DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 11-08453
	)	
	)	
Applicant for Security Clearance	)	

Appearances

For Government: David F. Hayes, Esq., Department Counsel
For Applicant: *Pro se*

01/28/2013

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant was granted a Department of Defense top secret clearance in 2006 after he admitted using marijuana in the 1990s. Drug involvement and personal conduct concerns persist because he smoked marijuana on annual camping trips between July 2007 and July 2010, in violation of his security clearance responsibilities, and after he had expressed his intent not to abuse any illegal drug in the future. Clearance denied.

Statement of the Case

On August 2, 2012, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline H, Drug Involvement, and Guideline E, Personal Conduct, and explained why it was unable to find that it is clearly consistent with the national interest to continue his security clearance. The DOD took action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; 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 September 1, 2006.

Applicant answered the SOR allegations on August 13, 2012, and he requested a decision on the written record without a hearing. Applicant subsequently requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA), and the case was assigned to me on November 29, 2012. On December 1, 2012, I scheduled a hearing for December 20, 2012.

At the hearing, six Government exhibits (GEs 1-6) and seven Applicant exhibits (AEs A-G) were admitted without objection. Applicant testified, as reflected in a transcript (Tr.) received on December 31, 2012.

I held the record open for two weeks after the hearing for Applicant to execute a statement of intent with automatic revocation of clearance for any violation. On December 28, 2012, Applicant submitted a statement through Department Counsel. The document was admitted without objection as AE H.

Findings of Fact

The SOR alleged under Guideline H that Applicant used marijuana on at least four occasions between July 2007 and July 2010 (SOR 1.a), on at least three or four occasions in 1999 (SOR 1.b), and after being granted a DOD top secret security clearance in June 2006 (SOR 1.c). Applicant's use of marijuana after being granted a security clearance was cross-alleged under Guideline E (SOR 2.b). Also under Guideline E, Applicant was alleged to have falsified an August 2005 Questionnaire for National Security Positions (QNSP) by denying any illegal drug use within the last seven years (SOR 2.a).

When he answered the SOR, Applicant admitted, in a lapse of judgment, that he used marijuana four times between July 2007 and July 2010, while he held a top secret clearance. He denied any use of marijuana in 1999 and that he had falsified his QNSP by not reporting the use in 1999. Applicant denied recalling that he stated he used marijuana in 1999.

Applicant's admissions to using marijuana on four occasions from July 2007 to July 2010, and to using the drug after being granted a DOD security clearance, are incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 39-year-old college graduate with a degree in communications. He has been employed since September 2003 by a computer company that contracts with the Department of Defense. He seeks to retain the top secret security clearance that he has held since June 2006. (GEs 1, 5, 6; Tr. 35-36.)

While in college between September 1991 and May 1995, Applicant smoked marijuana with friends more than once or twice a year, but not to the point where he felt the

need for the drug or considered purchasing it. (Tr. 57.) Applicant was given the marijuana free of charge by friends. He enjoyed the drug's effects on him. (GE 6.)

In March 1995, during his last semester in college, Applicant was placed by a temporary employment agency as a part-time help desk representative at a commercial laminated fabric manufacturing company. In March 1996, he was hired by the company for a full-time position in sales. In May 1998, he began working in inventory control. From February 2001 to September 2001, Applicant attended classes part-time at a computer learning center. Around March 2002, he earned his certification as an Internet webmaster. (GEs 1, 2, 6; Tr. 36.)

In September 2003, Applicant began working in information technology end-user support for his current employer. On August 22, 2005, he completed an Electronic Questionnaire for Investigations Processing (e-QIP) for a top secret security clearance.[1] He responded "No" to whether he had illegally used any controlled substance, including marijuana, in the last seven years. (GE 2; Tr. 38.)

