



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



In the matter of:)
)
) ISCR Case No. 15-08168
)
Applicant for Security Clearance)

Appearances

For Government: Robert B. Blazewick, Esq., Department Counsel
For Applicant: *Pro se*

02/06/2018

Decision

MURPHY, Braden M., Administrative Judge:

Applicant did not provide sufficient evidence to mitigate the financial security concerns arising from her delinquent debts, the largest of which is an unresolved state tax lien. Applicant also did not mitigate personal conduct security concerns, which mostly arise from her repeated falsifications on multiple security clearance applications. Applicant's eligibility for access to classified information is revoked.

Statement of the Case

On December 23, 2016, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, and Guideline E, personal conduct.¹

¹ The action was taken under Executive Order (Exec. Or.) 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 effective within the DOD on September 1, 2006.

Applicant answered the SOR on February 10, 2017, and requested a hearing. The case was initially assigned to another administrative judge and scheduled for a hearing. That hearing was postponed when Applicant requested a continuance on August 16, 2017. The case was later assigned to me, on September 7, 2017. On October 25, 2017, a Notice of Hearing was issued scheduling the hearing for November 25, 2017. The hearing convened as scheduled.

At the hearing, Department Counsel submitted Government's Exhibits (GE) 1 through 11, which were all admitted. All Government exhibits were admitted without objection, but for GE 8. Applicant testified and submitted Applicant's Exhibits (AE) A and B, which were admitted without objection. I held the record open to afford Applicant the opportunity to submit additional documentation. On December 5, 2017, Applicant submitted documents that were marked as AE C through AE G, and admitted without objection. The record closed upon their receipt. DOHA received the transcript on November 22, 2017.

On December 10, 2016, the Director of National Intelligence (DNI) issued Security Executive Agent Directive 4, National Security Adjudicative Guidelines (AG). The new AGs became effective on June 8, 2017, for all adjudicative decisions on or after that date.² Any changes resulting from the implementation of the new AGs did not affect my decision in this case.

Findings of Fact

Applicant denied SOR ¶¶ 1.a through 1.e and SOR ¶¶ 2.a through 2.f. She admitted SOR ¶ 1.f. She did not answer SOR ¶ 2.g, a cross-allegation of SOR ¶ 1.f. Her admission is incorporated into the findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact.

Applicant is 65 years old. She and her husband have been married since 2010. Her husband has a grown daughter from a prior marriage. Applicant grew up in a military family. Her father was a career U.S. Army soldier who retired with a senior enlisted rank. After earning a bachelor's degree, Applicant enlisted in the Army in 1975. She was commissioned as an officer in 1978, and retired as a major in 1995. She spent most of her career in signals and intelligence. Since retiring from the Army, she has worked in the defense industry. She has held a security clearance since 1975. (Tr. 12, 14-17, 33-40; GE 1)

Guideline F

The SOR alleged that Applicant has six delinquent debts. Two debts (SOR ¶¶ 1.e for \$65 and 1.f for \$250) are past-due parking or traffic tickets. They are both paid and resolved. (AE B, AE E) SOR ¶ 1.b is a \$236 debt in collection. Applicant

² Applicant confirmed at hearing that she had received a copy of the new AGs. (Transcript (Tr.) 7-8).

researched the account with the original creditor, a filtered water company, and was told that her account was resolved. (AE B)

SOR ¶ 1.d is a \$271 past-due phone bill that Applicant said she did not recognize. Applicant's August 2014 credit report reflects that it was reported for collection earlier that year. It is not reflected on later credit reports (GE 5, GE 6, GE 7) At the hearing, Applicant submitted an updated SOR Response with updated information for each debt alleged, but she omitted reference to SOR ¶ 1.d, probably due to oversight. (AE B). Further, Applicant was also not asked any specific questions about SOR ¶ 1.d at hearing.

