



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 11-12987

**Appearances**

For Government: Candace Garcia, Esq., Department Counsel  
For Applicant: Erica Fenstermacher, Esq.

03/27/2014

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, I conclude that Applicant mitigated the security concerns regarding his financial considerations and personal conduct. Eligibility for access to classified information is granted.

**Statement of Case**

On March 20, 2013, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) detailing reasons why DOD adjudicators could not make the affirmative determination of eligibility for a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken 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 (AGs) implemented by DOD on September 1, 2006.

Applicant responded to the SOR on May 22, 2013, and requested a hearing. The case was assigned to me on September 14, 2013, and was scheduled for hearing on January 18, 2014 by video teleconference. At hearing, the Government's case consisted of nine exhibits (GEs 1-9). Applicant relied on one witness (himself) and 11 exhibits (AEs A-K). The transcript (Tr.) was received on January 17, 2014.

### **Summary of Pleadings**

Under Guideline F, Applicant allegedly accumulated nine delinquent consumer debts. The alleged debts exceeded \$11,000.

Under Guideline E, Applicant allegedly was terminated from his employment due to his violating his employer's conflict of interest and workplace code of conduct policies, after releasing company proprietary information. Allegedly, he used his company computer to view pornography.

In his answer to the SOR, Applicant admitted most of the debts alleged to be delinquent. Based on the best information available to him, he claimed all but two of the alleged debts will be paid. He claimed two of the debts have since been paid (i.e., debts covered by subparagraphs 1.b (\$617) and 1.c (\$77)). Applicant claimed he has maintained excellent credit for many years and has consistently earned annual salaries between \$100,000 and \$200,000 during this time. He claimed he never encountered problems satisfying his debts before his affiliation with Company B in 2011.

Applicant admitted to viewing pornography on his company computer at an off-site location, but denied ever doing so during working hours or on his company's premises. He denied any commonality of interest or conflicts of interest between the two companies referenced in the SOR. He claimed to be extremely familiar with proprietary rights and at no time during his employment with Company A did he ever reveal anything that could remotely be considered to be in violation of company policy or statutory definition of interest conflicts.

### **Findings of Fact**

Applicant is a 63-year-old procurement mentor of a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

### **Background**

Applicant married his first spouse in June 1975 and divorced her in December 1999. (GEs 1-3) He has one adult stepchild from this marriage. He married his second spouse in January 2000 and divorced her in June 2011. (GEs 1-3) He has no children from this marriage. Applicant is currently unmarried and has maintained a romantic relationship with a female partner for the past four years. (GE 3; Tr. 192-193) She has four children who Applicant helps support. (Tr. 192-193) His partner currently attends nursing school and receives some financial assistance from Applicant. (Tr. 198-199)

Applicant claims no military service and has held a security clearance off and on in various DOD-related jobs since 1982. (GEs 1-3; Tr. 50-54) He earned a bachelor's degree from an accredited university in September 1982. (GEs 1 and 2)

### **Applicant's finances**

Between April 2012 and November 2012, Applicant accumulated a number of delinquent debts (nine in all) For those debts that were either past due or charged off, their aggregated balances exceeded \$50,000. (GEs 8 and 9 Tr. 186-187)

Applicant attributes his debt delinquencies to extended unemployment between February 2012 and November 2012, and corresponding losses of income. (Tr. 99-100) Applicant deployed to Afghanistan between November 2012 and October 2013 for his current employer. (Tr. 103) Afghanistan is a very dangerous place for civilian contractors like Applicant who are exposed daily to rocket attacks and internal threats. (Tr. 105-106)

After he completes rehabilitation of the shoulder he had surgically repaired in December 2013, he expects to redeploy with the same Company C firm back to Afghanistan. (Tr. 210-211) He currently receives bi-weekly disability benefits of \$2,900 and has a negative monthly remainder. (Tr. 112, 198-200) He has had to access his savings (\$2,000 a month) to pay his bills while he looks for additional work. (Tr. 199-201)

Before seeking debt consolidation, Applicant contacted his creditors in the hope of working out individual payment arrangements. (Tr. 101, 194-197) By the time he initiated his contacts with his creditors in January 2013, most of the creditors had already assigned their owed debts to collection agencies and refused to work with Applicant. (Tr. 194-197)

In November 2013, Applicant completed a debt consolidation agreement with a recognized debt consolidation service. (AEs C and K; Tr. 102-104) All of his listed unpaid creditors are covered by his agreement. (AEs C and K; Tr. 105) The agreement calls for monthly payments of \$929, commencing in December 2013. (AE C) He documented making a first payment to the debt consolidation service in the amount of \$1,022, and will be making regular monthly payments of \$1,089 under his revised monthly payment plan with the debt consolidation service. (AEs E and K; Tr. 104-105) Included debts are creditor 1.a (\$13,795); creditors 1.c/1.g (\$2,302); creditor 1.d (\$7,256), creditor 1.e (\$4,520); creditor 1.f (\$5,594); and creditor 1.h (\$10,518).

