



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



In the matter of: )  
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) ISCR Case No. 08-10815  
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Applicant for Security Clearance )

**Appearances**

For Government: Tovah Minster, Esquire, Department Counsel

For Applicant: William F. Savarino, Esquire

February 4, 2010

**Decision**

O'BRIEN, Rita C., Administrative Judge:

Based upon a review of the case file, pleadings, exhibits, and testimony, I conclude that Applicant has not mitigated the cited security concerns. Accordingly, her request for a security clearance is denied.

**Statement of the Case**

Applicant submitted Electronic Questionnaires for Investigations Processing (e-QIP) on December 20, 2007 and May 19, 2008. After reviewing the results of the ensuing background investigation, adjudicators for the Defense Office of Hearings and Appeals (DOHA) were unable to make a preliminary affirmative finding<sup>1</sup> that it is clearly consistent with the national interest to grant Applicant's request.

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<sup>1</sup> Required by Executive Order 10865, as amended, and DoD Directive 5220.6 (Directive), as amended.

On July 7, 2009, DOHA issued to Applicant a Statement of Reasons (SOR) that specified the basis for its decision: security concerns addressed in the Directive under Guidelines B (Foreign Influence) and E (Personal Conduct) of the revised Adjudicative Guidelines (AG).<sup>2</sup>

Applicant signed her notarized Answer on August 5, 2009, in which she denied three allegations under Guideline B, and two allegations under Guideline E. Applicant requested a hearing before an administrative judge. Department Counsel was prepared to proceed on August 27, 2009, and the case was assigned to me on the following day. DOHA issued a Notice of Hearing on October 7, 2009. I convened the hearing as scheduled on November 4, 2009. The government offered three exhibits, which were admitted without objection as Government Exhibits (GE) 1 through 3. Applicant testified on her own behalf and presented one witness. She also offered two exhibits, which were admitted without objection as Applicant Exhibits (AE) A and B. I held the record open to allow the government to offer an additional exhibit. Department Counsel timely submitted one document, which she forwarded to Applicant on November 5, 2009. It was received into evidence without objection as GE 4. DOHA received the transcript on November 10, 2009.

### **Procedural Ruling**

The government requested I take administrative notice of certain country-related facts. Department Counsel submitted a summary of facts and supporting documentation related to Iraq (Hearing Exhibit 1), Saudi Arabia (Hearing Exhibit 2), and the United Arab Emirates (UAE) (Hearing Exhibit 3). The documents are included to provide elaboration and context for the summary. The facts administratively noticed are limited to matters of general knowledge not subject to reasonable dispute, and included in the submitted government reports. They are set out in the findings of fact.

### **Findings of Fact**

Applicant's admissions in response to the SOR are accepted as fact. After a thorough review of the pleadings, Applicant's response to the Statement of Reasons, and the record evidence, I make the following additional findings of fact.

Applicant is 26 years old. She holds a bachelor's degree in environmental science and business administration. She is a civil affairs consultant for a federal contractor, working on course management. She applied for her first security clearance

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<sup>2</sup> Adjudication of this case is controlled by the Revised Adjudicative Guidelines, approved by the President on December 29, 2005, which were implemented by the Department of Defense on September 1, 2006. The Revised Adjudicative Guidelines supersede the guidelines listed in Enclosure 2 to the Directive, and they apply to all adjudications or trustworthiness determinations in which an SOR was issued on or after September 1, 2006.

in 2007. She was denied an interim security clearance, but received a final secret clearance in April 2008. Applicant is not married and has no children (GE 1, 3).

Applicant was born in the United States after her parents emigrated from Iraq in the 1970s. She has no foreign property, and no financial interests in Iraq. She does not receive financial support from her father, who lives in Saudi Arabia. She is not in touch with any family members who live in Iraq. She has traveled extensively, including the UAE in 2000; Spain in 2001; the UAE in 2002; the Netherlands in March and October 2003, April 2004, and January-May 2005; Turkey and Jordan in 2003; Morocco, Egypt, Spain, and Italy in 2005; Dominica (educational purposes), Ghana, Canada, England, and China in 2006; Jordan, Syria, Lebanon, and Israel in 2008; and Brazil in 2009. Applicant's numerous trips to the Netherlands involved sightseeing, visiting her boyfriend at the time, and completing a study-abroad program (GE 3; Tr. 113-117).

