



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



In the matter of:

Applicant for Public Trust Position

ADP Case No. 15-02932

**Appearances**

For Government: Ross Hyams, Esq., Department Counsel  
For Applicant: *Pro se*

03/28/2017

**Decision**

Harvey, Mark, Administrative Judge:

Applicant did not make sufficient progress addressing his delinquent debts. He failed to file his federal income tax returns for tax years 2010 and 2011. He has 80 delinquent debts totaling about \$49,000. His spouse was born in Panama, and she has illegally resided in the United States since she was two years old. Financial considerations and personal conduct trustworthiness concerns are not mitigated. Eligibility for a public trust position is denied.

**Statement of the Case**

On May 21, 2014, Applicant signed an Electronic Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Item 4) On November 2, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant, pursuant to DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, and modified; DOD Regulation 5200.2-R, *Personnel Security Program*, dated January 1987, as amended (Regulation); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), which became effective on September 1, 2006.

The SOR alleges trustworthiness concerns under Guidelines F (financial considerations) and E (personal conduct). (Item 1) The SOR detailed reasons why the DOD CAF was unable to find that it is clearly consistent with the interests of national security to grant or continue Applicant's eligibility to occupy a public trust position, which entails access to sensitive information. (Item 1) The DOD CAF recommended referral to an administrative judge to determine whether such access to sensitive information should be granted, continued, denied, or revoked. (Item 1)

On January 9, 2016, Applicant provided a response to the SOR, and he requested a decision without a hearing. (Item 3) On April 25, 2016, Department Counsel completed the File of Relevant Material (FORM). On May 6, 2016, Applicant received the FORM, and he did not provide a response to the FORM. On March 20, 2017, the case was assigned to me. The case file consisted of eight exhibits. (Items 1-8) There were no objections to any exhibits.

### **Findings of Fact<sup>1</sup>**

In his Answer to the SOR, Applicant admitted all of the SOR allegations except for SOR ¶ 1.bbbb. He said he admitted and denied SOR ¶ 1.bbbb allegation. He also provided extenuating and mitigating information. His admissions are accepted as findings of fact, and additional findings follow.

Applicant is a 39-year-old customer service representative employed by the same employer since November 2012.<sup>2</sup> In 2009, he married, and his stepchildren were born in 2002 and 2003. In 1996, Applicant graduated from high school, and in 1998, he received an associate's of science degree.

From November 2012 to present, Applicant was employed by a prescription drug supplier. From July to November 2012, he was unemployed. From August 2011 to July 2012, he was employed in customer service. From August 2010 to August 2011, he was employed as a retention representative for a telecommunications company. From March 2005 to August 2010, he was employed as a customer service representative for a telecommunications company. He has never served in the U.S. Armed Forces. There is no evidence of abuse of alcohol or illegal drugs.

### **Financial Considerations**

Applicant's credit reports, Office of Personnel Management (OPM) personal subject interview (PSI), and SOR list the following financial issues: failure to file and pay federal income taxes for tax years 2010 and 2011 (SOR ¶¶ 1.a and 1.b); 72 delinquent

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<sup>1</sup> Some details have been excluded in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

<sup>2</sup> Unless stated otherwise, the sources for the facts in his paragraph and the next two paragraphs are Applicant's May 21, 2014 Electronic Questionnaire for National Security Positions (SF 86) or security clearance application (SCA) and his September 2, 2014 Office of Personnel Management personal subject interview. (Items 4, 5)

