



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



In the matter of:	)	
	)	
	)	ISCR Case No. 11-07498
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Tovah A. Minster, Esquire, Department Counsel  
For Applicant: *Pro se*

01/31/2013

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**Decision**

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METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I grant Applicant's clearance.

On 12 July 2012, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline E, Personal Conduct.<sup>2</sup> Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 29 November 2012 and I convened a hearing 15 January 2013. DOHA received the transcript 23 January 2013.

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<sup>1</sup>Consisting of the transcript (Tr.), Government exhibits (GE) 1-3, and Applicant exhibits (AE) A-F.

<sup>2</sup>DoD acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

## **Findings of Fact**

Applicant admitted the SOR allegation. She is a 32-year-old sales associate employed by a defense contractor since November 2010. She has a cosmetologist license she obtained when she graduated from high school in 1998. She also has an undergraduate degree in business administration she obtained in 2002. She has not previously held a clearance.

In 2010, Applicant decided to change her career path and return to commercial work more consistent with her education. Concerned that her employment in the retail hairdressing industry since July 2006 would not be looked on favorably by the kind of employers she hoped to find work with, she fabricated an employer, listed all the commercial experience she had obtained in other jobs she held before July 2006, and substituted this employer for the hairdressing salons she had worked for. In October 2010, Applicant submitted her falsified resume (AE B) and an employment application using the fabricated employer to her current employer. She was interviewed several times in fall 2010 by one of the company owners, and during those interviews she discussed her business experience with the fabricated employer. She was hired by the company in November 2010.

In her December 2010 clearance application (GE 1), Applicant truthfully disclosed her employment history, including the fact that she had resigned from one company when she was told that she was going to get an unfavorable evaluation. During her subject interview with a Government investigator in February 2011 (GE 3), she disclosed the full circumstances of her falsified resume in response to an open-ended question about other issues the Government should be aware of. She told the investigator that she planned to inform her company after the interview, and she did so (GE 2).

Applicant's company took no disciplinary action against her for falsifying her employment application. On the contrary, she received substantial pay raises as a result of her annual evaluations in 2011 (AE D) and 2012 (AE F).

The company facility security officer (FSO) confirmed Applicant's description of the company's response to her revelations, and recommended her for her security clearance (Answer; Tr. 56-64).

## **Policies**

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to

classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline E (Personal Conduct).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter 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 judgement, reliability, and trustworthiness of those who must protect national interests as their 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>3</sup>

### **Analysis**

The Government established a case for disqualification under Guideline E, but Applicant mitigated the security concerns. Although Applicant provided false information to her prospective employer,<sup>4</sup> that information was most relevant to her employer, but less so to the Government. Furthermore, her falsification did not involve her qualifications for the job she was applying for, only the recency of that experience. Moreover, she fully disclosed her real employment history on her clearance application in December 2010, and revealed her falsifications voluntarily during her February 2011 subject interview.<sup>5</sup> Finally, after advising the Government of her falsifications, she then revealed them to her employer, without consequence. While this action does not preclude the Government from examining the security significance of Applicant's conduct, her employer is better positioned to assess her overall truthfulness and continued suitability for employment. In addition, Applicant demonstrated her remorse for her conduct, and recognizes the importance of truthful disclosures. The company's favorable view of Applicant is demonstrated by two substantial pay raises awarded as a result of her annual reviews. The whole-person factors require no other result. I resolve Guideline E for Applicant.

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>¶ 16 (b) deliberately providing false or misleading information regarding relevant facts to an employer . . . ;

<sup>5</sup>¶ 17(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

**Formal Findings**

Paragraph 1. Guideline E: FOR APPLICANT

Subparagraph a: For Applicant

**Conclusion**

Under the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

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JOHN GRATTAN METZ, JR  
Administrative Judge