



**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. 14-01465

**Appearances**

For Government: Eric Borgstrom, Esq., Department Counsel

For Applicant: Christopher Graham, Esq.

07/25/2016

**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 handling protected information and personal conduct. Eligibility for access to classified information is granted.

**History of Case**

On February 20, 2015, the Department of Defense (DOD) Consolidated Adjudication Facility (CAF), issued a Statement of Reasons (SOR) to Applicant detailing why DOD adjudicators could not find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether it is clearly consistent with the national interest to grant or continue whether clearance should be granted, continued, denied, or revoked. The actions were 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 (AG)s implemented by DOD on September 1, 2006.

Applicant responded to the SOR on April 1, 2015, and requested a hearing. The case was assigned to me on January 19, 2016, and was scheduled for hearing on February 3, 2016. A hearing was held on the scheduled date for the purpose of considering whether it would be clearly consistent with the national interest to grant, continue, deny, or revoke Applicant's security clearance. At hearing, the Government's case consisted of five exhibits (GEs 1-5); Applicant relied on one witness (himself) and three exhibits (AEs A-C). The transcript (R.T.) was received on February 11, 2016.

### **Summary of Pleadings**

Under Guideline K, Applicant allegedly (a) violated his employer's corporate policy and Chapter 5 of the National Industrial Security Policy Manual (NISPOM) by bringing his uncleared wife into his employer's closed storage space in October 2012 and (b) transmitted an email containing classified information in 2006 over an unclassified system. Under Guideline E, Applicant allegedly had multiple extra-marital affairs without disclosing them to his wife.

In his response to the SOR, Applicant admitted the allegations contained in subparagraphs 1.a and 1.b with explanations. He claimed he self-reported the October 2012 incident covered in subparagraph 1.a. This incident involved Applicant's bringing his wife into his employer's closed storage space without advance management approval in accordance with the requirements of the NISPOM's Chapter 5, which outlines the rules and procedures for accessing closed areas. He claimed he logged his wife into the employer's abnormal hours log and visitor's log and turned on the "red light" to apprise anyone that an uncleared person was in the area.

Applicant claimed he was confronted by a security guard as he was leaving the area and completed a visitor's log to reflect their time of departure as his wife was escorted out of the area. Applicant claimed he was then instructed by the security guard to correct his failure to annotate his arrival in the employers abnormal hours arrival log before Applicant and his wife returned to the first floor where Applicant annotated their departure time in the visitor's log before departing the building. Applicant further claimed he subsequently met with security personnel in October 2012 to review his actions in entering and departing the building and drafted a written account of the events. Additionally, Applicant claimed his actions constituted an isolated minimal incident that resulted in directed remedial training for him.

Addressing the allegations contained in subparagraph 1.b, Applicant claimed he twice self-reported the 2006 incident, both during his pre-screening questioning preceding a polygraph in October 2012, and again when he reviewed his security clearance application with an investigator conducting his periodic review. He claimed he immediately informed his company leadership of his code blue event and was told the same day that team investigators determined that (a) no uncleared personnel had attempted to gain access to the mail server prior to removal of his email and (b) no classified information had been removed.

In responding to the allegations in subparagraph 2.a of the SOR, Applicant admitted the allegations with explanations. He claimed he self-reported his infidelities (not affairs) on two occasions: in pre-screening questioning in October 2012, and when he reviewed his security clearance application with an investigator conducting a periodic review. Applicant claimed the cited infidelities occurred over 20 years ago (1988 and 1995), and he has acknowledged his infidelities generally to his wife who expressed no interest in the details of his actions.