Applicant has since paid the \$616 past-due balance with creditor 1.b to bring that account into current status and settled the charged-off balance with creditor 1.i for the reduced amount of \$4,800. (GEs 8 and 9 and AEs C and K; Tr. 101-107,186, 227) After crediting Applicant with the satisfaction of the two debts covered by subparagraphs 1.b and 1.i, Applicant's remaining delinquent debts exceeded \$44,000. (GEs 3 and 8; Tr. 186-187, 190-192). Expenses associated with his caring for his partner's four children with orthodontic issues have prevented him from making more financial progress with his debts over the past two years. (Tr. 192-194) Currently, he relies exclusively on his

disability income. (Tr. 200) He hopes to satisfy his remaining creditors within the next five years. (Tr. 187)

Applicant completed his most recent personal financial statement in November 2013. (AE C) He reported net monthly income of \$6,311 and monthly expenses of \$4,075 under his employment agreement with Company C. (AE C) After he completes his rehabilitation, he hopes to return to Company C under a new foreign service agreement. (Tr. 200-201) In the meantime, he continues to explore alternative employment opportunities. (Tr. 110-112, 210-211) He has since destroyed his credit cards and has no intention of seeking new credit. (Tr. 104)

Since seeking debt consolidation and making separate payment arrangements with his creditors, Applicant has not pursued financial counseling. (Tr. 211-212) He has never encountered delinquent debt issues before and feels he does not need financial counseling to successfully resolve his debt issues. (Tr. 211-212)

### **Applicant's employment relationships**

In November 2009, Applicant joined Company A as a part-time consultant. (GE 5; Tr. 154) One month later, Company A's chief executive officer (CEO) and principal shareholder offered Applicant full-time employment. (GEs 3 and 5; Tr. 58-59) He accepted the offer and became the company's director of business operations. (GEs 1 and 3; Tr. 58-61, 154) Prior to his accepting employment with Company A, Applicant acknowledged and accepted the Company's proprietary and confidential information stipulations and workplace code of conduct. (GE 5)

Upon becoming a full-time employee of Company A, Applicant retained additional consulting work responsibilities with outside firms. (Tr. 70) These arrangements were fully disclosed to his Company A supervisors when he was hired. (Tr. 70-71) By February 2010, Applicant had completed all of his outside consulting arrangements. (Tr. 70-71, 155) Before assuming full-time employment status with Company A, he fully disclosed his business relationship with Company B and introduced Company B's CEO to Company A management. (Tr. 71-72 ) No potential commonality of business activities or conflicts of interest were identified by Applicant or Company A management prior to Applicant's accepting a position with Company A. (Tr. 72-75, 160-161, 184-185)

During his employment with Company A, Applicant received key promotions. (GE 3 and AE I; Tr. 62) His key promotions included an assignment to an executive position of director of business operations, which placed him in charge of company accounting, financing, and contract activities. (GE 5; Tr. 62-65) This promotion afforded Applicant access to top levels of business information, and key information about contract pricing from Company A and its business partners and subcontractors. (GE 5)

While still employed by Company A, Applicant continued to perform part-time consulting services for Company B. (Tr. 73-74) Despite his invoicing the costs of his services to Company B, he never informed Company A management of his work and

payments. (Tr. 159-160) Because he worked for Company B on his own time, he never envisioned any conflict of interest in his business relationships with Company B. (Tr. 160-162) He assured he was careful never to provide any contract proposals to Company B that included any Company A rate information. (Tr. 84-89,183) Applicant never utilized any information he acquired from Company A in the contract work he performed for Company B. (Tr. 183) Nor did Company A and Company B ever bid, compete, or work on a common contract. (GE 5; Tr. 184-186)

