



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



In the matter of: )  
)  
) ISCR Case No. 09-06103  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Melvin A. Howry, Esq., Department Counsel  
For Applicant: Joseph Testan, Esq.

November 7, 2011

**Decision**

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant failed to mitigate the Personal Conduct and Handling Protected Information security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On May 6, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines E, Personal Conduct and K, Handling Protected Information. 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) effective for cases dated after September 1, 2006.

Applicant answered the SOR on May 11, 2010, and requested a hearing before an administrative judge. The case was assigned to me on July 13, 2010. DOHA issued a notice of hearing on July 22, 2010. The hearing was scheduled and convened on

August 19, 2010. The Government offered Exhibits (GE) 1 through 6. GE 1 through 4 were admitted without objection. Applicant's counsel objected to GE 5, page 4, paragraphs three, four, and five and GE 6. GE 6 was admitted over the objection of Applicant's counsel. GE 5 is discussed, below. The Government also presented GE 7, a Memorandum of Law addressing the admissibility of the contested portions of GE 5, post-hearing. Applicant offered Exhibits (AE) A through M, to which there was no objection, and AE A-M were admitted. Applicant called four witnesses, and testified on his own behalf. The Applicant also presented AE N, a Memorandum of Law addressing the admissibility of GE 5, page 4, paragraphs three, four, and five, post-hearing. The admissibility of the contested portions of GE 5 is addressed below. DOHA received the transcript of the hearing (Tr.) on November 7, 2011.

### **Procedural Ruling**

The Applicant objected to GE 5, page 4, paragraphs three, four, and five, based upon Federal Rules of Evidence (FRE) 801(c) because these paragraphs contained "multiple out of court statements offered into evidence to prove the truth of the matter asserted." While Applicant recognized that hearsay can be admissible in administrative proceedings, he argued that several specific provisions of the Directive prohibit its use including: ¶ E3.1.22 permitting an applicant the opportunity to cross-examine the person making the statement and ¶ E3.1.20, permitting authentication of documents or evidence compiled or created in the regular course of business if furnished by an investigating agency. Applicant argued that the contested portions of GE 5, do not constitute a "record." Therefore, he submits the contested portions of GE 5 do not fall under a hearsay exception and are dissimilar to documents admitted in other proceedings. (AE N.)

Department Counsel avers that under ¶ E3.1.19 of the Directive, the FRE are only guidance and may be relaxed. The Appeal Board has found documents similar to the Air Force denial letter admissible as an exception to the hearsay rule under FRE 803(6) and 803(8).<sup>1</sup> Further, Department Counsel argued that the right to confrontation in a security clearance adjudication under ¶ E3.1.22 is not violated by the admission of documents that fall within well-established exception to the hearsay rule.<sup>2</sup> (GE 7.)

I agree with Department Counsel's argument set forth in GE 7. This case calls for relaxed application of the FRE. In order to permit the development of a full and complete record by the parties the contested portions of GE 5 are admitted. Applicant's objections will be taken into consideration when allocating weight to the contested portions of GE 5, below.

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<sup>1</sup> See ISCR Case No. 05-14135 (App. Bd. Dec. 7, 2007); ISCR Case No. 02-199 (App. Bd. Aug. 8, 2005); DISCR Case No. 02-12199 (App. Bd. Apr. 3, 2006).

<sup>2</sup> See DISCR Case No. 03-06770 (App. Bd. Sept. 9, 2004); ISCR Case No. 96-0575 (July 22, 1997).

## Findings of Fact

Applicant admitted the SOR allegations ¶¶ 1.a and 1.g. He denied SOR ¶¶ 1.b, 1.c, 1.d, 1.e, 1.f, 1.h, 1.i, and 2.a. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 27-year-old systems engineer for a government contractor. He is single and has no children. In 2006 he earned a masters degree from a prestigious university. He has been employed with a government contractor since August 2006. (GE 1; Tr. 104-105, 137.)

On or about June 6, 2006, he submitted a Questionnaire for Sensitive Positions. In Section 24 of this form he was asked about his illegal drug use in the last seven years. He indicated, "No," to this question. (GE 1.)

On August 7, 2007, Applicant again completed a Security Clearance Application (EPSQ). On this form he was asked, "27. Your use of Illegal Drugs and Drug Activity-Illegal Use of Drugs Since the age of 16 or in the last 7 years, whichever is shorter, have you illegally used any controlled substances, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs?" He answered this question, "No." He was also asked, "28. Your Use of Illegal Drugs and Drug Activity-Use in Sensitive Positions Have you EVER illegally used a controlled substance while employed as a law enforcement officer, prosecutor, or courtroom official; while possessing a security clearance; or while in a position directly and immediately affecting public safety?" Applicant answered, "No."(GE 2.)