### **Findings of Fact**

Applicant is a 55-year-old director of electronic systems for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

#### **Applicant's background**

Applicant married in December 1985 and has three children from this marriage, ages 20 and 22. (GE 1; Tr. 25-26) He earned a bachelor's of science degree in engineering in December 1983 and a master's degree on operations research in May 1997. (GE 1; Tr. 22)

Applicant was commissioned as an Air Force (AF) officer after completing his university's Reserve Officer's Training Corps program (ROTC) in May 1984 and served as an active duty AF officer between May 1984 and June 2005. He received an honorable discharge in June 2005. (GEs 1 and 5) He claimed no post-discharge reserve service in the Air Force. Applicant's service awards included a Bronze Star for his service while in a combat zone. (Tr. 23)

Since November 2010, Applicant has been employed by his current employer. (GE 1) Between February 2009 and November 2010, he was employed as a senior operations research analyst for another defense contractor. (GE 1) And between March 2005 and February 2009, he was employed as an operations research analyst. (GE 1; Tr. 24-25)

#### **Applicant's Handling of Protected Information**

While working as an operations research analyst in 2006, Applicant had access to sensitive compartmented information (SCI) with another government agency. (GE 2) While working on a company project in the Spring of 2006, he inadvertently transmitted an email to four or five team members (including his study lead, an AF GS-14) over an unclassified system that contained two unclassified pieces of information that when linked together to associate a code number with a region of the world transformed the email into a emailed message that was collaterally secret. (AE B; Tr. 37-38)

Applicant's emailed information was caught immediately by his study lead who proceeded to instruct Applicant and the other recipients to shut down their computers. (Tr. 38) While the computers were shut down, company information technology (IT)

specialists certified their findings. (GE 5; Tr. 38-39, 43 ) The company's IT specialists, in turn, sanitized the computers and checked to see if anyone outside the firewall had gained or tried to penetrate the firewall. (Tr. 38-39) Conclusions were drawn by IT specialists that no information in Applicant's email was compromised. (Tr. 39-40)

By Applicant's account of the 2006 incident in his September 2013 interview with an agent of the Office of Personnel Management (OPM), no one else had access to his email, inside or outside the facility, and no one gained access to the emailed information. (GE 5; Tr. 39-41) Applicant assured the OPM agent that nothing was compromised. (GE 5) As the result of his email transmission mistake, he was required to complete a 90-minute security training program. (GE 5) He received no written reprimand or discipline and was retained by his supervisors on his assigned job. (Tr. 39-41)

In October 2012, Applicant accompanied his wife into his employer's closed storage space. His wife once held a NATO secret clearance, but since 1988 had been a stay-at-home mother with no technical background. Without prior approvals, Applicant and his wife entered the lobby of his employer by swiping his entry badge and proceeded to the lobby desk. (GE 5) At the lobby desk, Applicant filled out a visitor's log and proceeded to the elevator with his wife. (GE 5) Applicant was not asked to fill out an irregular hours log, did not do so, and was not challenged by any security officer. (GE 5; Tr. 27) Neither Applicant nor his wife (without a visitor's badge) were challenged by security personnel.

Once on the floor of his lab facility, Applicant opened the door to his facility, checked the area, turned on the "red light" to alert others in the building of his presence, and proceeded to show his wife the threat analysis laboratory. (GE 5; Tr. 28) His wife observed but did not enter the area. Without entering his personal offices, she was able to observe his displayed pictures. (GE 5; Tr. 29)

At no point was Applicant's wife exposed to classified information or corporate proprietary data. A security guard monitored applicant's exit movements and informed him that he was in possible violation of company procedures and policies, and proceeded to take down personal information of Applicant's wife. (GE 5; Tr. 29) As Applicant completed the visitor's log, the security guard escorted his wife out of the building. (GE 5) Before Applicant departed the building, the security guard asked Applicant to complete the irregular hours log. (GE 5; Tr. 30) After dropping his wife off at the airport, he returned to his work site and completed the irregular hours log. (GE 5) He also informed his supervisor of his potential security violation and secured his office area before departing the building. (GE 5)

In an ensuing pre-polygraph interview in October 2012 with an agent of the National Security Agency (NSA), Applicant acknowledged his failure to follow company procedures in escorting his wife to his secure work area. Based on his past military experience, he did not think at the time that bringing his wife into a secure area presented a security issue. (GE 5)