SOR ¶ 1.c is a credit card that was placed in collection in July 2014 for \$2,272. (GE 7) Applicant claimed in her answer that she did not recognize the account. She later said she had contacted the collection agency, but believed they were "bullying" her into paying more than what she owed (about \$500, she says). Applicant stated that she intends to contest the matter until she gets a fairer resolution. (AE B) She provided no documents about this debt's current status. The debt remains unresolved.

The largest debt is SOR ¶ 1.a, a \$44,949 state tax lien issued against Applicant in January 2014. (GE 5, GE 6, GE 7) Applicant denied the debt and questioned its validity, since she had not lived in the state (State 1) since 1984. (Tr. 40, AE B)

Applicant testified, however, that in 2007, she returned from living for seven years outside of the continental United States. She used her mother's residence in State 1 as a mailing address. When she returned, she also purchased a truck in State 1. She acknowledged that she had to pay property tax on it. From 2007 until 2014, she lived in a neighboring state, State 2 (several hours away from the area in State 2 where she lives and works now). She says the truck is now registered in State 2, but she still maintains a driver's license from State 1. (Tr. 40-42, 66-69; AE C)

Applicant testified that the lien resulted because she was "not paying attention," and was distracted due to caring for her husband. She said she "missed it" because she had not resided in State 1 for many years. She testified that her efforts to learn from State 1's tax authorities what she owed on the lien and why have proven unfruitful, though she was later told that the lien related to her State 1 driver's license and her use of her mother's address there. (Tr. 40-45; AE C)

Beginning in August 2016, State 1 began garnishing Applicant's military retirement pay at \$1,674 a month. As of October 2017, about \$7,750 had been garnished. (Tr. 43, 69; AE B, AE C, AE D)

In September 2016, Applicant hired a tax relief service. In November 2016, she paid the company a \$995 retainer fee, and a \$2,400 payment towards her tax debt (less \$780 for tax preparation services). She then paid \$1,339 monthly in December 2016 and January 2017, and was to continue those monthly payments until at least June 2017. However, her document did not establish that she had made any payments

in this manner after January 2017, even though she submitted it in December 2017. (Tr. 43, 68, 89-90; AE G) She submitted no documentation from State 1's tax authorities showing what she currently owes in past-due taxes or has recently paid.

Applicant earns an annual salary of \$140,000. She also receives a \$3,244 (gross) monthly military retirement pension. She is the "only breadwinner" in her household, as her husband is disabled and unable to work. (Tr. 39-40, 48-49, 71-72; AE D)

Guideline E

After retiring from the Army, Applicant worked for the next 14 years (1996-2010) for the same defense contractor as a systems analyst. Applicant testified that she worked largely out of her home, and was frequently unmonitored. She had a corporate charge card for travel and business purposes. In 2010, she charged over \$4,000 in personal expenses on the card. (SOR ¶¶ 1.f, 2.g) She testified that after she was confronted about the matter by her employer, she made arrangements to pay what she owed. (Tr. 75-77; AE B) Applicant testified that she left the job in late 2010 for a position with another contractor. (Tr. 59-61; GE 1 at 13-14). She has a corporate credit card with her current employer and only uses it for appropriate business purposes. (Tr. 76-77)

Applicant worked at her new job until March 2013, when the contract ended and she was laid off. (Tr. 59-61; GE 1 at 12-14) From April to October 2013, she worked for another government contractor. She testified that she was hired as a "heavy hitter" to help "bail them out" as their contract was ending. In August 2013, she was issued a "Corrective Action Report (Final Written Warning)" about her "unprofessional, offensive, demeaning and bullying" behavior towards other company employees. (GE 8) Two months later, in October 2013, she was terminated for cause for substandard performance after management determined she had failed to meet expected "production quality criteria." (GE 8) (SOR ¶ 2.a)

Applicant reported the termination on her 2014 SCA. She both reported and testified that she was told she was terminated "because they wanted to go in a different direction." She also acknowledged that she had conflicts with others in the office, which she attributed to her own "loud [and] bossy" personality. (Tr. 61-63; GE 1 at 12)

