



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



In the matter of:

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ISCR Case No. 15-08454

Applicant for Security Clearance

**Appearances**

For Government: Alison O'Connell, Esq., Department Counsel

For Applicant: *Pro se*

03/07/2017

**Decision**

Harvey, Mark, Administrative Judge:

Applicant showed poor judgment in 2014 when he broke into his spouse's apartment and assaulted her. He also violated a protective order. More time without criminal conduct is necessary to mitigate criminal conduct security concerns. His 2005 driving under the influence of alcohol (DUI) offense is not recent. Alcohol consumption security concerns are mitigated. Personal conduct security concerns are a duplication of the allegations under the criminal conduct guideline. Access to classified information is denied.

**History of the Case**

On June 15, 2016, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a statement of reasons (SOR) to Applicant pursuant to Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information Within Industry*; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), which became effective on September 1, 2006.

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. (Hearing Exhibit (HE) 2)

Specifically, the SOR set forth security concerns arising under Guidelines J (criminal conduct), G (alcohol consumption), and E (personal conduct).

On September 8, 2016, Applicant responded to the SOR. On October 27, 2016, Department Counsel was ready to proceed. On November 17, 2016, the case was assigned to me. On November 30, 2016, Applicant requested a delay in his hearing until January 30, 2017. (HE 4) On January 26, 2017, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for January 30, 2017. (HE 1) Applicant's hearing was held as scheduled using video teleconference.

During the hearing, Department Counsel offered five exhibits; Applicant did not offer any documents. (Tr. 18-21; Government Exhibits (GE) 1-5) Applicant did not receive the Government exhibits before the hearing. Applicant was located in a different state and the five Government exhibits were located in Arlington, Virginia, and he did not have an opportunity to review the documents at his hearing. I did not admit the Government exhibits into evidence; however, they are included in the file. (Tr. 18-20) On February 7, 2017, DOHA received a copy of the transcript of the hearing. On February 27, 2017, Applicant provided three documents, which were admitted into evidence without objection. (Tr. 60; AE A-C) The record closed on March 3, 2017. (Tr. 62)

### **Findings of Fact**

In Applicant's SOR response, he admitted the SOR allegations in ¶ 1.a, 1.b, and 2.a. He also provided extenuating and mitigating information. Applicant's admissions are accepted as additional findings of fact.

Applicant is a 50-year-old employee of a defense contractor, who has worked in carpet cleaning and restoration since 2014. (Tr. 7, 23) In 1984, Applicant graduated from high school. (Tr. 7) He completed about three years of college, and he did not receive a degree. (Tr. 7)

In 1993, Applicant married, and in 1997, he divorced. (Tr. 24) In 1999, he married, and in 2003, he divorced. (Tr. 24) In 2011, Applicant married, and in 2014 or 2015, he divorced. (Tr. 23-24) His children are ages 16 and 24 years old. (Tr. 25) He served in the Navy from 1985 to 2005, and he honorably retired as a chief petty officer (E-7). (Tr. 8-9) His Navy primary specialty was radioman, and he was cross rated in information technology. (Tr. 9) He received a 70 percent disability rating from the Department of Veterans Affairs (VA). (Tr. 55) After retiring from the Navy, he worked as an Air Force contractor in a sensitive position from 2009 to 2014. (SOR response, character reference) There is no evidence of security violations.

## **Criminal Conduct, Personal Conduct, and Alcohol Consumption<sup>1</sup>**

In 2005, Applicant drank about three or four shots of alcohol over about four hours at a retirement party. (Tr. 25-26) The police stopped his vehicle, and he was charged with DUI. (Tr. 25; SOR ¶ 1.a response) His breathalyzer result was about .12. (Tr. 27) He attended a diversionary program. (Tr. 27) He attended two Alcoholics Anonymous (AA) meetings a week for six months. (Tr. 27) The DUI was expunged from his record. (Tr. 27, 48-49)

In December 2013, Applicant and his spouse were living separately, and she served him with divorce papers. (Tr. 28) After he received the divorce papers, Applicant and his spouse briefly reconciled and resumed an intimate relationship. (Tr. 29) On New Year's Day, 2014, Applicant was upset because his spouse and Applicant had planned to get together on New Year's Eve, and they did not get together. (Tr. 30-31) When she did not answer his telephone calls, Applicant drank one shot or ounce of whiskey and went over to her apartment. (Tr. 31-33, 36) He noticed a vehicle with out-of-state tags parked in front of her apartment. Applicant called her, and she told him to leave. (Tr. 34) Applicant told her that he was worried about her welfare because she had been drinking, and he said he was coming into her residence. (Tr. 34, 36) Applicant hit the door with his shoulder and shoved the door open. (Tr. 35, 51) The door struck his spouse's face. (Tr. 35, 51) Applicant's spouse said she was calling the police. (Tr. 35) Applicant went to her bedroom and saw a man in her bed. (Tr. 35) Applicant did not confront the man in her bed. (Tr. 35) Applicant went to the police station. (Tr. 35)