On March 2, 2006, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant told the investigator that he used marijuana in approximately 1999 on three or four separate occasions (specific dates not recalled), and that he had not used marijuana since 1999. Applicant then detailed that on these three or four occasions, he smoked marijuana with friends in college. He recalled smoking the drug at a friend's house each time but not the specifics of whose house or its location. He denied ever purchasing any marijuana. While he enjoyed the effects of the marijuana on him, he denied any intent to use marijuana in the future. Concerning his failure to report his marijuana use on his e-QIP, Applicant explained that he did not realize that he had used marijuana within seven years of his e-QIP.[2] (GE 6.)

On June 7, 2006, Applicant was granted a DOD top secret security clearance. The DOD adjudicators determined Applicant's marijuana involvement on three to four times in 1999 was not recent and occurred when he was not in a sensitive position, and he did not intend any future drug use. (GE 5.)

Applicant smoked marijuana on annual July camping trips with friends in 2007, 2008, 2009, and 2010. Applicant smoked marijuana on one occasion during each of the four weekends through a pipe provided by his companions. (GEs 1, 3; Tr. 46-53.) Applicant was not aware of his employer's specific drug policy, although he understood from annual security training that illegal drug use was prohibited. (Tr. 46.) Applicant did not believe he was jeopardizing any classified information by smoking marijuana.[3] He did not use

[1]The QNSP that Applicant allegedly falsified is an attachment to the e-QIP.

[2] Applicant was not given an opportunity before his December 2012 hearing to read the report compiled by the investigator of his March 2006 interview. Nor did she go over her notes of the interview with him. (Tr. 66.)

[3]Concerning whether he gave any thought to his security responsibilities at the time, Applicant testified as follows:

marijuana apart from the camping trips, which were with a now former coworker, her husband, and their friends. (Tr. 47-48, 54.)

On February 25, 2011, Applicant completed an e-QIP for a periodic reinvestigation of his top secret security eligibility. Applicant responded "Yes" to inquiries concerning any illegal use of a controlled substance in the last seven years and any illegal use ever of a controlled substance while possessing a security clearance. Applicant indicated that he used marijuana on an annual camping trip each of the last four years from July 2007 to July 2010, and that he did not use marijuana other than on those weekends. (GE 1.)

On March 15, 2011, Applicant was interviewed by an OPM investigator, in part about his marijuana use. Applicant admitted that he used marijuana recreationally once a year on an annual camping trip with two friends and three of their friends. Applicant did not know how the drug was obtained. He reported positive effects from smoking the drug ("euphoric state"). Applicant denied any association with persons who use drugs illegally, as well as any intent to use an illegal drug in the future. (GE 3.)

On June 18, 2012, Applicant responded to drug interrogatories from a DOD adjudicator. Applicant denied that he was currently using any illegal drug. Asked to detail his illegal drug involvement, Applicant indicated, "I used marijuana once annually from 2007-2010 in small amounts. I stated these accounts to the investigator on 3/15/11." He used the marijuana on his annual camping trip. Applicant denied any use of marijuana since his last use in July 2010 and any intent of future illegal drug involvement. (GE 4.)

At his December 2012 hearing, Applicant admitted that he used marijuana in college, although he testified he could not recall its extent other than it occurred "more than once or twice a year." (Tr. 56-57.) He denied using marijuana after college, including within the seven years preceding his August 2005 e-QIP, until the first of his annual camping trips in July 2007. (Tr. 42-44, 57, 61-63.) When confronted with his reported admission in March 2006 that he smoked marijuana on three or four occasions around 1999, Applicant recalled the investigator asking him about any illegal drug use within the last seven years, and his response, "No, not within the last seven years and that I had used it in college."[4] (Tr. 42.)

> Well, I can't say specifically if it crossed my mind, I'm sure that it probably did, but I also go back to the circumstances and the mitigating circumstances in when—in which it happened. A singular, annual event with people that, you know, maybe see once a year, in a place that there is no possibility of exposure to any sensitive or classified material, with people that do not even know, nor do I speak of, know that I have a clearance, and so it was not—and, to that effect, to my age and to my judgment, I would say it almost played a part in the fact that it was not reckless, habitual use where I could have put myself or anyone else in danger. So while it was a bad decision, I feel that the circumstances mitigate that it was not reckless or any in danger of exposing any classified information. (Tr. 47.)