medical debts (SOR ¶¶ 1.c through 1.t, 1.x through 1.bb, 1.dd through 1.qq, 1.ss through 1.fff, and 1.iii through 1.aaaa); 2 delinquent telecommunications debts (SOR ¶ 1.cc, 1.rr); 1 vehicle lease delinquent debt (SOR ¶ 1.bbbb); and 5 miscellaneous delinquent debts (SOR ¶¶ 1.u, 1.v, 1.w, 1.cccc, and 1.dddd). His 72 delinquent medical debts range from \$25 (SOR ¶¶ 1.q, 1.r) to \$8,053 (SOR ¶ 1.mm) and total about \$30,000. Twenty medical debts were less than \$100 (SOR ¶¶ 1.f, 1.g, 1.p, 1.q, 1.r, 1.ff, 1.jj, 1.kk, 1.pp, 1.tt, 1.zz, 1.aaa, 1.bbb, 1.eee, 1.fff, 1.kkk, 1.qqq, 1.yyy, 1.zzz, and 1.aaaa). The eight non-medical debts total about \$19,000.

In his SOR response, Applicant said:

I did not have the car repossessed. I voluntarily gave the car back because I found out that I was being scammed. . . . About being married to an illegal immigrant[,] I had made it known that my wife was out of status but pursuing deferred action for childhood arrivals, which is now granted effective 9/2015. I also feel that I am not living beyond my means because mostly all of my bills are medical. I have a lifelong disease that requires me to go to the hospital often. I really can't afford the hospital, but without the hospital I would surely die. I have not placed all the records in my initial application, because I do not know all of them. (Item 3)

There is no documentary evidence that Applicant paid, arranged to pay, settled, compromised, or otherwise resolved any of the delinquent SOR accounts. He did not describe financial counseling or present a budget. The record lacks corroborating or substantiating documentation and sufficient detailed explanations of the causes for his financial problems and other mitigating information.

## **Personal Conduct**

Applicant's spouse came to the United States from Panama when she was two years old. She does not have residency or citizenship documentation. She is not employed outside his home. Applicant's father-in-law and mother-in-law were born in Panama and live in the United States. It is unclear whether her parents are U.S. citizens or legal residents of the United States.

Applicant did not provide documentation showing his spouse had registered her presence in the United States with the Immigration and Naturalization Service (INS). The FORM noted that Applicant had 30 days from the receipt of the FORM "in which to submit a documentary response setting forth objections, rebuttal, extenuation, mitigation, or explanation, as appropriate. If you do not file any objections or submit any additional information . . . your case will be assigned to an Administrative Judge for a determination based solely" on the evidence set forth in this FORM. (FORM at 3)

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security

emphasizing, “no one has a ‘right’ to a [public trust position].” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). The Government’s authority to restrict access to classified information applies similarly in the protection of sensitive, unclassified information. As Commander in Chief, the President has the authority to control access to information bearing on national security or other sensitive information and to determine whether an individual is sufficiently trustworthy to have access to such information. See *Id.* at 527.

Positions designated as ADP I and ADP II are classified as “sensitive positions.” Regulation ¶¶ C3.1.2.1.1.7, C3.1.2.2, and C3.1.2.1.2.3. “The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person’s loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security.” Regulation ¶ C6.1.1.1. Department of Defense contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made. See Regulation ¶ C8.2.1.

When evaluating an applicant’s suitability for a public trust position, an administrative judge must consider the disqualifying and mitigating conditions in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

A person who seeks access to sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant which may disqualify the applicant from being eligible for access to sensitive information. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s suitability for a public trust position. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it

is clearly consistent with the national interest to grant or continue his or her access to sensitive information].” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

The protection of national security and sensitive records is paramount. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to [sensitive] information will be resolved in favor of national security.”

## **Analysis**

### **Financial Considerations**

AG ¶ 18 articulates the trustworthiness concern relating to financial problems:

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 [sensitive] information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The Appeal Board, in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted), explained the scope and rationale for the financial considerations trustworthiness concern as follows:

This concern is broader than the possibility that an applicant might knowingly compromise [sensitive] information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant’s financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant’s self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant’s [eligibility for a public trust position].