Falsifications

Applicant has held a security clearance since joining the Army in 1975. (Tr. 14-15) The Army indoctrinated her for access to sensitive compartmented information (SCI) in 1981, and debriefed her in August 1995, when she retired. (GE 9 at 5; GE 11 at 2)

In order to regain SCI access, Applicant submitted an SCA in February 1998, and she updated it in November 1998. She reported that she had been granted SCI

access in 1981, and that she had been polygraphed by another government agency (agency) in 1992. (GE 4 at 8, 10; GE 9 at 4-5; GE 11 at 2)

Section 24 of her November 1998 SCA concerned "Use of Illegal Drugs." Applicant answered "NO" to a question asking if she had illegally used any controlled substances, including marijuana, in the last seven years. She also answered "NO" to a question asking if she had ever illegally used a controlled substances "while employed as a law enforcement officer, prosecutor or courtroom official; while possessing a security clearance, or while in a position directly affecting the public safety." (GE 4 at 8) (Emphasis added) (SOR ¶¶ 1.f and 1.g)

Applicant had a polygraph examination in November 1998. She acknowledged that she had used marijuana on several occasions between about 1993 and August 1998. (GE 9 at 5; GE 11 at 2) Her most recent marijuana use occurred while she had conditional SCI access. (GE 9 at 5; GE 11 at 1-2) As a result of her illegal use of marijuana, including while a commissioned Army officer and with both a security clearance and SCI access, the agency denied Applicant access to SCI in March 1999. (GE 5)

Applicant submitted another SCA in July 2000, and she again failed to disclose her marijuana use with a clearance, between 1993 and August 1998. As on GE 4, she again answered "NO" to a question asking if she had illegally used any controlled substances, including marijuana, in the last seven years. She also answered "NO" to a question asking if she had ever illegally used a controlled substances "while employed as a law enforcement officer, prosecutor or courtroom official; while possessing a security clearance, or while in a position directly affecting the public safety." (GE 3 at 9) (Emphasis added) ((SOR ¶¶ 1.d and 1.e)

On Applicant's July 2000 SCA, she answered "YES" to a question asking, "To your knowledge, have you ever had a clearance or access authorization denied, suspended, or revoked . . .?" She disclosed that the agency had denied her access in May 1999, though she did not explain the agency's rationale and did not give any details. (GE 3 at 10) She testified that she learned about the denial in about 1998. (Tr. 57, 78, 79; GE 11 at 1) Applicant's 2000 SCA was granted. (Tr. 82)

In a June 2003 sworn statement, Applicant stated, "I did not disclose my use of marijuana on my security clearance questionnaire because I felt this information would disqualify me from having a security clearance, which I've held since 1975." (GE 1 at 2)

Applicant next submitted an SCA in November 2008. She again answered "NO" to a question asking if she had ever illegally used a controlled substances "while employed as a law enforcement officer, prosecutor or courtroom official; while possessing a security clearance, or while in a position directly affecting the public safety." (GE 2 at 26) (Emphasis added) She thereby failed to disclose her prior drug use with a clearance in the 1990s. She also failed to disclose that her SCI access had been denied in 1999, in answering a question calling for disclosure of that information.

(GE 2 at 28) Neither of these answers, both of which were false, were alleged in the SOR.³ Applicant's 2008 SCA was granted. (Tr. 84-85)

Applicant submitted her most recent SCA in July 2014. She answered "NO" to a specific question asking if she had ever illegally used a controlled substance "**While Possessing a Security Clearance:** Have you EVER illegally used or otherwise been involved with a drug or controlled substance while possessing a security clearance?" (Emphasis in original) (GE 1 at 31) She thereby failed again to disclose her prior drug use with a clearance in the 1990s. (SOR ¶ 1.a)

In answering a question on her July 2014 SCA about whether the U.S. Government had ever investigated her background or granted her a clearance, Applicant answered "YES," but reported only her most recent background investigation, in 2009. She reported none of her earlier investigations or security clearances on her 2014 SCA. (GE 1 at 32)