For the duration of Applicant's post-2010 Company A employment, he consistently avoided any conflict of interests between Company A and Company B. His explanations of the corporate relationships between the two firms are fully corroborated by a former vice president of Company A who Applicant introduced to Company B's president and chief operating officer. (AE I) This former colleague affirmed the absence of any potential "common ground" between the two companies after considerable discussions with the full knowledge of senior management of Company A. (AE I) Management exchanges between senior officials of both companies persuaded each of the participants that their companies "had such incompatible business profiles that no common ground could be found for the mutual pursuit of work." (AE I) Neither Applicant nor his former colleague with Company A could cite to any Company A involvement in any special operations activities or training of the nature developed and practiced by Company B. (AE I; Tr. 78-79)

While still employed by Company A, Applicant's colleague took note of considerable corporate downsizing by Company A's management. During the first eight months of 2011, Company A's president and chief operating officer eliminated "over half of the corporate staff and nearly all of the executives of (Company A)." (AE I; Tr. 89-91) Applicant's former colleague endorsed Applicant as an employee who is credible, honest, and trustworthy, and one who never (to his knowledge) released any information detrimental to the business or interests of Company A. (AE I) The furnished information from Applicant's former colleague is credible, consistent with Applicant's explanations, and accepted.

When Applicant communicated with Company B, he always used his own telephone line. Occasionally, he used Company A sites to access escort screening without objection from any of his Company A supervisors. (Tr. 80-81, 165-166) On one occasion while on a business trip he used his Company A lap top to access a porn site. (GE 5; Tr. 80-82, 164-165) Pursuing internet access on company laptops was routinely encouraged and sanctioned by Company A management during Applicant's tenure with the company. (Tr. 65-68)

In January 2011, Company A's management initiated a workplace investigation over company reports of Applicant's engaging in inappropriate business contacts in violation of the company's code of ethics policy. (GE 5) Pending completion of Company A's internal investigation, Applicant was placed in a suspended status in January 2011. (GE 5) The company's investigation concluded that Applicant demonstrated unethical behaviors with his Company A employer by involving himself in activities "involving

conflicts of interest surrounding interactions with business competitors and potential vendors/partners; unethical conduct in business practices, which include possible misuse of your position with the company for personal financial gain and violations of the STS Code of Conduct regarding misuse of company information and communication systems.” (GE 5)

Based on the results of its investigation and the perceived potential impact of the raised ethics issues on Company A’s business operations, Company A terminated Applicant’s employment with Company A, effective January 21, 2011. (GE 5; Tr. 155) However, Company A’s investigation of Applicant does not detail any specifics of claimed unethical conduct and undisclosed conflicts. Nor does the report detail any specific violations of Company A’s corporate ethics designed to ensure the protection of the company’s proprietary and confidential information. (GE 5) Nothing in its investigation of Applicant documented any Applicant disclosure of any company proprietary or confidential information or materiel relating to the business of Company A. When Applicant inquired of Company A’s CEO why he was being terminated, the CEO declined to provide any explanations for her actions. (Tr. 90)

Following his release from Company A in January 2011, Applicant inquired of Company B of whether the company could employ him on a consulting basis. (Tr. 91) Company B, in turn, employed Applicant as the company’s chief financial officer (CFO). (Tr. 56, 93) In March 2011, Applicant became a full-time employee of Company B with assigned responsibilities of managing the company’s major contract. (Tr. 56-57, 91-93) For the duration of his employment with Company B, he served as the company’s chief financial officer (CFO) and chief of contracts. (AE J; Tr. 56, 73-74, 91-93, 159-160) And for the first few months of his tenure with Company B, the company achieved strong financial performance. (Tr. 94)

Beginning in December 2011, Company B began experiencing serious and protracted financial difficulties. (AE J) Company B’s problems stemmed principally from litigation costs associated with the ouster of Company B’s former CFO. Company B’s financial difficulties produced a series of salary cuts and layoffs affecting the company’s executive and middle management. (AE J; Tr. 94-96) By the spring of 2012, Company B’s CEO reduced the salary of Applicant (AE J)

By April 2012, Company B’s finances had deteriorated to the point where it could no longer pay its office rent. And by September 2012, Company B eliminated Appellant’s salary in its entirety. (AE J; Tr. 57, 96-97) Applicant’s salary reductions with Company B materially affected his finances and his ability to stay current with his consumer debts. (GE 3 and AE J)

Company C offered Applicant several different positions throughout 2012 that Applicant turned down. (Tr. 96-98) In August 2012, the company offered him a well-paying position as a senior procurement mentor with a compensation package of approximately \$180,000. (Tr. 98) Applicant accepted employment with Company C in

November 2012. (AE F; Tr. 98) In August 2013, he completed a new foreign service employment agreement that provides for a bi-weekly salary of \$3,903. (AE A)

Asked in an OPM interview in July 2011 whether any of his business activities with Company B ever conflicted with his Company A responsibilities, Applicant answered in the negative. (GE 3; Tr. 168-170) Applicant assured his Company A CEO that his business with Company B never intersected with his work with Company A. (GE 3) He assured again in his hearing testimony that he had no conflict of interest with his work at Company A. (Tr. 160-161) Applicant's explanations are credible, corroborated, and accepted.