Applicant's contractor program security officer (CPSO) in his report classified it as an honest mistake by a new employee who was unfamiliar with his employer's corporate policy. (GE 5) Applicant reassured the OPM agent that he was unaware of the National Industrial Security Policy Manual (NISPOM) and his employer's corporate policy on completing an irregular hours log before entering a secured area with a visitor. (Tr. 26-27) In turn, he escorted his wife into the facility's secured area in the mistaken belief that he had inherent authority to do so. (Tr. 26-27)

Based on multiple accounts of Applicant's October 2012 spousal entry incident, Applicant was neither suspended nor administered disciplinary action by his employer. He was verbally counseled and instructed by his three supervisors to make sure the incident is not repeated. (GE 5 and AE B) And he was asked to provide a written account of the events, which he provided. (Tr. 30-31) Applicant's supervisors told Applicant they considered the incident involving his wife's entry into a secured area to be an honest mistake and a minor incident, but "not deliberate or negligent in nature." (AE B; Tr. 32)

Applicant's supervisors distinguished deliberate violations from negligence resulting from poor due diligence and characterized Applicant's escorting his wife into a closed area to represent neither of the above, but rather an honest mistake. His supervisors stressed that he has owned up to his mistake and taken corrective action to address it. (AE B) For his mistake in escorting his wife into his facility without meeting visitor requirements, he received a verbal reprimand, but not a written reprimand. (AE B; Tr. 62-63)

Still, reports of Applicant's escorting incident with his wife produced an ensuing investigation by the responsible federal agency (NSA). Following its investigation, the agency suspended Applicant's access to SCI. After initially declining an appeal, Applicant asked for reconsideration in February 2013. (GE 2)

Assessing the merits of the appeal, the deputy chief of Applicant's agency (the NSA) overturned Applicant's denied SCI access in July 2013. (GE 3) After reviewing the record in its entirety, the chief of his agency affirmed the deputy chief's decision, treated Applicant's violations as mistakes, and restored his opportunity to continue processing. (GE 4) Neither decision addressed Applicant's eligibility to hold a collateral clearance.

Currently, Applicant is cleared through all four compartments of SCI: SI, TK, Gamma, and HCS through a federal agency contract (Tr. 34), and has never been fully briefed on the NISPOM's visitor policies or his company's corporate visitor policies. (Tr. 30-31) He has received no written reprimands from his employer. He assured that he was never briefed on NISPOM's visitor policies when he joined his current employer's corporate staff. Following the incident, he was verbally instructed on the visitation infraction by his supervisors, totally briefed on his employer's visitor's policy, and has had no recurrent incidents since the 2012 visitation incident. (Tr. 62)

Based on his own experiences associated with the 2012 visitation incident, Applicant developed some Power Point slides for his team. (Tr. 64) His slides walked his team through his employer's corporate policy and Chapter 5 of the NISPOM covering

visitation procedures. His slides were later incorporated in his employer's operating procedures. (AE B; Tr. 64-65)

### **Infidelity Issues**

Between 1988 and 1995, Applicant engaged in multiple infidelities (12 to 18 in all) of a sexual nature. (GE 5; Tr. 47-48) All of the women involved were consenting adults over the age of 18 who were unknown to his wife. (Tr. 49) Applicant was never charged with any offense under the Uniform Code of Military Justice (UCMJ) and was never reprimanded by his command. (Tr. 48)

Applicant discussed his infidelities with his wife in July 1995, but not his children or the rest of his family members. (Tr. 57-58) After receiving an ultimatum from his wife to cease or risk compromising their marriage, he enrolled in a joint course of marital counseling with his pastor and associate pastor (who counseled his wife) in a concerted effort to restore his wife's trust. (Tr. 50-54)

Based on the advice of his pastor and off-base former AF flight surgeon he consulted, Applicant has generally avoided sharing any of the details of his indiscretions with his wife. (Tr. 53-56) His pastor, an ordained Presbyterian minister and a licensed clinical professional counselor (LCPC) who specializes in marriage and family therapy, verified Applicant's consultations with him (dates not specified) for the purpose of addressing discord with his wife and infidelity in their marital relationship. (AE B)