Applicant's father is a citizen of Iraq, who became a naturalized U.S. citizen in 1989 (GE 1). He is a doctor, and is currently employed as section head of general surgery at a hospital in Saudi Arabia. The hospital is operated by the Saudi Arabian Ministry of Health (GE 3; Tr. 44-45, 49). He worked in Saudi Arabia for one- to two-month periods in 2007, and then moved there permanently in early 2008. He is aware that Applicant holds a security clearance (Tr. 52). Currently, Applicant's parents are in the process of divorcing because of her father's infidelities over a period of years. Previously, Applicant had a good relationship and frequent communication with him (Tr. 44-45, 48). Since learning of the affairs, however, Applicant ended their relationship. They have had no communication since fall 2008 (GE 3; Tr. 45-47).

Applicant's mother, an Iraqi citizen, became a naturalized U.S. citizen in 1989 (GE 1). She is a doctor, currently working in a hospital in the United States (Tr. 58). In 2007 and 2008, she traveled to Saudi Arabia two to three times to work in the same hospital as her husband for one-month periods, later returning to the United States. Her most recent trip occurred in 2008. Applicant testified that, based on their conversations, her mother has no intention of returning to Saudi Arabia. Applicant's mother is aware that Applicant holds a security clearance. They are in contact by telephone almost daily (GE 3; Tr. 56, 60).

Applicant's paternal grandfather, an Iraqi citizen, is in his 90s, and lives in Jordan. He held several senior positions in the Iraqi government. Applicant met him in 1988 and 1989 on family trips to Iraq, when she was a child. She met him again when he traveled to the United States for heart surgery in the mid-1990s. Their next contact was in 2008, when they exchanged personal emails for several months concerning Applicant's possible employment in Iraq by a U.S. federal agency. Their last contact was in late 2008. She testified that she is no longer in touch with him, as she has no desire to maintain contact with her father's family members, including her grandfather, because of her father's infidelities. According to her mother, Applicant's grandfather now suffers from dementia. (GE 3; Tr. 61-68).

Applicant has a paternal uncle who is a citizen of Iraq and Canada, and lives in Jordan. She met him four times: during a family trip to Iraq in 1988; in 1989; in Canada in approximately 2001; and in Jordan in 2008. She was visiting her sister who was on a study-abroad program in Jordan. Other than these four visits, she has had no contact with him. Her uncle is an engineer but is currently unemployed. She noted in her interrogatory response that he left Iraq in 2001 “during the tyrant Ba’ath regime period where many Iraqis that had the opportunity to leave did.” Although the SOR alleges that this uncle was exiled from Iraq, Applicant testified that she knows nothing about the exile, and only heard of it when she received the DOHA interrogatories.<sup>3</sup> She also knows of no connections between her uncle and foreign militaries or governments (GE 3; Tr. 68-77).

Applicant also has a paternal uncle, aunt and cousin who are citizens of Iraq and Canada, and live in the United Arab Emirates (UAE). Applicant's uncle is now retired, but worked approximately 25 years providing services to a UAE government agency.<sup>4</sup> Applicant's aunt manages a spa. Her cousin is a housewife, married to a U.S. citizen, and living in the UAE. Applicant is in touch with her uncle and aunt two to three times per year when her uncle has medical treatments in a U.S. clinic. She last saw her cousin in 2005. Aside from her uncle's former employment with a government agency, her uncle, aunt, and cousin have no government, military or political connections, as far as Applicant is aware. They do not know that Applicant is applying for a security clearance (Tr. 78-87).

