 were admitted in evidence without objection. Applicant testified, presented the testimony of three witnesses, and submitted Applicant's Exhibits (AX) A through J, which were admitted without objection.

I kept the record open until September 25, 2009, to enable Applicant to submit additional documentary evidence. He timely submitted AX K and L, and he resubmitted AX D and E, previously admitted. The cover letter and facsimile cover page for Applicant's additional exhibits are attached to the record as HX II. Department Counsel's response to Applicant's additional evidence is attached to the record as HX III. DOHA received the transcript (Tr.) on September 24, 2009. The record closed on September 25, 2009.

## Findings of Fact

In his answer to the SOR, Applicant admitted the facts alleged in SOR ¶ 1.a. His responses to the allegations in SOR ¶¶ 1.b, 1.c, and 2.a were ambiguous, and I have treated them as denials. Applicant's admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant was born in Ethiopia on June 12, 1959. He was married in October 1981. He obtained a college degree in Ethiopia. He came to the U.S. in April 1984 and became a U.S. citizen in July 1990. His wife became a U.S. citizen in February 1995. They have two daughters, born in 1989 and 1995. The older daughter is a college senior and the younger is in the ninth grade (Tr. 48-49). He attended a community college from September 1989 to November 1991, but he dropped out before receiving a degree or certificate. He attended another community college from April to September 1997 and received a certificate in information technology systems. He has worked in the field of computer science since about 1998 (Tr. 76).

Applicant has worked for various federal contractors and held a security clearance since 1995. In addition, he has worked part-time as a security guard at a federal agency since 1994 (Tr. 46).

Applicant worked for a federal contractor as a network technician from September 1998 to March 2000. He resigned from this job after being accused of viewing pornographic materials on a government computer. A summary of a personal subject interview conducted in April 2008 refers twice to his resignation. It first recites that Applicant was "forced to resign," and it later states he was "asked to resign" as a

result of his conduct (GX 2 at 3). In response to DOHA interrogatories on August 5, 2008, Applicant reviewed this summary and agreed it was accurate (GX 2 at 2).

In response to the same interrogatories, Applicant added a statement that he experienced many pop-up links as he browsed the internet to find out why the network was slow. He stated he usually deleted them immediately and did not view them (GX 2 at 6).

At the hearing, Applicant admitted he watched pop-up pornographic materials for five or 10 minutes on about 30 occasions (Tr. 56-57). He denied being forced to resign (Tr. 55), but he admitted that he resigned because he was embarrassed by the accusation and ashamed of his conduct (Tr. 59-61, 84). He did not tell his wife why he resigned until he received the SOR (Tr. 87, 104). At the time of his resignation, he told his wife he had asked to be moved to another contract because it was too expensive to work in the area and he was not comfortable with his co-workers (Tr. 105-06).

Applicant presented a statement from an expert in information technology, attesting that in March 1999 through March 2000, when Applicant viewed the pornographic pop-ups, software programs to filter pop-ups were not robust or mature. Consequently, anyone opening an email containing spyware or pop-ups could appear to have intentionally visited pornographic internet sites (AX H). Applicant had never met the expert, and there is no evidence that the expert was familiar with the circumstances in which Applicant viewed the pornographic pop-ups (Tr. 89).

In January 2001, Applicant was charged with two counts of illegally soliciting fares at an airport. He testified the incidents occurred when a friend who operated an airport shuttle service asked him to meet a customer at a local airport, because the friend was scheduled to be elsewhere. While looking for the customer, Applicant offered to transport another individual, who was an undercover policeman. He was issued a ticket for the illegal solicitation. In response to DOHA interrogatories and in his hearing testimony, he stated that he did not know his conduct was illegal (Tr. 97; GX 3 at 3). However, he solicited another individual about ten minutes later and was issued a second ticket. He was not arrested (GX 3 at 3; Tr. 91-94, 102). He hired a lawyer because he was facing a $1,000 fine for each solicitation (Tr. 94). He found the prospect of large fines "shocking" and a source of "big trouble" in his household (Tr. 95-96). He was convicted of one of the two counts of illegal solicitation and fined $300 plus $55 in court costs (GX 4).