Applicant was charged with criminal mischief, trespassing, and assault. (Tr. 37) He pleaded no contest to third degree simple assault. (Tr. 37, 51; AE A) He may have also been found guilty of first degree trespassing. (Tr. 38, 51; AE A) In May 2014, the court sentenced him to a \$1,000 fine and 30 days in jail, and he served 24 days in jail. (Tr. 38) He did not receive probation. (Tr. 39, 53; AE A) Applicant said he did not believe he was convicted. (Tr. 52; AE A)

On January 3, 2014, Applicant's spouse obtained a protective order precluding Applicant from contacting her. (Tr. 39) Applicant received a text from his spouse, and Applicant responded to her text. (Tr. 39) He believed it was all right for him to respond to her text. (Tr. 39-42) He said in his text among other comments that it would be the death

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<sup>1</sup>In 1985, Applicant was charged with DUI when he was 19 years old. (Tr. 28) Applicant's SOR does not allege the DUI in 1985. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

*Id.* (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). Applicant's non-SOR conduct will not be considered because he did not fully address the DUI at his hearing.

of him to send her the text because there was a protective order that barred him from contacting her. (Tr. 40-41) She called the police about the violation of the protective order. (Tr. 41) Applicant was not arrested for violation of the protective order. (Tr. 42) In January 2015, the protective order expired, and Applicant has communicated with her after January 2015. (Tr. 42)

In 2014, the Department of Veterans Affairs (VA) completed an alcohol assessment on Applicant and did not conclude Applicant had an alcohol use disorder. (Tr. 45-46) The VA did not recommend alcohol-related therapy or AA. (Tr. 46) His alcohol consumption is very limited, and he did not consume alcohol for two or three months before his hearing. (Tr. 47) Applicant volunteered to help homeless people and people with addictions. (Tr. 46)

### **Character Evidence**

A retired Air Force master sergeant, a major, an Air Force senior executive service-level civilian employee, a retired Army lieutenant colonel, a Navy command senior chief, and three civilians provided character statements for Applicant. (SOR response; AE B; AE C) The general sense of their statements is that Applicant is honorable, courageous, generous, compassionate, honest, trustworthy, professional, calm, contrite and remorseful about his mistakes and errors in judgment, diligent, and maintains the highest standards of conduct and ethics. (SOR response; AE B; AE C)

### **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 security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. 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.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the

possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. 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 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. 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 security clearance.” 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). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Alcohol Consumption**

AG ¶ 21 articulates the Government’s concern about alcohol consumption, “[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.”

Two alcohol consumption disqualifying conditions could raise a security concern and may be disqualifying in this case. AG ¶¶ 22(a) through 22(c) provide:

- (a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent; and

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent.

AG ¶¶ 22(b), 22(d), through 22(g) do not apply. There is no evidence of the following: alcohol impairment or intoxication at work; an alcohol abuse, alcohol dependence, or alcohol use disorder diagnosis; and failure to follow any court orders concerning alcohol use.

AG ¶¶ 22(a) and 22(c) apply. Applicant committed DUI in 2005. He engaged in binge alcohol consumption to the extent of impaired judgment.<sup>2</sup>

Four Alcohol Consumption Mitigating Conditions under AG ¶¶ 23(a)-23(d) are potentially applicable:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

(c) the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, and is making satisfactory progress; and

(d) the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

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<sup>2</sup>The term "binge" drinking is not defined in the Adjudicative Guidelines. "Binge drinking is the most common pattern of excessive alcohol use in the United States. See the Center for Disease Control website, (stating "The National Institute on Alcohol Abuse and Alcoholism defines binge drinking as a pattern of drinking that brings a person's blood alcohol concentration (BAC) to 0.08 grams percent or above. This typically happens when men consume 5 or more drinks, and when women consume 4 or more drinks, in about 2 hours." <https://www.cdc.gov/alcohol/fact-sheets/binge-drinking.htm>).

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. 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 security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

AG ¶ 23(b) applies. There is no evidence of irresponsible alcohol consumption after Applicant's DUI arrest in 2005. His consumption of alcohol before his assault on his spouse in 2014 does not establish irresponsible alcohol consumption because there is no evidence it affected his judgment. He attended AA meetings twice a week for six months.

Security clearance cases are difficult to compare, especially under Guideline G, because the facts, degree, and timing of the alcohol abuse and rehabilitation show many different permutations. The DOHA Appeal Board has determined in cases of substantial alcohol abuse that AG ¶ 23(b) did not mitigate security concerns unless there was a fairly lengthy period of abstaining from alcohol consumption. See ISCR Case No. 06-17541 at 3-5 (App. Bd. Jan. 14, 2008); ISCR Case No. 06-08708 at 5-7 (App. Bd. Dec. 17, 2007); ISCR Case No. 04-10799 at 2-4 (App. Bd. Nov. 9, 2007).