On October 6, 2008, Applicant completed another Questionnaire for National Security Positions. Question 23 "Illegal use of Drugs or Drug Activity" asked Applicant:

The following questions pertain to the illegal use of drugs or drug activity. You are required to answer the questions fully and truthfully, and your failure to do so could be grounds for an adverse employment decision or action against you. Neither your truthful responses nor information derived from your responses will be used against you in any subsequent criminal proceeding.

A. In the last 7 years, have you illegally used any controlled substances, for example, cocaine, crack cocaine, THC (marijuana, hashish, etc.), narcotics (opium, morphine, codeine, heroin, etc.), stimulants (amphetamines, speed, crystal methamphetamines, Ecstasy, ketamine, etc.), depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), steroids, inhalants (toluene, amyl nitrate, etc.) or prescription drugs (including painkillers)? Use of controlled substances includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any controlled substance.

B. Have you EVER illegally used a controlled substance while possessing a security clearance; while employed as a law enforcement officer, prosecutor, or courtroom official; or while in a position directly and immediately affecting the public safety? (Emphasis in original.) (GE 3.)

Applicant answered “No” to parts A and B, above.

In March 2008 Applicant was denied a top secret security clearance with the Air Force. When interviewed by an authorized agent of the Office of Personnel Management (OPM), he gave three reasons for the denial, including: “a security violation involving classified material; alleged drug use; and personal conduct (cell phone in closed area).” (GE 4.) These reasons are consistent with the reasons for denial set out in the Department of Air Force letter dated June 12, 2008. (GE 5.)

### **Security Violation Involving Classified Material**

The Report of Investigation (ROI), which Applicant adopted as accurately reflecting his interview, indicates that Applicant was given a polygraph examination as part of his top secret security clearance application. The ROI reflects:

[Applicant] stated that during the polygraph he was asked if he has ever disclosed classified information to an unauthorized person. He stated that the polygrapher indicated some uneasiness with his negative response and he advised that he did discuss in very general terms the capability of current radars with a long time female friend [witness # 4] while having dinner. [Applicant] stated that he jokingly told [witness # 4] that current radars could detect an object in [city A] from [city B]. [Applicant] stated that the polygraph operator was not trained in radar technology and erred (sic) in concluding that classified information was disclosed. [Applicant] stated that no technical details such as exact mileage limitations or capabilities were discussed and he believes that he did not disclose any classified information. (GE 4.)

Applicant also explained the incident in which it was alleged he disclosed classified materials to an unclassified person in his July 10, 2008 letter to the Air Force. He wrote:

Regarding [disclosure of classified information to an unclassified person], I did **not** disclose classified information to an unclassified person. This again is a matter that with a lot of gray that you are misconstruing as a black and white matter. To summarize the incident, my friend [witness #4] likes to tease me because I work in an industry where I handle “classified” information. One day she **jokingly** asked me to tell her some classified information. I cannot stress this enough when I say this was all done in jest. I then tell her that our radar can detect targets from City A to City B. I did not disclose the actual number. **I did not disclose classified**

**information to an unclassified person.**(GE 5 at 9.) (Emphasis in original.)

Throughout the hearing, Applicant continued to deny any allegation that he disclosed classified information to an unauthorized person. He claimed his statement that “radars could detect an object in [city A] from [city B]” was unclassified and supported his claim with the testimony of his team lead, former supervisor, and co-worker. He called witness #4, the person he allegedly made the statement to, who testified about the nature of Applicant’s statement to her. She indicated: “The event like happened so long ago I can’t remember what was said but we talked about radar or something and that’s it.” Applicant also introduced published documentation into evidence regarding the capabilities of radar to prove that the information he repeated was unclassified. However, while he was testifying, he changed his wording of the statement allegedly made to indicate a specific object, instead of the generic term, “an object,” referred to in his unclassified statement. (GE 4; AE K; AE L; AE M;Tr. 40-90, 119-128.)

In questioning, Applicant was asked what he was permitted to tell others about his job. He indicated:

A: Um, I guess you can say what your job title is, you can say you know what type of an engineer you are so in my case I'm a systems engineer.

Q: Okay. So opposing counsel doesn't pull on his hair, were you authorized to disclose the information you did disclose to [witness #4]?

A: Um, I mean no one said –

Q: No one said you couldn't but did anybody say you could?

A: No.

Q: Okay. Did you inquire of anybody about what you could release?

A: Um, no. (Tr. 126.)

## **Drug Use**

Applicant also indicated to the OPM agent that Applicant admitted he disclosed taking “a puff from a marijuana cigarette,” once during college in 2005 and again in 2007 while waiting with a friend to enter a movie, to the Air Force during his pre-polygraph interview. He confirmed that he was a government contractor with a secret security clearance at the time he used marijuana in 2007. (GE 4.)