Applicant's counseling sessions with his pastor consisted of home assignments and demonstrated on-going commitments to the work of reconciling with his wife. His pastor credited him with being transparent, forthcoming, and candid in his responses to questions and confirmed his advice to Applicant not to disclose specific details about his sexual infidelity to his wife. (AE B)

In 2002, Applicant and his wife celebrated their 30<sup>th</sup> wedding anniversary. (AE A) Although he continues to struggle with guilt from his infidelities (especially when he sees a certain female celebrity on television), he has steadfastly avoided any physical infidelities since 1995. (Tr. 61) Informed generally of Applicant's infidelities, Applicant's wife expressed no interest in knowing the details of Applicant's indiscretions that occurred over 20 years ago. (AE A; Tr. 61)

Applicant's indiscretions are fully known to his former supervisors and others who have executed endorsement letters for Applicant. (AE B; Tr. 58) Although, Applicant has not yet informed his newest supervisor of three months of his marital indiscretions. (Tr. 59) Further, he has not disclosed his infidelities to his children or the rest of his family members. (Tr. 57-58)

### **Endorsements**

Past managers and supervisors expressed familiarity with Applicant's past security violations and fidelity issues and characterized his overall judgment and

reliability as excellent in following security procedures. Both his current contractor CPSO and previous supervisor of five years (November 2010 to April 2015) credit Applicant with using exceptional caution and due diligence when handling classified information. They cited his considerable contributions to his team's security posture and express confidence in his ability to continue to take corrective actions to avoid future mistakes in safeguarding classified information. (AE B)

An assigned AF civilian and retired AF officer, who worked with Applicant between 2003 and 2009, is familiar with Applicant's linking two unclassified statements that together made his 2006 texted email message classified, confirmed that no classified information was compromised. She vouched for Applicant's reliability and trustworthiness and advised his leadership team that Applicant was expected to remain on the contract. (AE B) She credited Applicant with accepting full responsibility for his mistake and found his performance to consistently "exceed" or "far exceed" expectations. (AE B) She assured that she has never had reason to question his ability or judgment, and never questioned her professional trust in him on any level.

### **Policies**

The AGs for Determining Eligibility for Access to Classified Information (effective September 2006) list Guidelines to be considered by administrative judges in the decision making process covering DOHA cases. These Guidelines require the administrative judge to consider all of the "Conditions that could raise a security concern and may be disqualifying" (Disqualifying Conditions), if any, and all of the "Mitigating Conditions," if any, before deciding whether or not a security clearance should be granted, continued or denied.

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 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 changes; (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 adjudication policy factors are pertinent herein:

## **Handling Protected Information**

*The Concern:* 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.

## **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 precepts framed by the Directive, a decision to grant or continue an Applicant's request for 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 common sense 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. As with all adversary proceedings, the Judge may draw only those inferences which have a reasonable and logical basis from the evidence of record.

The Government's initial burden is twofold: (1) it must prove any controverted fact[s] alleged in the Statement of Reasons, 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 showing of material bearing, 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, consideration must take account of 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 burden of proof shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation or mitigation of the Government's case.

## **Analysis**

Applicant is a well-regarded electronic systems director who committed two security violations that draw security concern: one in 2006 and another in 2012.



For each of these violations he received a verbal reprimand, but nothing in writing. Both his supervisors and NSA officials characterized his actions as mistakes and not intentional or negligence in nature. Also of security concern are admitted Applicant infidelities (12 to 18 in all) over a 10-year period spanning 1985 and 1995. These acknowledged infidelities draw security concerns due to his failure to disclose the details of his infidelities to his wife.