Applicant completed security clearance applications in December 2007 and May 2008. Applicant listed only her parents and two sisters. Beyond the 16 types of relatives that must be disclosed, the application requires disclosure of “Other Relatives,” with instructions to “include only foreign national relatives not listed in 1-16 with whom you or your spouse are bound by affection, obligation, or close and continuing contact.” Applicant did not list her relatives who are foreign citizens and reside abroad. At her security interview of September 2008, she disclosed 23 foreign relatives, not including her parents and one deceased grandmother. She has varied levels of contact with these relatives. She is in touch with her maternal grandmother, who lives in the United States, four times per year. She is in contact with some foreign aunts, uncles and cousins two to three times per year, others once every three years, some once every seven to ten years, and some she has met only once in her life. She denies that she deliberately omitted her foreign relatives, and told the agent that her failure to list them was due to oversight. At the hearing, she stated that she thought that the question was “kind of vague and I wanted to get the form done.” She did not consult with anyone about how to complete the question. She testified that she does

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<sup>3</sup> The only reference in the evidence to Applicant's uncle being exiled is a statement in the DOHA interrogatory that he “has been exiled from Iraq or is not welcome back into Iraq.” I have not considered this statement, as the record contains no relevant supporting testimony or documentation (GE 3; Tr. 69-70).

<sup>4</sup> According to Applicant's testimony, the SOR mistakenly identified her uncle in Jordan as the one who worked for UAE Customs, when in fact, it is her uncle in the UAE who held that position (Tr. 79).

not have a close relationship with any of the undisclosed family members and had no intent to falsify her response (GE 2, 3, 4; Tr. 108-109).

Applicant admits that she deliberately failed to disclose that she used marijuana between 2000 and 2005, in response to question 24(a) (illegal use of a controlled substance within the previous seven years—2000 to 2007) on both applications. During follow-up interviews with investigators from the Office of Personnel Management (OPM) in June and September 2008, she disclosed that she started using marijuana in 2000, at 16 years of age, when she was in high school. She used it approximately once per month, usually at parties, with the frequency declining over time. After she was arrested for underage drinking in 2002, she did not use marijuana again in the United States. She did use it when she was in Amsterdam between 2003 and 2005. Her last use occurred in March 2005, when she was 25 years old. During her subject interview in June 2008, she explained that she did not disclose her drug use on her security clearance application because she was given “bad advice” and because of “figuring the years incorrectly.” The DOHA interrogatory of April 2009 asked Applicant to explain these reasons more fully, but she did not (GE 1 – 4; Tr. 119).

At the hearing, Applicant testified that she falsified her answer about drug use on the December 2007 application because she would be embarrassed if her employer knew she had used illegal drugs. She also wanted to cover it up because she feared that she would lose her job if she disclosed it. Applicant sought advice from a co-worker, and was advised to answer “No.” She testified that even if she had not received that advice, she is unsure if she would have answered the question honestly. After completing the 2007 security clearance application, she did not inform any company personnel of her falsification, and she received a security clearance. In May 2008, Applicant completed a second application to apply for a higher level security clearance. She again falsified her response to the question about drug use during the previous seven years, in order not to expose the previous lie. The following month, Applicant was informed of her upcoming security interview, and decided to disclose her falsification. At the point in the interview when the agent asked about illegal drug use, Applicant disclosed her use. On the day of the security interview, she also informed her immediate supervisor of her falsification. Several months later, she informed her second-line supervisor, and her federal client. She also told her mother and her younger sister. Applicant testified that she will not use illegal drugs again, and she will not lie because “it’s just not in me to continue lying.” (GE 3; Tr. 88, 92-106, 123-124).

Applicant submitted two character references (AE A and B). A friend who helped her obtain an internship at his company, who has known Applicant for approximately eight years, stated that she is energetic and professional and performed her assignments in an outstanding manner. He knows about her falsification, but maintains that she is honest and trustworthy. Applicant also received the recommendation of a senior program manager who has known her since 2007. He worked with her intermittently in 2007 and became her supervisor in mid-2008. He is also a personal friend. He found her to be a dedicated worker, who is mature, professional, trustworthy,

and demonstrates sound judgment. He is aware of her falsification, but believes it was an anomaly. Applicant's second-line supervisor, who hired Applicant for her current position in 2007, testified at the hearing. She noted that Applicant receives excellent performance evaluations, is reliable and professional, and has a high level of integrity. When Applicant informed her that she had falsified her security clearance application, "It surprised me. I would not have expected it from her." However, it did not change her opinion and she believes Applicant will not engage in such deception again (Tr. 19-40).