In a letter dated July 10, 2008 to the Air Force regarding the denial of his top secret clearance, Applicant addressed his marijuana use. He indicated:

. . . it is true that I have been exposed to marijuana twice in my life (the two times listed above) – the issue of whether or not I have smoked marijuana is another matter. I did not feel any effects from having “smoked” marijuana in the two mentioned incidents. I held the marijuana cigarette to my mouth and inhaled, but immediately exhaled and thus blew out the marijuana smoke. I feel as though my “marijuana usage” is being taken out of context. The first incident involved some college friends and I at a college party just having a good time. While some friends were smoking some marijuana cigarettes the whole night, I simply held the joint to my mouth a few times before socializing with other groups the rest of the night. The second incident involved myself and another friend and while he was smoking, I took one puff and did not inhale. (GE 5 at 8-9.)

He explained that he did not list his marijuana use on his security clearance questionnaires because of “semantics.” He stated “I did not personally obtain the marijuana myself. I did not “inhale”. (sic) I did not partake in the activity for more than a few minutes each time.” (GE 5 at 8-9.) At hearing, he testified:

I answered no because I felt like it didn't qualify as using marijuana because the first time was in 2005, it was my last year in college, I was at a party and I mean it was like less than five minutes I think. I mean it was like two puffs, you know, it was one of those deals where you're kind of sitting in a -- not sitting we were standing in a circle and a joint was being passed around. I never felt the effects of it, I didn't feel like it qualified as using marijuana.

And the second time was in 2007 so it was actually after I started at [government contractor]. I was watching a movie and I remember it was with two other friends and one of the friends he left the car and then it was just me and another friend and this is like ten minutes before the movie.

And all of a sudden he takes out marijuana and this time it was literally, I mean he was smoking marijuana in the car and I think, well I know I took one puff and exactly one and that was it. And so to me it just didn't feel like it really qualified as using marijuana so that's the reason that when I filled out these forms, you know, not to be confused with someone who does it daily or weekly or monthly or annually or whatever the case is, it was just - I've obviously never felt the effects of it or inhaled all the way. So that's the reason why I answered no. (Tr. 108-109.)

He testified that he didn't consider himself to have inhaled the marijuana because, “when I say I didn't inhale what I mean is that I put the cigarette to my mouth and then I blew in and immediately blew out and it didn't go down my throat or it didn't go into my lungs.” He did so knowing his employer has a zero tolerance policy against drugs. Applicant indicated he will never use marijuana again. (Tr. 107-108, 139.)

## **Cell Phone in Closed Area**

He also discussed with the OPM agent his admission to the Air Force of inadvertently wearing his cell phone in a closed secured work area. (GE 4.) With respect to the cell phone violations, Applicant explained that he estimated the number of violations and “gestimated 60 times.” He also asserted that “Everyone is bound to forget the rules on occasion.” (GE 5 at 9.) He attached a copy of the “Prohibitions on Electronic Devices in Classified Work Environments” along with his July 10, 2008 letter when he answered Interrogatories on December 23, 2009. (GE 5 at 10-11; Tr. 112-116.)

In a letter dated January 11, 2010, which Applicant attached to his Answers to the Interrogatories, he surmised that he had mistakenly walked into a closed area with his cell phone approximately “5% of the time,” and indicated the estimate of “60 times” he gave the polygrapher was an unusually high number. He further asserted that he did not use his cell phone to make calls or text while in closed areas. Applicant claimed that others at his company also had violated this policy by taking cell phones into closed areas and supported his claim with the testimony of three witnesses. Applicant has been counseled by his Team Leader for his cell phone violation and has not violated this policy since at least February 2010. (GE 4; Tr. 46-48, 66-70; 75-89; 112-116.)

Applicant has the trust of his friends, sibling, girlfriend, co-workers, Supervisor, former Supervisor, and Team Lead. His Supervisor indicates Applicant “is a great asset and has shown great potential and [the supervisor] believes he can be trusted to follow up on all security regulations.” His “Team Lead Applicant’s Performance & Development Summary” indicates he is an organized and detail oriented team player. He has been “exceptional” in his work performance and was selected for a rotation in a prestigious program. In 2009, he was credited as “honest, forthright, and trustworthy” as his key strengths. (AE A-J; Tr. 40-89.)

## **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of 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 relating to the guideline 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 disqualifying conditions are potentially applicable:

- (a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications,



award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing.