### **Handling Protected Information**

Applicant's mistaken transmission of emailed classified information over an unclassified system in 2006 and subsequent escorting of his wife in 2012 into a secured space without completing a required irregular hours log in violation of his company's corporate policy and Chapter 5 of the NISPOM raise security concerns under the handling of protected information guideline. Multiple disqualifying conditions covered by Guideline K apply to Applicant's situation based on the developed facts. Potentially applicable are the following disqualifying conditions of DC. ¶ 34: DC ¶ 34(a), "deliberate or negligent disclosure of classified or 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;" DC ¶ 34(g), "any failure to comply with rules for the protection of classified or other sensitive information;" and DC ¶ 34(h), "negligence or lax security habits that persist despite counseling by management. "

Under his company's corporate visitor's policy, Chapter 5 of the NISPOM, and the Directive's security violation guideline in force, persons responsible for safeguarding classified and protected information in their custody and control are required to avoid transmission of classified information over unsecured systems and comply with security policies in place designed to protect classified and sensitive information.

Applicant's governing corporate visitation policy in place required employees escorting visitors into secured areas (in this case Applicant's wife) during irregular hours to complete both the visitors log and the irregular hours log before proceeding to a secure area. While more general in scope, the NISPOM provides baseline standards for the protection of classified information released or disclosed to industry in connection with classified contracts under the NISP. Originally issued in January 1995, the NISPOM was reissued in February 2006 pursuant to Executive Order 12829 and under the authority of DOD Directive 5220.22-M. Chapter 5, Sections 305 and 306 of the NISPOM cover restricted areas that require authorized personnel to challenge all persons who may lack appropriate access authority. Closed areas must receive supplemental protection during non-working hours. (Ch. 5-306, *supra*)

The importance of safeguarding classified and protected information cannot be overemphasized. Protecting the nation's security interests against the risks of foreign coercion and intimidation remains a core governmental responsibility that

finds roots in our earliest Constitutional history and enjoys the sustaining force of the courts. *Cf. United States v. Curtiss-Wright Corp.*, 299 U.S. 304, 319-20 (1936). Or put in geopolitical terms, national security policy implies a state of continuing readiness to take the necessary steps to maintain our national independence. *Cf. H. Lasswell, National Security and Individual Freedom* 51 (1950, reprinted 1971).

What is to be weighed in this case are the actions of Applicant in his inadvertent transmitting of classified information in 2006 to four recipients over an unsecured network system and later escorting his wife into a closed area in 2012 without completing the required irregular hours log in compliance with his company's corporate policy and the NISPOM. What is at stake in the ultimate balancing process is a weighted assessment of whether Applicant's mistakes are fully reconcilable with his company's corporate security policy, the NISPOM, and the constraints of Guideline K.

To his credit, Applicant has exhibited remorse and renewed understanding about the importance of safeguarding classified and other protected information in his custody and control and complying with his employer's visitation policies in place. His acceptance of counseling from his supervisors following both incidents, his ensuing development of training slides for his team members that address his company's corporate security policies, his meeting requirements for holding higher level security clearances, his avoidance of any other security violations, his contributions to his employer, and his exhibited renewed commitments to protecting classified information all weigh heavily in Applicant's favor.

Based on Applicant's overall track record to date in handling protected information in his possession and control, his expressed remorse, and his lack of any known recurrent violations in over four and a half five years, Applicant merits significant mitigation consideration. His cited mistakes compel careful consideration of all of the facts surrounding the two incidents in issue in 2006 and 2012. Considering the absence of any proven intent or negligence involved in the incidents and the lack of risks of recurrence in the foreseeable future, safe predictions of Applicant's avoiding similar incidents in the foreseeable future can be made at this time. Applicable to the facts of Applicant's case is MC ¶ 35(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 liability, trustworthiness, or good judgment.

From a whole-person perspective, Applicant has established a good relationship of trust with his direct supervisors over many years of close working relationships. He has been credited by his supervisors and coworkers with conscientious work ethics. His supervisors' assessments of his judgment, reliability, and trustworthiness reflect accurate, thorough, and complete work assignments that met the expectations of his team leaders. These are qualities that serve him well in fulfilling his fiducial responsibilities in protecting accessed protected information.