In answer to a question under the heading, "**Denied Clearance**" asking "Have you EVER had a security clearance eligibility/access authorization denied, suspended or revoked?," Applicant answered, "NO," and thereby failed again to disclose the denial of her SCI access in 1999. (GE 1 at 33)(Emphasis in original)(SOR ¶ 1.b)

Applicant explained that to her,

[T]here was a difference between the clearance and the access. So when the question was asked of me, have you ever been denied a clearance, the answer was "No," because the question didn't ask about access, not then.⁴

Except it did. The plain language of Question 32 on GE 1 clearly asked Applicant about denial of "access authority" as well as about denial of a "security clearance." Question 28(b) of Applicant's 2008 SCA contained substantially similar language.⁵ Yet on both occasions (one alleged and one not), Applicant did not list the 1999 denial of her SCI access (though she listed it on GE 3, her 2000 SCA).

³ I cannot consider as disqualifying conduct any omission on an SCA that is not alleged in the SOR. However, I can consider that evidence in weighing mitigation or changed circumstances, whether Applicant has demonstrated sufficient rehabilitation, under the whole-person concept, and in weighing Applicant's credibility. ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006).

⁴ Tr. 50-51. In a post-hearing letter, Applicant sought to make a similar distinction: "[B]eing in the security industry, we make the clear distinction between 'collateral clearances' (Confidential/Secret/Top Secret) and 'access' (Sensitive Compartmented Information) which those in other industries may not. It was upon this understanding that I based my SF-86." (AE C)

⁵ "To your knowledge, have you ever had a clearance or access authorization denied, suspended, or revoked . . .?" (GE 2 at 28)(emphasis added)

Applicant had varying explanations for her repeated failures to disclose her marijuana use. Her chief explanation was that, “it was already a part of my record” because she discussed it in her polygraph interview in 1998. (Tr. 51-52, 54, 56, 58)

Applicant claimed that she misread the question on her 1998 SCA calling for disclosure of any illegal drug use with a security clearance, since she thought it only referred to law enforcement or public safety personnel. (Tr. 52-53) This testimony contradicts her 2003 sworn statement, in which she admitted she did not disclose her drug use on her SCA because it would disqualify her from having a security clearance. (GE 11 at 2)

With respect to her 2000 SCA, Applicant blamed her failure to disclose her drug use (both in the previous seven years and with a security clearance at any time) on “my poor grasp of taking that application as seriously as I should have. And not associating the timeline with the '98 polygraph.” (Tr. 55)

Applicant explained that her 2014 SCA was “a historic copy, a little different from having to start over. So anything that was already in there, I left it the way it was.” (Tr. 57) She also testified that “the only thing I felt I needed to update was anything that happened in the last seven years.” (Tr. 57)

Having grown up in the military and served her country in and out of uniform for her entire professional career, Applicant loves her work, and wants to continue serving in a cleared capacity. (AE C)

Applicant submitted three letters of recommendation from professional references. They attested to Applicant’s integrity, honesty, dedication, professionalism and pride in her work, as well as to her energy and optimism. (AE C)

Policies

It is well established that no one has a right to a security clearance. As noted by the Supreme Court in *Department of the Navy v. Egan*, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.”⁶

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching

⁶ *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

The guideline sets forth several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (c) a history of not meeting financial obligations;
- (d) deceptive or illegal financial practices such as . . . expense account fraud, . . . or other intentional financial breaches of trust; and
- (f) . . . failure to pay annual Federal, state, or local income tax as required.

Applicant has a large unresolved state tax lien, and one other unresolved delinquent debt. AG ¶¶ 19 (a), 19(b), and 19(c) apply. AG ¶ 19(f) would also apply if the record were clear that Applicant's State 1 tax lien related to income tax debt (rather than property taxes). This is not necessarily the case, so it does not apply. The tax lien, however, is otherwise covered by the other applicable AGs.