I have carefully considered the Appeal Board's jurisprudence on alcohol consumption and Applicant's history of alcohol consumption. He has a sustained period of responsible alcohol consumption. His alcohol consumption has not been the primary cause of any incidents involving the police, courts, or at his employment since 2005. Applicant has eliminated doubts about his current reliability, trustworthiness, and good judgment in relation to his alcohol consumption. Alcohol consumption security concerns are mitigated.

## **Criminal Conduct**

AG ¶ 30 expresses the security concern pertaining to criminal conduct, "Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations."

An Administrative "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 security eligibility." ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted).

AG ¶ 31 describes two conditions that could raise a security concern and may be disqualifying in this case: “(a) a single serious crime or multiple lesser offenses;” and “(c) allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted.”

AG ¶¶ 31(a) and 31(c) apply. The SOR alleges and the record establishes Applicant committed four misdemeanor-level offenses: (1) in 2005, he committed a DUI; (2) in January 2014, third degree assault; (3) in January 2014, trespass; and (4) in January 2014, violate a protective order. Even though the 2005 DUI is not recent, it is relevant for showing a pattern of criminal conduct. The disqualifying conditions in AG ¶¶ 31(a) and 31(c) are established. Applicant admitted the four incidents of criminal conduct.

AG ¶ 32 provides four conditions that could potentially mitigate security concerns:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(b) the person was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(c) evidence that the person did not commit the offense; and

(d) there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement.

Although none of the mitigating conditions fully apply, there are important mitigating factors. Applicant has reduced his alcohol consumption. He has an excellent employment record. He expressed regret and remorse concerning his offenses. He completed all adjudged sentences, and he is not on probation.

Applicant's misdemeanor-level crimes create doubt about his judgment, reliability, and trustworthiness, and raise questions about his ability or willingness to comply with laws, rules and regulations. His crimes in 2014 occurred while he was holding a sensitive position. More time must elapse without violations of criminal laws before there is enough assurance that criminal conduct security concerns are unlikely to recur. Applicant is not ready to be entrusted with access to classified information.

## **Personal Conduct**

AG ¶ 15 expresses the security concern pertaining to personal conduct:

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 security 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; and

(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. . . .

The SOR cross-alleges under the personal conduct guideline the same conduct alleged under the criminal conduct guideline. His criminal conduct is sufficient to warrant revocation of his security clearance without applying Guideline E. The concerns under Guidelines J and E address identical issues involving judgment, trustworthiness, and reliability. All personal conduct security concerns described in the SOR are directly related to his criminal conduct under Guideline J. Personal conduct security concerns as alleged

in the SOR constitute an unwarranted duplication of the concerns under Guideline J, and accordingly are mitigated.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guidelines G, J, 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 50-year-old employee of a defense contractor, who has worked in carpet cleaning and restoration since 2014. In 2011, Applicant married, and in 2014 or 2015, he divorced. He served in the Navy from 1985 to 2005, and he honorably retired as a chief petty officer. He received a 70 percent VA disability rating. After retiring from the Navy, he worked as an Air Force contractor in a sensitive position from 2009 to 2014. The general sense of Applicant's eight character statements is that Applicant is honorable, courageous, generous, compassionate, honest, trustworthy, professional, calm, contrite and remorseful about his mistakes and errors in judgment, diligent, and maintains the highest standards of conduct and ethics. There is no evidence of security violations.

Applicant has not been diagnosed with alcohol abuse, alcohol dependence, or alcohol use disorder. He has reduced his alcohol consumption. He has not had an incident involving the police or the courts and excessive alcohol consumption since 2005. His current alcohol consumption is responsible.

The factors weighing against continuation of his security clearance are more substantial than the mitigating circumstances. Applicant committed four misdemeanor-level offenses: (1) in 2005, he committed a DUI; (2) in January 2014, third degree assault; (3) in January 2014, trespass; and (4) in January 2014, violate a protective order. These

four criminal offenses are of sufficient recency and magnitude to cause significant security concerns about Applicant's judgment and trustworthiness.

It is well settled that once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). Unmitigated criminal conduct security concerns lead me to conclude that grant of a security clearance to Applicant is not warranted at this time. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With a track record of behavior consistent with his obligations, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

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. Alcohol consumption and personal conduct security concerns are mitigated; however, criminal conduct security 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 J:                      AGAINST APPLICANT

    Subparagraphs 1.a through 1.c:   Against Applicant

Paragraph 2, Guideline G:                      FOR APPLICANT

    Subparagraphs 2.a and 2.b:           For Applicant

Paragraph 3, Guideline E:                      FOR APPLICANT

    Subparagraph 3.a:                      For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Mark W. Harvey  
Administrative Judge