## **Endorsements**

Applicant is well regarded by members of the Army command in Afghanistan who have worked closely with him and consider his leadership efforts vital to the command's training missions designed to transition critical life-support and police personnel functions into full Afghan responsibilities. (AEs G and H) These U.S. military officials who interfaced with Applicant consider him to be an experienced advisor whose institutional knowledge and personal relationships with his Afghan counterparts are irreplaceable. (AEs G and H)

Colleagues who worked with Applicant at both Company A and Company B consider him to be credible, honest, and trustworthy. (AEs J and K) Applicant's performance rating for the period of 2012-2013 exceeded expectations in all of the assigned performance categories. (AE F)

## **Policies**

The AGs list guidelines to be used by administrative judges in the decision-making process covering security clearance cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns." They must be considered before deciding whether or not a security clearance should be granted, continued, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c).

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) of the revised AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person.

The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk. The following AG ¶ 2(a) factors are pertinent: (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 chances; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent in this case:

### **Financial Considerations**

*The Concern:* Failure or inability to live within one's means satisfy debts and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts. AG, ¶ 18.

### **Personal Conduct**

*The Concern:* Conduct involving questionable judgment, untrustworthiness, unreliability, 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, ¶ 15.

### **Burden of Proof**

By virtue of the principles and policies framed by the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995). As with all



adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. “[S]ecurity-clearance determinations should err, if they must, on the side of denials.” See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

### **Analysis**

Security concerns are raised over Applicant's history of delinquent debts and indications of financial instability, attributable to periods of underemployment and unemployment. Additional security concerns are raised over Applicant's overlapping employment relationships with Company A and Company B.

#### **Financial concerns**

After enjoying many years of solid credit ratings and financial stability, Applicant encountered financial strains following his income losses stemming from his separation from Company A in January 2011 and ensuing salary reductions and ultimate separation from Company B in September 2012. His delinquent debt accumulations raise potential security concerns about his judgment, reliability, and trustworthiness in managing his finances. His actions warrant the application of three of the disqualifying conditions (DC) of the Guidelines: DC ¶ 19(a), “inability or unwillingness to satisfy debts;” and DC ¶ 19(c) “a history of not meeting financial obligations.”

Holding a security clearance involves the exercise of important fiducial responsibilities, among which is the expectancy of consistent trust and candor. Financial stability in a person cleared to access classified information is required precisely to inspire trust and confidence in the holder of the clearance. While the

principal concern of a clearance holder's demonstrated financial difficulties is vulnerability to coercion and influence, judgment and trust concerns are also explicit in financial cases.

Applicant's identified periods of salary reduction and income loss in 2011 adversely impacted his finances and caused him to fall behind with a number of his consumer accounts. His earnings reductions and losses entitle him to some application of MC ¶ 20(b), "the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances."

Since losing his positions with Companies A and B, Applicant secured new employment with Company C and set about to contact his creditors and resolve his debt delinquencies with a combination of direct payments (creditors 1.b and 1.i) and debt consolidation of his remaining debts. While an applicant need not have paid every debt alleged in the SOR, the applicant needs to establish that there is a credible and realistic plan to resolve identified financial problems, accompanied by significant actions to implement the plan. See ISCR Case No. 07-06482 (App. Bd. May 21, 2008).

Here, Applicant has demonstrated considerable progress with his debts through the payoffs he has made with two of his creditors and the completion of a debt consolidation plan to cover his remaining creditors. MC ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," applies to Applicant's situation.

To his credit, Applicant has established a promising track record of payments with his listed creditors and hopes to repay all of his remaining creditors within five years. His payments to date have reduced his aggregate debt total by more than \$5,000 and reflect satisfactory progress in accordance with the criteria established by the Appeal Board for assessing an applicant's efforts to rectify his poor financial condition with responsible efforts considering his circumstances. See ISCR Case No. 08-06567 at 2-3 (App. Bd. Oct. 29, 2009).