AG ¶ 19 provides two disqualifying conditions that raise a trustworthiness concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts;” and “(c) a history of not meeting financial obligations.” Applicant’s SOR response, SCA, and credit reports establish the disqualifying conditions in AG ¶¶ 19(a) and 19(c) requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior happened so long ago,<sup>3</sup> was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(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;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;<sup>4</sup> and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's eligibility [for a public trust position], there is a strong presumption against the grant or maintenance

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<sup>3</sup> A debt that became delinquent several years ago is still considered recent because "an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR Case No. 15-06532 at 3 (App. Bd. February 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sep. 13, 2016)).

<sup>4</sup> The Appeal Board has previously explained what constitutes a "good faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term "good-faith." However, the Board has indicated that the concept of good-faith "requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation." Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) in order to claim the benefit of [the "good faith" mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

of a [public trust position]. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising [trustworthiness] concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in [public trust position] decisions is that articulated in *Egan, supra*. “Any doubt concerning personnel being considered for access to [sensitive] information will be resolved in favor of the national security.” Directive, Enclosure 2 ¶ 2(b).

No mitigating conditions fully apply; however, Applicant presented some important mitigating information. Three circumstances beyond his control adversely affected his finances: (1) Applicant was unemployed from July to November 2012; (2) Applicant was underemployed; and (3) he had expensive medical problems. He disclosed his financial problems on his SCA, during his OPM PSI, and on his SOR response.

The negative financial considerations concerns are more substantial. He failed to file and pay his federal income taxes for tax years 2010 and 2011. The Appeal Board clarified that even in instances where an “[a]pplicant has purportedly corrected [the applicant’s] federal tax problem, and the fact that [applicant] is now motivated to prevent such problems in the future, does not preclude careful consideration of [a]pplicant’s [trust]worthiness in light of [applicant’s] longstanding prior behavior evidencing irresponsibility.” See ISCR Case No. 15-01031 at 3 and note 3 (App. Bd. June 15, 2016) (characterizing “no harm, no foul” approach to an Applicant’s course of conduct and employed an “all’s well that ends well” analysis as inadequate to support approval of access to classified information with focus on timing of filing of tax returns after receipt of the SOR).

Applicant has 80 SOR debts totaling about \$49,000. He did not provide enough details about what he did to address his SOR debts over the last four years. He did not provide documentation relating to any of his SOR debts: (1) proof of payments, such as checking account statements, photocopies of checks, or a letter from the creditor proving that he paid or made any payments to the creditors; (2) correspondence to or from the creditors to establish maintenance of contact;<sup>5</sup> (3) credible debt disputes indicating he did not believe he was responsible for the debts and why he held such a belief; (4) more evidence of attempts to negotiate payment plans, such as settlement offers or agreements to show that he was attempting to resolve these debts; or (5) other evidence of progress or resolution. Applicant failed to establish mitigation under AG ¶ 20(e) because he did not provide documented proof to substantiate the existence, basis, or the result of any debt disputes.

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<sup>5</sup> “Even if Applicant’s financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties.” 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); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

In sum, Applicant did not establish through readily available documentation that he was making any progress resolving his delinquent debts. He did not provide proof that he filed his federal income tax returns for tax years 2010 and 2011. His explanations do not mitigate financial considerations trustworthiness concerns.

## **Personal Conduct**

AG ¶ 15 explains why personal conduct is a trustworthiness concern stating:

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

AG ¶ 16 describes three conditions that could raise a trustworthiness concern and may be disqualifying in this case:

(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;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information 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. This includes but is not limited to consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or other government protected information;

(2) disruptive, violent, or other inappropriate behavior in the workplace;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources; and



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

(g) association with persons involved in criminal activity.

AG 16(c) does not apply because the information under Guideline F is sufficient for an adverse determination. Applicant's spouse has violated immigration laws. He is providing support to her. His support facilitates her continued residence in the United States. He did not provide documentation showing she had registered her presence in the United States with the INS. AG ¶¶ 16(d)(1), 16(e), and 16(g) are established.