### **Administrative Notice**

#### **Iraq (Hearing Exhibit 1)**

In 2003, the United States led a coalition to remove Saddam Hussein from power in Iraq. Following the swift invasion and successful removal from power, the United States endeavored to set a solid foundation of democratic institutions in Iraq. The Constitution in Iraq was ratified on October 15, 2005. After free elections in 2005, Iraq's new government, a parliamentary democracy, took office in March 2006.

In 2007, 92 percent of Iraq's exports were in crude oil and crude oil materials. Almost half of Iraq's exports went to the United States. The ultimate goal of the United States in Iraq is to establish a peaceful, united, stable, democratic, and secure nation that will be an ally of the United States in the war against terrorism. The United States has invested thousands of lives and billions of dollars to assist in the reconstruction of Iraq. Success in Iraq is a high national priority of the United States.

Despite the elections and new government, Baghdad, Mosul and several other areas have especially serious problems with violent terrorists and insurgents. Although there have been recent improvements in the security environment, Iraq remains dangerous, volatile and unpredictable. Some areas of Iraq are more peaceful and less susceptible to terrorist attacks than others; however, all areas of the country are still very dangerous. Terrorists have the ability to strike most areas of the country with explosive devices and mines. Numerous attacks and kidnappings have targeted the U.S. Armed Forces, contractors, and other civilians, as well as Iraqis. Even with U.S. and Iraqi aggressive governmental action against terrorists, the threat of terrorism in Iraq remains very high. Terrorist groups can conduct intelligence activities as effectively as state intelligence services.

#### **Saudi Arabia (Hearing Exhibit 2)**

The Kingdom of Saudi Arabia is a monarchy ruled by the Al Saud Family. There are no national elections or political parties. The country's law is based on Islamic law or *Shari'a*. Abuse of human rights is a concern. Reports of torturing prisoners, discrimination based on gender, religion, sect, and ethnicity, and other human rights violations continue. Although the law guarantees the inviolability of homes and privacy of mail, authorities routinely open mail and use informants and wiretaps. The Saudi

government's foreign policy objectives focus on maintaining its security and position on the Arabian Peninsula. Saudi Arabia signed the United Nations charter in 1948 and is a member of OPEC. Because of its position, Saudi Arabia frequently helps mediate regional crises and supports peace with Israel. Saudi Arabia and the United States share common concerns about regional security, oil, and sustainable development.

The U.S. established formal diplomatic relations with Saudi Arabia in 1933. Because of the long-standing security relationship with Saudi Arabia, the United States sells military equipment to Saudi Arabia. Following the September 11, 2001 attacks in the United States, strains in the relationship between the two countries developed because a number of the terrorists were Saudi nationals. From May 2003 until June 2004, a terrorist organization directly affiliated with al-Qaida launched a series of violent attacks in Saudi Arabia, resulting in death and serious injury to U.S. citizens. The Saudi security services waged an active counterterrorism campaign, which largely neutralized this organization. Thereafter, Saudi Arabia became a partner in the campaign against terrorism, providing military, diplomatic and financial cooperation. This cooperation continues.

In June 2008, the U.S. Treasury Department cited Al Haramain Islamic Foundation (AHF) with headquarters in Saudi Arabia, for providing financial and material support to al-Qaida, as well as a wide range of terrorist organizations. Subsequent to this designation, Saudi authorities took actions that have largely precluded AHF from operating in its own name. The U.S. Treasury Department also designated the Saudi-based International Islamic Relief Organization for facilitating fundraising for al-Qaida and affiliated terrorist groups. The Saudi government continues its efforts to disrupt funding of terror-related operations and continues to cooperate with the United States. This cooperation has led to the arrest of 16 Saudi-based terrorism financiers and the successful implementation of new Saudi Customs cash-courier regulations.

### **United Arab Emirates (UAE) (Hearing Exhibit 3)**

The UAE is a federation of individually ruled emirates. The government is a federal republic with a president and council of ministers. Its laws and practices come from Islamic ideals and beliefs. Only 15 to 20 percent of the people living in the UAE are considered citizens. Educational standards are high and continue to improve.