In 2010, Applicant abused her access to a corporate charge card by using it for personal expenses. She left the company's employment soon thereafter, though there is no evidence that her credit card misuse was the reason for her departure. Her actions did not constitute "expense account fraud" but does constitute an "intentional breach of financial trust." AG ¶ 19(d) therefore applies to SOR ¶ 1.g.

Conditions that could mitigate financial considerations security concerns are set forth under AG ¶ 20. The following are potentially applicable:

- (a) the behavior happened so long ago, 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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;
- (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; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

The small tickets at SOR ¶¶ 1.e and 1.f have been paid. Applicant made a reasonable effort to resolve the small debt owed for SOR ¶ 1.b. SOR ¶ 1.d is a small and old phone bill. It is listed on an old credit report but is not on more recent ones. I consider it resolved and also of little security significance. SOR ¶ 1.c is larger and Applicant acknowledged it, though she disputes the amount. It is not resolved.

Applicant's State 1 tax lien is more significant. It was issued in 2014, meaning that the related tax debt had been unresolved for some time before then. Applicant ignored this tax responsibility until 2016 on the grounds that she had not lived in State 1 for many years. However, she bought a truck in State 1 in 2007, and used her mother's address there during a period of transition. For unknown reasons, she still maintains a State 1 driver's license.

Applicant has not taken responsible actions to pay, resolve, or otherwise contest the bill. She took no action until State 1 began garnishing her military retirement income in mid-2016. She then retained a tax-relief firm but only provided proof of payments through January 2017. She did not corroborate any ongoing payments on the tax lien through anything other than the garnishment. Resolution of a debt through garnishment does not constitute good faith.⁷ AG ¶ 20(d) does not apply.

Applicant also did not establish that she has made arrangements with the State 1 tax authority to pay what she owes, and has not established that she is in compliance with those arrangements. She began making payments through a tax relief service, but did not establish that those tax payments have continued. AG ¶ 20(g) does not apply. To the extent that Applicant contests the amount she owes, she has not provided a sufficient basis, or corroborating documentation. AG ¶ 20(e) does not apply.

Applicant did not establish that her financial issues resulted from circumstances beyond her control. Her husband is disabled and she is the sole breadwinner in the household, but she earns a six-figure salary and a significant military pension. She also has not established that she undertook reasonable action to resolve them. AG ¶ 20(b) does not apply.

Applicant's financial delinquencies are ongoing and unresolved. They continue to cast doubt on her current judgment, trustworthiness and reliability. AG ¶ 20(a) does not apply.

⁷ ISCR Case No. 08-06058at 6 (App. Bd. Sep. 21, 2009) ("On its face, satisfaction of a debt through the involuntary establishment of a creditor's garnishment is not the same as, or similar to, a good-faith initiation of repayment by the debtor.")

Given my conclusions under Guideline E and the whole-person concept about Applicant's lack of candor, pattern of poor judgment, and failure to comply with rules and regulations (see below), I cannot conclude that Applicant's abuse of her corporate charge card has been fully mitigated, even though that specific conduct has not been repeated. AG ¶ 20(a) does not apply to mitigate SOR ¶ 1.g.

Guideline E, Personal Conduct

AG ¶ 15 expresses the security concern for 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 or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . .

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations . . . determine national security eligibility or trustworthiness, or award fiduciary responsibilities;

(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 individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of: . . . (3) a pattern of dishonesty or rule violations;

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal professional, or community standing; and

(f) violation of a written or recorded commitment made by the individual to the employer as a condition of employment.

Applicant's misuse of a corporate charge card for personal purposes in 2010 (SOR ¶ 2.g) calls into question her judgment, trustworthiness and reliability. It also

satisfies AG ¶¶ 16(d)(3) and 16(f). After Applicant was given a final written warning, due to her unprofessional conduct, she was terminated from a later job in October 2013 due to performance issues. SOR ¶ 2.a satisfies AG ¶ 16(f).

The remaining Guideline E allegations concern falsification. Applicant repeatedly and deliberately failed to disclose her marijuana use with a security clearance in the 1990s on numerous SCAs. Her explanations for her answers are not credible.