Applicant was hired by his current employer as a desktop analyst in March 2004, and promoted to project manager in December 2005 (AX I at 1). He supervises about 30 employees and assists the manager of the desktop support unit (Tr. 114). He has a reputation as an extremely conscientious employee. He usually arrives at work at 4:30 a.m., at least an hour and a half before his scheduled starting time (Tr. 49-50). In July 2004, he was one of about 25 employees, out of a total of 500, who were recognized as "charter members" of the communications team working in the Pentagon (AX J; Tr. 73-

74). Based on his performance, he received substantial pay raises in June and July 2006 (AX I at 2-3).

When Applicant submitted his security clearance application in November 2005, he answered “no” to the question asking if, during the last seven years, he was fired, quit a job after being told he would be fired, left a job by mutual agreement following allegations of misconduct or unsatisfactory performance, or left a job for any other reasons under unfavorable circumstances. He did not disclose his resignation under unfavorable circumstances in March 2000. He testified he did not disclose it because it was embarrassing (Tr. 104).

On the same security clearance application, Applicant also answered “no” to the questions about his police record. He did not disclose his conviction for illegally soliciting fares. In his response to DOHA interrogatories in November 2008, he stated that the outcome of the incident was so minor that he forgot about it (GX 3 at 3). At the hearing, he testified he did not think it was necessary to disclose it and he “completely forgot” about it when he was completing his security clearance application (Tr. 70-71).

Applicant’s facility security officer regards him as an excellent employee who has exhibited the highest standards of security and management responsibilities (AX A). He testified that Applicant is reliable and “probably the best project manager we have.” He testified repeatedly that he does not expect recurrence of Applicant’s inappropriate use of computers, airport rule violations, and intentional omissions of embarrassing information on his security clearance (Tr. 116-18, 120, 125-26). He testified Applicant has been very straightforward and honest about his past mistakes (Tr. 118).

Applicant’s immediate supervisor has known Applicant since May 2008 and has frequent, daily contact with him (Tr. 137). He regards Applicant as honest, trustworthy, and very reliable (Tr. 140-42). He does not believe that Applicant’s previous behavior will recur (Tr. 148-49).

Applicant’s security manager, who has more than 14 years of experience and has known him for more than three years, believes he has high integrity and a strong sense of security awareness (AX C). She testified that in September 2005 she initiated a security program that includes strong emphasis on self-reporting of “security anomalies” in personal life (Tr. 168). She is aware of the allegations in the SOR, but she decided to testify for Applicant because she considers him a responsible and valued employee. Applicant’s hearing was the first and only time in her career that she had testified for an applicant (Tr. 172). She described Applicant as having a “strong sense of integrity,” being very “security-aware,” and taking great pride in his work (Tr. 172). She testified she believed Applicant would never repeat his past mistakes (Tr. 187). She believes Applicant would voluntarily disclose embarrassing information because of the effectiveness of her company’s education program (Tr. 193).

A co-worker who has known Applicant for six years and is aware of the allegations in the SOR finds it “absolutely unimaginable” that Applicant would engage in

such misconduct again, because of his strong character and dedication to his work and his family (AX L at 2). Another co-worker who has known Applicant for four years considers him a person of high integrity, professionalism, and trustworthiness. He describes Applicant as a person who combines operating "by the book" with great compassion for those he leads (AX F).

Applicant's senior program manager, a retired brigadier general in the Air National Guard, submitted a lengthy statement on Applicant's behalf.[1] He has worked in the same secured work space with Applicant for five years. He is aware of the allegations in the SOR. He describes Applicant as a person "who strives to do the right thing, takes initiative, and leads by example." He is convinced that Applicant's misconduct and his failure to disclose it on his security clearance application will not recur (AX K at 1-2).

## Policies

"[N]o 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 applicants 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 and modified.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the revised adjudicative guidelines (AG). 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 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.

Clearance decisions must be made "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, a decision to deny a security clearance is not a determination as to

[1] His senior program manager was scheduled to testify personally, but was unable to attend the hearing because of the unexpected death of an immediate family member.

the loyalty of the applicant. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense 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 security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[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

### Guideline E, Personal Conduct

The SOR alleges Applicant resigned from employment in March 2000, in lieu of termination, for viewing inappropriate websites on a government computer (SOR ¶ 1.a), he falsified his security clearance application by deliberately failing to disclose that he left his employment in March 2000 under unfavorable circumstances (SOR ¶ 1.b), and he falsified his security clearance application by failing to disclose that he had been charged and convicted of illegally soliciting fares and fined a total of $355, including costs (SOR ¶ 1.c). The security concern relating to Guideline E is set out in AG ¶ 15 as follows:

> 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.