The UAE has significant gas and oil reserves which are expected to last into the next century. This gives the UAE significant resources to invest around the world. The UAE is a member of the United Nations, the Arab League, and the Gulf Cooperation Council. It has diplomatic relations with more than 60 countries including the United States and other major industrial nations. UAE is also active in the Organization of Petroleum Exporting Countries and the Organization of Arab Petroleum Exporting Countries.

The United States and UAE have had friendly relations since 1971. The breadth and depth of the relationship increased significantly as a result of the United States led coalition campaign to end the Iraqi occupation of Kuwait in 1991. In 2002, the United States and the UAE launched a strategic partnership dialogue covering virtually every aspect of the relationship. The UAE has been a key partner in the war on terror, and UAE ports host more U.S. Navy ships than any other port outside the U.S. The UAE has cooperated with the United States on terrorism. However, the UAE was one of only three countries to recognize the Taliban rule in Afghanistan. Moreover, two of the 9/11 hijackers were UAE nationals, and they reportedly used UAE-based financial networks in the plot. Since then, the UAE is credited by the State Department with assisting in the arrest of senior al-Qaida operatives, denouncing terror attacks, improving border security and investigating suspect financial transactions. Allegations of illicit sale of technology continued in 2009, including assertions that Iran used UAE companies to obtain technology from U.S. suppliers, and that components were used to build improvised explosive devices (IEDs) shipped to militants in Iraq and Afghanistan. Dubai is a key transfer point for the illegal sale of nuclear technology to Iran, Libya, and North Korea.

The UAE does not allow elections, lacks judicial independence, and restricts civil liberties. There were no reports of arbitrary killings or politically motivated disappearance. However, flogging is a recognized punishment. While the law prohibits arrests and searches without probable cause, incidents do take place in practice. Fair and public but not timely trials are provided.

### **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the AG.<sup>5</sup> Decisions must also reflect consideration of the “whole person” factors listed in ¶ 2(a) of the Guidelines.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. In this case, the pleadings and the information presented by the parties require consideration of the security concerns and adjudicative factors addressed under Guideline B (Foreign Influence) and Guidleleline E (Personal Conduct).

A security clearance decision is intended only to resolve the questions of whether

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<sup>5</sup> Directive. 6.3.



it is clearly consistent with the national interest<sup>6</sup> for an applicant to either receive or continue to have access to classified information. The government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the government must be able to prove controverted facts alleged in the SOR. If the government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the government's case. Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.<sup>7</sup> A person who has access to classified information enters into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests as her or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the government.<sup>8</sup>

## Analysis

### Guideline B, Foreign Influence

AG ¶ 6 expresses the security concern pertaining to foreign influence:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

The relevant disqualifying condition is AG ¶ 7(a), "Contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion."

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<sup>6</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>7</sup> See *Egan*, 484 U.S. at 528, 531.

<sup>8</sup> See *Egan*; Revised Adjudicative Guidelines, ¶ 2(b).

Although foreign family ties are not automatically disqualifying, they do raise the issue of potential foreign influence and the risk of exploitation or coercion. Although Applicant's father is a naturalized U.S. citizen, and previously resided in the United States, he has lived in Saudi Arabia since 2008. When he lived in the United States, she had frequent contact with him. In 2008, his behavior caused them to become estranged, and her parents are currently obtaining a divorce. Applicant has had no contact with him since 2008 and plans to have no contact with him in the future. Her grandfather lives in Iraq, and worked in senior Iraqi government positions. She has an uncle in Jordan whom she has met four times. She also has an aunt, uncle, and cousin in the UAE. This uncle worked for the UAE government for approximately 25 years until he retired five years ago. She has contact with her aunt and uncle two to three times per year when her uncle visits the United States for medical appointments. She has less contact with her cousin, their daughter. Applicant has numerous other extended foreign family members in the Middle East. AG ¶ 7(a) applies.