[4] Applicant testified to the following exchange with the OPM investigator:

> I do recall her asking me about drug use, I asked her what was the time frame and she said seven years, and I believe that I said no, not within the last seven years and that I had used it in college, and she actually—I remember it because when she asked me about drug use, she said unless that you—unless you've used cocaine or heroin in any time frame in your life, I

Applicant testified he did not recall stating that he used marijuana in 1999; there was no reason for him to single out 1999 (Tr. 40.); and it made no sense for him to have said that. (Tr. 45.) Concerning whether the investigator may have fabricated the 1999 date, Applicant testified, "I'm not saying it's false or it's made up, I'm saying I don't recall it." (Tr. 43.) He testified that he responded negatively to the drug inquiries on his August 2005 e-QIP "with a clear conscience." (Tr. 50.) He admitted that as of 1999, he was still associating with at least one friend with whom he had smoked marijuana in college, although he "definitely" did not recall seeing this friend use marijuana after college. (Tr. 61.)

As of December 2012, Applicant was still living at home with his parents. (GE 1; Tr. 36.) Applicant still sees the former coworker and her spouse, with whom he smoked marijuana on the camping trips, "from time to time." They have not used marijuana in his presence or offered him any marijuana since July 2010. (Tr. 49, 52, 54.) Applicant does not intend to use any illegal drug, including marijuana, in the future. (Tr. 20.) On December 28, 2012, Applicant executed a statement of his understanding that his clearance would be revoked for any future violation of the DOD drug policy. (AE H.)

Applicant claims that he told two people at work, who are above his manager, about his marijuana use. (Tr. 51.) He provided no corroboration for his claim.

Applicant works at a customer site. His work performance ratings of record covering 2008 through May 2012 show he has been a valuable contributor, whose services are appreciated by the client. During his annual rating period in 2008, Applicant was considered the highest performer on his team. He increased his skill set from a junior-ranked administrator to a senior administrator. Upper management selected Applicant as one of two individuals to complete intensive security training. Their client commented favorably to Applicant's employer about the high quality of Applicant's work and his customer care. (AE C.) As a senior systems administrator in 2009, Applicant was recognized by his customer's management for helping them pass their security audit. (AE D.) Applicant continued to collaborate well with other Windows server teams, and to grow as a contributor to the team in 2010. (AE E.) In 2011, Applicant became the subject matter expert lead for domain services. Considered by his rating manager to be a solid member of the team, Applicant continued to meet, and occasionally exceed, his employer's expectations throughout 2011 and into 2012. (AEs F, G.) On December 6, 2012, Applicant's outstanding performance was formally recognized by his employer, who awarded him a Certificate of Excellence (AE B.), and by his customer, who awarded him a Certificate of Appreciation. (AE A.)

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just want to know what have you used in the last seven years and I told her that I have not used in the last seven years, that I had done so in college, marijuana, but nothing more than that. And I remember us kind of joking about it because her [sic], you know, she said if you are talking about marijuana in college but not in the seven year time frame, you should not, you know, you should be fine, you should—I believe she even said you should hear some of the other stories that I've heard. (Tr. 42.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall 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 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that 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 H, Drug Involvement

The security concern for drug involvement is set out in AG ¶ 24:

> Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

Under AG ¶ 24(a), drugs are defined as "mood and behavior altering substances," and include:

> (1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens),[5] and
>
> (2) inhalants and other similar substances.

Under AG ¶ 24(b), drug abuse is defined as "the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction." Potentially disqualifying conditions AG ¶ 25(a), "any drug abuse," and AG ¶ 25(g), "any illegal drug use after being granted a security clearance," both apply. Applicant admits that he abused marijuana more often than once or twice a year in college, and that he smoked marijuana from a pipe on annual camping trips each July from 2007 through 2010.