The evidence supporting the allegation that Applicant resigned "in lieu of termination" is conflicting. The security investigator's summary of his interview of Applicant in April 2008 recites that Applicant was "forced to resign" and was "asked to resign." Although Applicant reviewed this summary and stated it was accurate, he

insisted at the hearing that he did not resign in lieu of termination. I need not resolve this conflict, however, because Applicant's testimony at the hearing is sufficient to establish that he resigned under unfavorable circumstances and was required to disclose that fact on his security clearance application.

The relevant disqualifying condition pertaining to Applicant's falsification of his security clearance application is "deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire." AG ¶ 16(a). Applicant admitted he deliberately did not disclose his resignation under unfavorable circumstances, thus raising AG ¶ 16(a).

Applicant's admissions regarding his nondisclosure of the illegal solicitation were equivocal. He admitted that he should have disclosed it, but he offered excuses for not doing so. When a falsification allegation is controverted, the government has the burden of proving it. An omission, standing alone, does not prove an applicant's state of mind when the omission occurred. An administrative judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning an applicant's state of mind when he omitted the information.

Applicant claimed that he omitted mention of his conviction of illegal solicitation because he forgot about it. I find this explanation implausible and unconvincing. He was able to recount the incident in detail when he was interviewed by a security investigator. He testified he was shocked when faced with the prospect of paying $2,000 in fines. He incurred legal expenses to hire a lawyer, and encountered 'big problems" at home because of the potential financial impact of his conduct. Under all the circumstances, I am not persuaded that he forgot about the incident. I am satisfied he deliberately omitted the information.

The relevant disqualifying conditions pertaining to Applicant's resignation from employment in March 2000 are as follows:

> AG ¶ 16(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";
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> AG ¶ 16(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 person may not properly safeguard protected information. This includes but is not limited to consideration of . . . (3) a pattern of dishonesty or rule violations; [and] (4) evidence of significant misuse of Government or other employer's time or resources”; and

AG ¶ 16(e): “personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as . . . engaging in activities which, if known, may affect the person's personal, professional, or community standing.”

Applicant’s resignation in March 2000 for viewing pornographic materials on his government computer raises AG ¶¶ 16(c), (d), and (e). His conviction for illegal solicitation at the airport is not an offense that was likely to make him vulnerable to coercion or exploitation. However, although he claimed he did not know his solicitation was illegal, he continued to solicit potential fares after receiving the first ticket, demonstrating an unwillingness to follow the rules, thereby raising AG ¶¶ 16(c) and (d).

Since the government produced substantial evidence to raise the disqualifying conditions in AG ¶¶ 16(a), (c), (d), and (e), the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

Security concerns arising from falsification of a security clearance application may be mitigated if that “the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” AG ¶ 17(a). Applicant made no effort to correct his omissions until he was confronted with the evidence by a security investigator in April 2008, more than two and a half years after submitting his falsified application. This mitigating condition is not established.

Security concerns arising from personal conduct may be mitigated if “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.” AG ¶ 17(c). Applicant’s misuse of a government computer by viewing pornography for five to ten minutes at a time on about 30 occasions was not minor, infrequent, or an event occurring under unique circumstances. On the other hand, it occurred more than nine years ago. Applicant’s embarrassment, greater maturity, and realization that such conduct can cost him his job and harm his family make it unlikely to recur. His illegal solicitation was minor, happened twice within ten minutes, and occurred more than eight years ago. His falsification of his current security clearance application was not minor and did not happen under unique circumstances. I conclude AG ¶ 17(c) is established for the conduct alleged in SOR ¶ 1.a, but not for the falsifications alleged in SOR ¶¶ 1.b and 1.c.

Security concerns under this guideline also may be mitigated if “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.” AG ¶ 17(d). Applicant has acknowledged his misuse of his computer and is embarrassed by it. He has acknowledged his illegal solicitation. He has acknowledged his failure to disclose his resignation under unfavorable circumstances on his security clearance application, but was less than candid about the reasons for his failure to disclose his conviction of illegal solicitation. He is devoted to his job, but he resorted to deception to protect it. He has received additional security training about the impact of personal conduct on security and the importance of self-reporting “security anomalies” in personal life. I conclude this mitigating condition is established for the conduct alleged in SOR ¶ 1.a, but not for the falsifications alleged in SOR ¶¶ 1.b and 1.c.