Applicant failed to disclose her drug use on her 1998 SCA, and did not acknowledge it until she had an interview related to a polygraph. She then failed to disclose her drug use, including with a clearance, on several subsequent SCAs, in 2000, 2008 (not alleged) and 2014. She disclosed on her 2000 SCA that the agency had denied her SCI access, but did not disclose that information on either of her later SCAs, in 2008 (not alleged) or in 2014.⁸

Applicant provided several inconsistent explanations for her answers, none of which are credible. The Government met its burden of proof, and established all of the falsification allegations in the SOR. AG ¶¶ 16(a) applies.

AG ¶ 17 sets forth the applicable mitigating conditions under Guideline E:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (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; and
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Applicant deliberately failed to disclose her marijuana use, including with a security clearance, on SCAs in 1998, 2000, 2008 and 2014. She disclosed the denial of her access to SCI on an SCA only once, in 2000. She deliberately failed to disclose it on subsequent SCAs in 2008 and 2014. Though Applicant's falsifications on the 2008 SCA are not alleged, they fit an established pattern. I can and do consider them in weighing mitigation. Her explanations for her various omissions are not credible. They also run counter to the plain language of the questions at issue.

⁸ Applicant's 2008 SCA is not the basis for any SOR allegation, so I do not consider it as evidence of disqualifying conduct. ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006).

On Applicant's most recent SCA in 2014, she also deliberately under-reported the extent of her previous investigations (which held evidence of her prior misconduct, and her falsifications about it). She believed that, having disclosed in prior interviews that she had used marijuana with a security clearance, she did not have to disclose her misconduct on any subsequent SCA. Applicants, however, have a duty to be truthful and candid with the Government at all times. Prior disclosures do not mitigate subsequent omissions.

Applicant was perhaps most candid in her 2003 sworn statement, when she acknowledged that she did not list her prior drug use on her SCA because she feared it would jeopardize her clearance. Fear of losing one's clearance, however, is not mitigating, nor does it justify Applicant's repeated falsifications on all of her later SCAs. No mitigating conditions apply to the falsification allegations.

Applicant misused her corporate charge card for personal purposes in 2010. That conduct occurred almost seven years ago. However, her financial problems have continued and are unresolved. Mitigation is also undercut by my separate findings about her integrity and judgment. Her conduct continues to cast doubt on her reliability, trustworthiness and good judgment. The cross-allegation at SOR ¶ 2.g is not mitigated.

Applicant's 2013 termination appears to be due to a series of circumstances, including a personality conflict between her and her co-workers, as well as performance issues. There were no allegations of work-related dishonesty. Applicant also disclosed the termination and the general reasons for it on her 2014 SCA. While Applicant has many other unmitigated personal conduct issues, her 2013 termination appears to be an isolated circumstance. I find SOR ¶ 2.a mitigated under AG ¶ 17(c).

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 relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F and E in my whole-person analysis. Applicant used marijuana on several occasions in the mid-1990s, both as a commissioned Army officer and while holding a security clearance. She repeatedly lied about that misconduct, on multiple security clearance applications, between 1998 and 2014. On none of them did she tell the truth and disclose her past drug use with a clearance. She also lied more than once about the fact that her SCI access was denied as a result. Her explanations for why she did not disclose that information are not credible. Moreover, Applicant did not acknowledge that she ever lied. Instead, she provided several inconsistent explanations for her answers, none of which are credible. She also has significant unresolved tax debt that she has not resolved responsibly. Applicant has not established that the Defense Department can trust her with access to classified information. Overall, the record evidence leaves me with serious questions and doubts as to Applicant's eligibility for access to classified information.

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
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraphs 1.d-1.f:	For Applicant
Subparagraph 1.g:	Against Applicant
Paragraph 2: Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraphs 2.b-2.h:	Against Applicant

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 continued access to classified information. Eligibility for access to classified information is revoked.

Braden M. Murphy
Administrative Judge