In determining whether Applicant acted reasonably when dealing with his financial difficulties caused in part by his reduced earnings and loss of work, consideration is given to Applicant's initiated contacts with his creditors once he returned to work and the payoffs and debt repayment plan he was able to complete with them. His actions satisfied a major component of the criteria established by the Appeal Board to gauge an applicant's payment initiatives. See ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan., 12, 2007)(citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999). Mitigation efforts necessary to meet Appeal Board requirements are met in Applicant's case.

From a whole-person standpoint, the evidence reflects some unfortunate economic circumstances associated with Applicant's accumulation of delinquent debts. He is credited with many years of working in the defense industry with a security clearance and is well-regarded by military commands he has worked with in Afghanistan. Applicant has since made steady inroads in stabilizing his finances and shows good prospects for paying off his debts and restoring his finances to acceptable credit levels. Overall, Applicant demonstrates considerable progress in stabilizing his finances with his payment initiatives. His efforts to date are sufficient to meet mitigation requirements imposed by the guideline governing his finances.

### **Personal conduct concerns**

Security concerns are raised initially as well over Applicant's overlapping business relationships with Companies A and B. More specifically, security concerns are raised when an applicant has committed conduct that reflects questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. Applicant's actions reflect a few isolated lapses of judgment in his use of his company-issued laptop to access escort service and pornography sites while in travel status, but no indications of any conflicts of interest in his contemporaneous corporate relationships with Companies A and B between late 2009 and early 2011.

Looking at the developed facts and circumstances in this case, some of the disqualifying conditions under the personal conduct guideline have some application to Applicant's situation. DC ¶ 16(d)(3), "a pattern of dishonesty or rules violations;" DC ¶ 16(e), "personal conduct, or concealment of information about one's conduct, that creates vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may effect the person's personal, professional, or community standing . . .;" and DC ¶ 16(f), "violation of a written or recorded commitment made by the individual to the employer as a condition to employment," apply in part to the facts of Applicant's case.

Allegations of conflict of interest concerning Applicant's overlapping corporate relationships with Companies A and B are unsubstantiated based on the presented evidence. Based on a careful review of the administrative record, Applicant may rely on MC ¶ 17(f), "the information was unsubstantiated or from a source of questionable reliability." Over the course of his employment with Company A, Applicant did not permit any of his consulting work for Company B to interfere or conflict with his duties with Company A. And at no time during Applicant's employment relationship with Company A did the company compete with Company B for business or otherwise exhibit any commonality of business interests that could create a potential conflict of interest for Applicant.

Because Applicant's misuse of his company's laptop computer to access escort services and porn sites while on travel status with Company A is so aged and isolated,

he may take advantage of several of the mitigating conditions. Specifically, MC ¶ 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, or good judgment,” and MC ¶ 17(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,” apply to Applicant’s situation.

From a whole-person perspective, Applicant’s actions and contributions to his command and his country are impressive. He has over 12 months of recent civilian experience working with Army training commands in Afghanistan and has held a security clearance for the better part of 30 years. During his most recent Afghanistan tour he has been responsible for some very dangerous training missions designed to transition critical life-support and police personnel functions into full Afghan responsibilities. His collective efforts have earned him the profound respect and appreciation of the commands he has interfaced with in Afghanistan. Applicant is well-regarded as well by colleagues who worked closely with him at Companies A and B.

Applicant’s documented actions with the defense contractors he has worked for over the last four years confirm that the mistakes of judgment he displayed with his use of an employer-owned laptop computer while on travel status are attributable to isolated judgment lapses that he has not since repeated. Such mistakes of judgment are not likely to be repeated in the foreseeable future.

Overall, Applicant’s favorable character evidence, demonstrated trust and reliability with military commands and colleagues he has worked with are enough to mitigate security concerns over the isolated mistakes of judgment he displayed as an employee of Company A. Favorable conclusions warrant with respect to the allegations covered by the personal conduct guideline.

### **Formal Findings**

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

**GUIDELINE F (FINANCIAL CONSIDERATIONS): FOR APPLICANT**

Subparas. 1.a through 1.i: For Applicant

**GUIDELINE E (PERSONAL CONDUCT): FOR APPLICANT**

Subpara. 2.a: For Applicant

## **Conclusions**

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is granted.

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Roger C. Wesley  
Administrative Judge