Security concerns arising from personal conduct may be mitigated if “the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.” AG ¶ 17(e). Applicant has disclosed his misuse of a government computer and the reasons for his resignation in March 2000 to his supervisors, several coworkers, and his wife. The illegal solicitation was not an offense that was likely to make him vulnerable to exploitation, manipulation, or duress. He has disclosed his falsification of his security clearance application. I conclude this mitigating condition is established for all the allegations in the SOR.

**Guideline J, Criminal Conduct**

The SOR alleges that Applicant’s deliberate failure to disclose his termination under unfavorable circumstances and his citation and conviction for unlawful solicitation of fare was a felony, in violation of 18 U.S.C. § 1001. The concern raised by criminal conduct is that it “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.” AG ¶ 30. The relevant disqualifying conditions are “a single serious crime or multiple lesser offenses” and “allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted, or convicted.” AG ¶¶ 31(a) and (c), respectively.

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. 18 U.S.C. § 1001. Security clearances are matters within the jurisdiction of the executive branch of the government of the United States. A deliberate and materially false answer on a security clearance application is a serious crime within the meaning of Guideline J.

False statements having the potential to affect a final agency decision are “material” within the meaning of 18 U.S.C. § 1001. In addition, false statements or

omissions are material if they are capable of causing an agency to forego and investigation, or are capable of misleading an agency in its investigatory functions. ISCR Case No. 91-0901 (App. Bd. Jul. 1, 1993), 1993 WL 255979 (citing federal cases interpreting 18 U.S.C. § 1001).

I do not believe that Applicant's conviction of what was tantamount to a traffic offense would have affected a decision on his continued eligibility for a clearance, affected a decision whether to investigate further, or would have misled the government in its investigatory functions. Thus, I conclude that Applicant's intentional omission of his conviction for illegal solicitation of a fare, while sufficient to raise a disqualifying condition under Guideline E, was not sufficient to constitute a felony under 18 U.S.C. § 1001. On the other hand, Applicant's resignation under unfavorable circumstances was a material fact, and his intentional omission of that fact on his security clearance application raises AG ¶¶ 31(a) and (c), shifting the burden to him to rebut, explain, extenuate, or mitigate the facts.

Security concerns arising from criminal conduct may be mitigated by evidence that "so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment." AG ¶ 32(a). For the reasons set out above in my discussion of AG ¶ 17(c) under Guideline E, I conclude that this mitigating condition is not established.

Security concerns under this guideline also may be mitigating if "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." AG ¶ 32(d). Applicant expressed remorse for his intentional failure to disclose his resignation under unfavorable circumstances. He has established a reputation with his current employer for high integrity and dedication. As noted above, however, he was not completely candid during his security interview in April 2008 and at the hearing. Thus, I am not satisfied that he has been rehabilitated, and I conclude AG ¶ 32(d) is not established.

**Whole Person Concept**

Under the whole person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the relevant circumstances. An 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. I have incorporated my comments under Guidelines E and J in my whole person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant has worked for government contractors and held a clearance for about 24 years. His misconduct was not the product of immaturity or inexperience. He was 41 years old when he resigned from previous employment under unfavorable circumstances, and 45 years old when he falsified his security clearance application. He is very dedicated to his job and he performs it with dedication and skill. Unfortunately, he has demonstrated that he will engage in deception to protect his job. His security manager is confident that his training in the importance of self-disclosure will preclude recurrence, but I do not share that confidence after carefully reviewing his conduct, his statements to a security investigator, and his testimony at the hearing. I gave great weight to the strongly supportive statement of Applicant's senior program manager, a retired general officer in the Air National Guard, but Applicant's lack of complete candor during the investigative process and at the hearing leaves me with doubts about his reliability and trustworthiness.

After weighing the disqualifying and mitigating conditions under Guidelines E and J, evaluating all the evidence in the context of the whole person, and mindful of my obligation to resolve close cases in favor of national security, I conclude Applicant has not mitigated the security concerns based on personal conduct and criminal conduct. Accordingly, I conclude he has not carried his burden of showing that it is clearly consistent with the national interest to continue his eligibility for access to classified information.

## Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline E (Personal Conduct): AGAINST APPLICANT

Subparagraph 1.a: For Applicant
Subparagraph 1.b: Against Applicant
Subparagraph 1.c: Against Applicant

Paragraph 2, Guideline J (Criminal Conduct): AGAINST APPLICANT

Subparagraph 2.a: Against Applicant

## Conclusion

In light of all of the circumstances, 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.

LeRoy F. Foreman
Administrative Judge