Applicant deliberately omitted his marijuana use on his security clearance applications completed in June 7, 2006, August 7, 2007, and October 6, 2008. His explanation that he answered, "No," to all of the questions regarding drug use, and drug use with a security clearance, on his three security clearance applications because he only inhaled into his mouth not into his lungs, does not justify his falsification. Question 23, on the October 6, 2008 application is abundantly clear, if Applicant was honestly confused in his earlier two Applications, that: "Use of controlled substances includes injecting, snorting, *inhaling*, swallowing, experimenting with or otherwise consuming any controlled substance (emphasis added)." Yet, he answered no to this question. He did not seek advice or clarification on the drug use questions when completing any of the questionnaires. I find Applicant sought to conceal his 2005 and 2007 marijuana use in all three questionnaires. AG ¶ 16(a) is disqualifying.

In addition to his falsification alleged in 1.a through 1.f, Applicant has also demonstrated poor personal conduct that could subject him to vulnerability to exploitation, manipulation, or duress as alleged in 1.g, 1.h, and 1.i. Applicant elected to use marijuana while in possession of a security clearance, he brought a prohibited device (his cell phone) into a secure area on multiple occasions, and he discussed classified information with an unauthorized person. The Applicant admitted that the Air Force denied his previous clearance application based upon these three reasons. Each of these allegations are serious and could place Applicant in a place of vulnerability. His credibility with respect to his claimed explanations of these allegations is questionable, since he has falsified information to the government in the past. Applicant has not met his burden to show his personal conduct does not raise questions about his judgment and would not affect his personal, professional, or community standing.

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 or 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's falsification and poor personal conduct are unmitigated. Falsification of information provided to the Government cannot be considered minor. Although Applicant disclosed his marijuana use in the interview before his polygraph examination, it was years after his initial falsification. The record contains no evidence that he sought to correct his falsification promptly. His falsification was not based upon improper or inadequate advice but by his own unwillingness to disclose the truth about his marijuana use. Moreover, his decision to use marijuana, a substance that he knew was prohibited by his employer's zero tolerance policy on drugs, while possessing a security clearance, indicates that Applicant lacks the judgment to possess a clearance. He also demonstrated poor judgment when he answered his friend's inquiry to tell her something classified and when he entered a secured area with a prohibited device. He has not shown sufficient steps to reduce or eliminate vulnerability to exploitation. His promise to refrain from further violations lacks credibility, despite the testimony and evidence that applicant is a truthful person. AG ¶¶ 17(a), 17(b), 17(c), 17(d), and 17(e) do not apply.

### **Guideline K, Handling Protected Information**

The security concern relating to the guideline for Handling Protected Information is set out in AG ¶ 33:

Deliberate or negligent failure to comply with rules and regulations for protecting classified or other sensitive information raises doubt about an individual's trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is a serious security concern.

AG ¶ 34 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(a) deliberate or negligent disclosure of classified or other protected information to unauthorized persons, including but not limited to personal or business contacts, to the media, or to persons present at seminars, meetings, or conferences; and

(g) any failure to comply with rules for the protection of classified or other sensitive information.

I find Applicant has failed to comply with rules and regulations for protecting classified information in both bringing a cell phone into a secured area and by discussing information with a friend that should not have been shared. Applicant was aware of the policies prohibiting cell phones in secured areas, but repeatedly violated this policy, contained in GE 5. Further, he should not have, even in jest, told his friend anything other than his job title and the type of engineer he was. AG ¶ 34(a) and 34(g) are disqualifying.

AG ¶ 35 provides conditions that could mitigate security concerns. The following are potentially applicable:

(a) so much time has elapsed since the behavior, or it has happened so infrequently or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities;

(c) the security violations were due to improper or inadequate training.

Applicant has responded favorably to his Team Leader's counseling regarding his cell phone in secure areas. He has not had a violation since February 2010. Therefore, AG ¶ 35(a) and 35(b) are mitigating with respect to the cell phone. He acknowledged that he did not have proper training on what he was not permitted to repeat, however, Applicant is unwilling to admit wrongdoing when it comes to sharing improper information with his friend despite the Air Force's decision on his earlier security clearance application. Thus, his lack of discretion in handling protected information cannot be fully mitigated.

### **Whole-Person Concept**

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

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 Guidelines E and K in my whole-person analysis.

I have considered Applicant's character, as attested to by his friends, sibling, girlfriend, co-workers, supervisor, former supervisor, and team lead. He is generally thought to be truthful, honest, and trustworthy. He performs well at work and receives exceptional performance reviews. However, he has not demonstrated these traits when it comes to his personal conduct in response to government questions about his marijuana use; his choice to use marijuana while possessing a clearance; and his handling of protected information.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the Personal Conduct and Handling Protected Information 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 J:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	Against Applicant
Paragraph 2, Guideline K:	AGAINST APPLICANT
Subparagraph 2.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 grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Jennifer I. Goldstein  
Administrative Judge