Taking into account all of the circumstances surrounding Applicant's recurrent mistaken actions in 2006 and 2012 and ensuing demonstration of remorse and correction actions taken to avoid any recurrences, Applicant mitigated the Government's security concerns. Favorable conclusions warrant with respect to the allegations covered by subparagraphs 1.a and 1.b of Guideline K.

### **Personal Conduct Concerns**

Security concerns are raised as well over Applicant's failure to disclose all of the details of 12 to 18 extra-marital infidelities or affairs he admitted to between 1985 and 1995. Because Applicant has not disclosed the details of his infidelities to his wife, some application of DC ¶ 16(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 . . . ," is warranted.

Department Counsel cited to several Appeal Board cases covering non-disclosed infidelities that could place the applicant at risk to exploitation, manipulation, or duress. In ISCR Case No, 13-00255 at 2-3 (App. Bd. July 9, 2014), the Appeal Board confirmed the administrative judge's finding that the applicant's wife was unaware of the applicant's 2007 extra-marital affair. Under these circumstances, the Appeal Board concluded that the applicant remained vulnerable to coercion and duress. This case is distinguishable from the facts in Applicant's case, where the cited infidelities are not only much older, but spousal and supervisor disclosures are evident.

In ISCR Case No 09-01896 at 2-3 (App. Bd. Apr. 29, 2010), Applicant told his current spouse about his 10-year affair while married to his former spouse, but did not tell her of his other affairs while married to his former spouse. Nor did he tell his former military or civilian supervisors of his extra-marital sexual behavior. Adverse inferences were drawn by the administrative judge and sustained by the Appeal Board of Applicant's continued risk of exposure to coercion or duress. By contrast, Applicant generally disclosed his prior infidelities to his wife and supervisors, omitting only the specific details of his indiscretions.

In a still older case, the Appeal Board sustained a trial judge's finding that the applicant had not disclosed his extra-marital affairs to his wife. With these facts, The Appeal Board sustained the trial judge's finding that Applicant's withheld information from his wife about his infidelities exposed him to continued vulnerability to coercion and duress. See ISCR Case No, 97-07524-5 (App. Bd. December 4, 1998). This case, too, can be distinguished from the facts in Applicant's case, which include unchallenged general disclosures to his wife and supervisors, which lacked only the specific details.

Under the facts and circumstances of Applicant's case, Applicant disclosed his infidelities to his wife as far back as 1995 without disclosing the details of his extra-marital indiscretions. After counseling with his pastor, an ordained Presbyterian minister and LDPC, who specializes in marriage and family therapy, Applicant accepted his counselor's advice not to disclose specific details about his sexual infidelity to his wife.

Applicant and his wife have since celebrated their 30<sup>th</sup> wedding anniversary and have strengthened their wedding vows. While he still struggles some with lustful thoughts, he has remained loyal to his wife and has not engaged in any sexual or physical affairs in over 20 years. MC ¶ 17(e), "the individual has taken positive steps to reduce or eliminate vulnerabilities, exploitation, manipulation, or duress," fully applies.

From a whole-person perspective, Applicant's overall disclosure efforts with his wife and supervisors are persuasive and are based not only on his own best instincts, but the advice of his counselor, and wife. Applicant has compiled meritorious performance records in both his military service and civilian employments in the defense industry.

Applicant's past supervisors and CPSO who have worked with him and are familiar with his work and past mistakes all credit him with excellent overall judgment and reliability in following security procedures. Further, both his professional counselor and wife credit him with restored trust and renewed commitment to his marriage vows.

Considering all of the circumstances surrounding Applicant's past marital infidelities, expressed remorse, and steps he has taken to restore his wife's trust in his renewed marriage commitments, Applicant mitigated the Government's security concerns over his past marital infidelities. Favorable conclusions warrant with respect to the allegations covered by subparagraph 2.a of Guideline E.

### **Formal Findings**

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant's eligibility for a security clearance.

GUIDELINE K:	FOR APPLICANT
Subparas. 1.a-1.b:	For APPLICANT
GUIDELINE E:	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