An OPM investigator reported that Applicant told her in March 2006 that he smoked marijuana on three or four separate occasions around 1999. Applicant denies any present recall of using marijuana in 1999 or of telling the investigator that he smoked marijuana in 1999. He claims that the year 1999 held no particular significance for him, and he cannot explain the reference to 1999. There is no evidence that the investigator had any intent or motive to misrepresent what Applicant said. According to the investigator, Applicant detailed his marijuana use, as follows:

> SUBJECT LAST USED MARIJUANA IN APPROXIMATELY 1999. SOURCE DOES NOT RECALL SPECIFIC DATES. SUBJECT USED MARIJUANA WITH FRIENDS IN COLLEGE, WHOSE NAMES SUBJECT DOES NOT RECALL. SUBJECT SMOKED MARIJUANA IN THE FORM OF A MARIJUANA CIGARETTE ON THESE THREE OR FOUR OCCASIONS. (GE 6.)

[5]Schedules I, II, III, IV, and V, as referred to in the Controlled Substances Act, are contained in 21 U.S.C. § 812(c).

Applicant should have had no trouble recalling that he graduated from college in 1995, and one has to question why he would have estimated his last use as occurring in 1999 if his involvement was limited to college. Yet it also appears that Applicant linked his marijuana use to his college days. When asked by the investigator about his failure to list any marijuana use on his August 2005 "case papers," Applicant responded that he did not realize that he had used marijuana within seven years of his security clearance application. Applicant was not given an opportunity to review the investigator's summary of his interview before his December 2012 hearing. Applicant's now disputed account of smoking marijuana around 1999 is the sole evidence of any drug involvement around that time. The evidence is insufficient to conclusively establish that Applicant smoked marijuana in the intervening years between college and July 2007.

Applicant bears a heavy burden to overcome the security concerns raised by his illegal drug involvement from July 2007 to July 2010. Marijuana is a Schedule I controlled substance under the Controlled Substances Act (21 U.S.C. § 812). Under federal law, Schedule I controlled substances are those drugs or substances which have a high potential for abuse, no currently accepted medical use in treatment in the United States, and lack accepted safety for using the drug under medical supervision. Mitigating condition AG ¶ 26(a), "the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment," is not satisfied. Applicant's drug use went beyond experimentation, although in recent years, it was infrequent. Moreover, Applicant's abuse of marijuana, while he held a top secret clearance and after he had expressed his intent not to abuse any illegal drug in the future, raises serious doubts about his current reliability, trustworthiness, and judgment.

Applicant denies any intent to abuse drugs, including marijuana, in the future. Under AG ¶ 26(b), "a demonstrated intent not to abuse any drugs in the future," can be shown by "(1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; (3) an appropriate period of abstinence; or (4) a signed statement of intent with automatic revocation of clearance for any violation." Applicant smoked marijuana in the 1990s while socializing with his college peers. He smoked marijuana through a pipe on four separate occasions between July 2007 and July 2010 with a former co-worker, her spouse, and the couple's friends. AG ¶ 26(b)(1) is difficult to satisfy in that Applicant continues to socialize with this former co-worker and her spouse. There is no evidence that these friends have ceased their drug involvement, although they have not used marijuana in Applicant's presence, nor offered him any marijuana, since July 2010. AG ¶ 26(b)(2) applies in the absence of any evidence that Applicant has been in an environment where drugs were present since the camping trip in July 2010. Also, AG ¶ 26(b)(4) must be considered because Applicant has executed a statement of intent to abstain from illegal drug involvement with automatic revocation for any violation. Yet Applicant has raised considerable doubts about whether he can be counted on to abide by that resolve, given he used marijuana on at least four occasions after 2006, when he disavowed any intent to use illegal drugs in the future. His present 2.5 years of abstinence is insufficient to guarantee against recurrence of illegal drug abuse. He abstained for longer, eight or 12 years depending on whether he stopped smoking marijuana when college ended in 1995 or around 1999, before he smoked marijuana on

the camping trip in July 2007. Applicant's candor about his recent marijuana use on his February 2011 e-QIP does not mitigate his illegal drug involvement in violation of his security clearance obligations.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15:

> Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

Applicant denied any illegal drug involvement in the last seven years when he completed his first e-QIP in August 2005. During his interview with the OPM investigator in March 2006, Applicant reportedly indicated that he used marijuana on three or four occasions around 1999. Applicant would have been required to report such drug abuse on his e-QIP, since it fell within the seven-year scope of the inquiry. However, as discussed under Guideline H, *supra*, the evidence does not conclusively establish that Applicant used marijuana in 1999. Applicant does not deny that he abused marijuana while in college, but that drug use would not have been within the seven-year scope of his August 2005 e-QIP. When asked by the investigator why he had not reported any marijuana use on his "case papers," Applicant reportedly indicated that he had not realized that he had used marijuana within seven years of his e-QIP. Omission due to inaccurate recall would not establish the intent contemplated within AG ¶ 16(a):

> (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.

Applicant could possibly have smoked marijuana in the late 1990s and omitted that drug use from his August 2005 e-QIP because he did not want it to affect his clearance eligibility. However, he was candid on his February 2011 e-QIP about marijuana use even more recent in relation to his clearance application. That conduct bolsters his credibility with regard to his denials of any falsification of his August 2005 security clearance application. The Government's case falls short of establishing deliberate falsification of the August 2005 e-QIP.

Applicant's marijuana use after being granted a security clearance is also alleged under Guideline E, even though it is amply covered by AG ¶ 25(g) of Guideline H. At the same time, the DOHA Appeal Board has held that security-related conduct can be alleged

under more than one guideline, and, in an appropriate case, be given independent weight under each. *See* ISCR 11-06672 (App. Bd. Jul. 2, 2012). AG ¶ 16(c) provides as follows:

> (c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information.

Applicant has an obligation as a clearance holder to comply with DOD policy, including the prohibitions against drug involvement. Applicant knew from annual security training that illegal drug use was prohibited. AG ¶ 16(c) is implicated. Furthermore, Applicant clearly exercised poor judgment under the personal conduct concern outlined in AG ¶ 15 by using marijuana while he held a security clearance. It is no excuse that Applicant thought there was no possibility of exposure to any sensitive or classified material at a campsite where he was with others who were unaware of his clearance status.

Applicant's use of marijuana in violation of clearance responsibilities on four separate camping trips between July 2007 and July 2010 is too repeated and recent to apply mitigating condition AG ¶ 17(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 admits his lapse of good judgment; that he made "a bad decision." (Tr. 47.) However, he continues to maintain that there was no risk to sensitive or classified information because he smoked marijuana in a secluded camping area, without electricity or cellular phone coverage. (Tr. 19.) Applicant's failure to appreciate the importance of his obligation to comply with rules and policies makes it difficult to mitigate his poor judgment under AG ¶ 17(d):

> (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.

Applicant's up-front disclosure of his marijuana use on his February 2011 e-QIP implicates mitigating condition AG ¶ 17(e), "the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress." When asked whether his employer knows about his marijuana use, Applicant responded that he told two people, who are above his manager. (Tr. 51.) He provided no corroboration for his claim, although because the Government knows about his drug use, he has significantly reduced his vulnerability to any attempts to pressure him because of his drug involvement. At the same time, his candor about his drug involvement is expected of those holding a security clearance, and it does not fully minimize the judgment concerns raised by his abuse of marijuana while holding a top secret security clearance.

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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(a).[6] Applicant exhibited an unacceptable disregard of the fiduciary obligations associated with his clearance eligibility when he smoked marijuana. He offered no explanation for the illegal drug use other than that he enjoyed its effects. Applicant's contributions to his employer are viewed favorably, but they do not excuse or minimize the doubts about his personal judgment. Based on the evidence before me, I cannot conclude that it is clearly consistent with the national interest to continue his security clearance eligibility at this time.

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 H:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge

[6]The factors under AG ¶ 2(a) are as follows:

(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.