The foreign influence guideline also includes factors that can mitigate disqualifying conditions. Under AG ¶ 8, the following mitigating conditions are relevant:

- (a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States; and
- (c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

Applicant's family members reside in several Middle Eastern countries where the threat of terrorist activity is high. However, her contact with her family members is casual and infrequent in most cases, and nonexistent in other cases. She has no further contact with her father or her grandfather. She has met her unemployed uncle only four times, two of them when she was a child. Although she sometimes sees her uncle and aunt who live in the UAE, it is infrequent, and the relationship is not close. She has little to no contact with her other extended family. Although the countries in question raise questions of possible exploitation, the Applicant's relationship with her foreign relatives is so infrequent and tenuous that it is unlikely to create a risk of foreign influence or exploitation. AG ¶ 8(a) and 8(c) apply.

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

AG ¶ 15 expresses the security concern about 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.

The Guideline E allegations implicate the following disqualifying condition under AG ¶ 16:

(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.

The government alleges that Applicant deliberately failed to disclose her numerous family members who are foreign citizens and reside abroad. Applicant denies that her omission was deliberate. AG ¶ 16(a) requires a deliberate and knowing intent to provide false information to the government. Applicant revealed that she had an immediate family member, her father, who was a citizen of Iraq and lived in Saudi Arabia. If she intended to conceal her foreign connections, it is unlikely she would have disclosed this information. Applicant was careless in failing to list her foreign relatives; however, I find that Applicant's omission was not intentional and AG ¶ 16(a) does not apply to that omission.

The SOR also alleges, and Applicant admits, that she deliberately falsified answers regarding her illegal drug use on security clearance applications in 2007 and 2008. During her subsequent security interview, she disclosed marijuana use over a period of five years, from 2000 to 2005. Applicant knowingly and with intent to falsify, failed to inform the government of her illegal drug use on two separate occasions. AG ¶ 16(a) applies to her falsification concerning her drug use.

Under AG ¶ 17, the following mitigating conditions are relevant to Applicant's falsification about her use of illegal drugs:

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

(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.

Applicant's falsifications in 2007 and in 2008 are unmitigated. From December 2007, when she first falsified, until June 2008, when she admitted her deception, she did not disclose her falsifications to her supervisor or facility security officer. When she learned of her upcoming security interview, she still did not disclose her falsification. During the interview, she did not disclose it until she was asked about illegal drug use. Only at that point did she disclose that she had lied on her applications. Applicant's falsifications in 2008 are recent, occurring approximately 18 months ago. Moreover, her conduct cannot be considered minor. She decided to provide false information to the government not once but twice. Such actions undermine the security clearance process and raise serious doubts about Applicant's reliability and judgment. AG ¶¶ 17(a) and 17(c) cannot be applied.

### **Whole Person Analysis**

Under the whole person concept, an administrative judge must evaluate the applicant's security eligibility by considering the totality of the applicant's conduct and all the 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.

AG ¶ 2(c) requires that the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept. Under the cited guideline, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case.

Applicant provided false information to the government concerning her illegal drug use. She decided to intentionally mislead the government on two separate occasions. She failed to disclose her falsification to her supervisor or facility security officer. When she did disclose her illegal drug use, she told the agent that she lied because she made a mistake in figuring out the time period that the question covered. Applicant stated the true reason at the hearing: that she falsified because she was afraid her illegal drug use would put her job and clearance in jeopardy. Although it is not alleged, and is not the basis for my decision, her lack of openness with the agent can be considered under the whole person analysis. Some of Applicant's poor judgment can be ascribed to her young age of 24 years at the time of her falsifications. However, she is a well-educated, intelligent woman who made a conscious decision to

falsify when she completed the two applications. Moreover, when she falsified the second application, she held a secret security clearance. Those who are granted a security clearance enter into a fiduciary relationship with the government based on trust. A decision to falsify while holding a security clearance raises serious doubts about Applicant's judgment and trustworthiness.

Overall, the record evidence fails to satisfy these doubts, which must be resolved in favor of the national security. For all these reasons, I conclude Applicant has not mitigated the security concerns arising under Guideline E.

### **Formal Findings**

Paragraph 1, Guideline B	FOR APPLICANT
Subparagraphs 1.a. -1.g.:	For Applicant
Paragraph 2, Guideline E	AGAINST APPLICANT
Subparagraphs 2.a. – 2.b.:	For Applicant
Subparagraphs 2.c. – 2.d.:	Against Applicant

### **Conclusion**

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

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RITA C. O'BRIEN  
Administrative Judge