AG ¶ 17 provides three conditions that could mitigate trustworthiness concerns including:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

None of the mitigating conditions apply. Applicant did not provide documentation showing he had taken any action to resolve his spouse's illegal residency in the United States. He continues to be vulnerable to exploitation, manipulation, or duress. Personal conduct trustworthiness concerns are not mitigated.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a public trust position by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation

for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

The ultimate determination of whether to grant eligibility for a public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. AG ¶ 2(c). I have incorporated my comments under Guidelines F and E in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant is a 39-year-old customer service representative or associate employed by the same employer since November 2012. In 2009, he married, and his stepchildren were born in 2002 and 2003. In 1996, Applicant graduated from high school, and in 1998, he received an associate's of science degree. From July to November 2012, he was unemployed. There is no evidence of abuse of alcohol or illegal drugs.

The negative financial information relating to his taxes and delinquent debts is more significant. Applicant did not file his federal income tax returns for tax years 2010 and 2011. When a tax issue is involved, an administrative judge is required to consider how long an applicant waits to file their tax returns, whether the IRS generates the tax returns, and how long the applicant waits after a tax debt arises to begin and complete making payments.<sup>6</sup> Applicant has 80 delinquent debts totaling \$49,000.

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<sup>6</sup> The recent emphasis of the Appeal Board on security and trustworthiness concerns arising from tax cases is instructive. See ISCR Case No. 14-05794 at 7 (App. Bd. July 7, 2016) (reversing grant of security clearance and stating, "His delay in taking action to resolve his tax deficiency for years and then taking action only after his security clearance was in jeopardy undercuts a determination that Applicant has rehabilitated himself and does not reflect the voluntary compliance of rules and regulations expected of someone entrusted with the nation's secrets."); ISCR Case No. 14-01894 at 2-6 (App. Bd. Aug. 18, 2015) (reversing grant of a security clearance, discussing lack of detailed corroboration of circumstances beyond applicant's control adversely affecting finances, noting two tax liens totaling \$175,000 and garnishment of Applicant's wages, and emphasizing the applicant's failure to timely file and pay taxes); ISCR Case No. 12-05053 at 4 (App. Bd. Oct. 30, 2014) (reversing grant of a security clearance, noting not all tax returns filed, and insufficient discussion of Applicant's efforts to resolve tax liens). More recently, in ISCR Case No. 14-05476 (App. Bd. Mar. 25, 2016) the Appeal Board reversed a grant of a security clearance for a retired E-9 and cited applicant's failure to timely file state tax returns for tax years 2010 through 2013 and federal returns for tax years 2010 through 2012. Before his hearing, he filed his tax returns and paid his tax debts except for \$13,000, which was in an established payment plan. The Appeal Board highlighted his annual income of over \$200,000 and discounted his non-tax expenses, contributions to DOD, and spouse's medical problems. The Appeal Board emphasized "the allegations regarding his failure to file tax returns in the first place stating, it is well settled that failure to file tax returns suggest that an applicant has a problem with complying with well-established government rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information." *Id.* at 5 (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002) (internal quotation marks and brackets omitted). See also ISCR Case No. 14-03358 at 3, 5 (App. Bd. Oct. 9, 2015) (reversing grant of a security clearance, noting \$150,000 owed to the federal government, and stating "A security clearance represents an obligation to the Federal Government for the protection of national secrets. Accordingly failure to honor other obligations to the Government has a direct bearing on an applicant's reliability, trustworthiness, and ability to protect classified information.").

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Financial considerations and personal conduct trustworthiness concerns are not mitigated.

### **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 F:	AGAINST APPLICANT
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Subparagraphs 1.a through 1.dddd:	Against Applicant
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Paragraph 2, Guideline E:	AGAINST APPLICANT
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Subparagraph 2.a:	Against Applicant
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### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a public trust position. Eligibility for access to sensitive information is denied.

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Mark Harvey  
Administrative Judge