



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



In the matter of: )  
 )  
 REDACTED ) ISCR Case No. 16-02536  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Alison O'Connell, Esq., Department Counsel  
For Applicant: *Pro se*

04/11/2018

**Decision**

MENDEZ, Francisco, Administrative Judge:

Applicant mitigated security concerns raised by his platonic relationship with an adult film actress, as the Government failed to show that Applicant paid the actress money for sex. No credible evidence raising a concern about Applicant's continued eligibility for access to classified information was provided. Clearance is granted.

**Statement of the Case**

On December 4, 2015, Applicant submitted a security clearance application for his employment as a federal contractor. He is a U.S. military veteran and has worked as a cleared federal contractor for over 30 years. He has gone through numerous background investigations, including taking polygraph examinations in connection with his employment on projects requiring access to sensitive compartmented information. His clearance eligibility has never before been questioned.

On March 17, 2016, as part of the current background investigation, Applicant was interviewed by a contract investigator with the Office of Personnel Management (OPM). The interview was not recorded. At some point after the interview, the investigator prepared a summary of the interview. Of note, the investigator wrote that Applicant admitted paying an adult film actress money for sex. Applicant denies he made this statement to the investigator.

On September 4, 2016, Applicant voluntarily responded to an interrogatory sent to him by the Defense Office of Hearings and Appeals (DOHA). Applicant was provided a

copy of the investigator's summary of the March 2016 interview and asked whether it accurately reflected the information he provided. Applicant responded "No," and went on to state that the summary was "incomplete, inaccurate and misleading." (Exhibit 2 at 2) He specifically noted that the portion of the investigator's report that states he paid the adult film actress money for sex was inaccurate:

This entire narrative is subjective, prejudicial and largely inaccurate. . . . I volunteered that [adult film actress] who is a friend of mine is a . . . She is a business owner and an actress and we see each other when our schedules permit. There is nothing inappropriate or illegal about this. For this report to include this brief mention of one of my dear friends under the heading of "Illegal Activity/Foreign Contacts/Activities/Travel" is completely inaccurate, inappropriate and prejudicial. The use of the word "prostitute" in this section is totally attributed to the bias, misjudgment, and prejudicial attitude of the investigator. (Exhibit 2 at 4)

Applicant then signed the interrogatory, adopting the investigator's summary of the interview subject to his corrections, edits, and comments. Before signing his interrogatory response, Applicant wrote: "In summary, this report is inaccurate, incomplete and . . . grossly misleading."<sup>1</sup> The interrogatory did not inform Applicant that the investigator's "report" was inadmissible in a DOHA proceeding unless it was properly authenticated.

On October 27, 2016, the Department of Defense (DoD) issued a Statement of Reasons (SOR) alleging security concerns under the sexual behavior and personal conduct guidelines. Specifically, the allegation under both guidelines reads:

You maintain a close and continuing sexual relationship with [adult film actress] that reflects lack of judgment or discretion and may place you in a position where you may be vulnerable to coercion, exploitation, or duress.

On November 25, 2016, Applicant submitted his notarized Answer to the SOR and requested a hearing. He denied the SOR allegation and, specifically, stated that he never had sexual intercourse with the adult film actress. (Answer at 1)

On January 18, 2017, Department Counsel indicated that the Government was prepared to proceed and sent Applicant the documents she intended to offer at the hearing, namely, Applicant's security clearance application (SCA) and the investigator's summary of the security clearance interview (interview summary). (Appellate Exhibits I and III) Department Counsel indicated in a cover letter accompanying the exhibits that "*At this point*, I do not intend to call any witnesses as part of the Government's case. If I decide to call any witnesses, I will promptly notify you." (Discovery Letter, Appellate Exhibit I at 2) (emphasis added).

On August 14, 2017, I was assigned the case and contacted the parties to determine their availability. Both sides indicated that they were available on the afternoon of September 7, 2017. In agreeing to the hearing date, Applicant asked Department Counsel if she was going to offer any other evidence beyond the SCA and the interview

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<sup>1</sup> Exhibit 2 at 5.

summary. Applicant also asked Department Counsel “[i]n your previous correspondence . . . you indicated that you were not going to call any witnesses. Is this still correct?” (See Scheduling Correspondence, August 14, 2017 email from Applicant to Department Counsel, Appellate Exhibit III) Department Counsel’s response, if any, was not provided.

On August 16, 2017, I issued a case management order, requiring the parties to exchange any documents they planned to offer at the hearing. The order also required the parties to provide the opposing side and myself a list of their witnesses at least three days before the hearing. (Appellate Exhibit IV) Department Counsel subsequently provided me a copy of the discovery letter, SCA, and interview summary, which she planned to offer at hearing. No witness list was provided. Two days later, a notice of hearing was sent to the parties by DOHA scheduling the hearing for 2:00 p.m. on September 7, 2017. (Appellate Exhibit V)

On September 6, 2017, in order to make sure that neither party was unfairly surprised at hearing, I sent an email to the parties asking:

[I]s the Government planning on calling a witness to authenticate the summary or does the Government have another theory (with cited legal authority) for admission and consideration of the relevant matters in Exhibit 2 for identification? . . . Lastly, I have not received any documents that Applicant may be offering tomorrow. [Applicant], if you are offering any documentary evidence or calling any witnesses, please make sure you get those documents and a list of your witnesses to Department Counsel right away and have a separate copy ready to provide to me before the hearing . . . Again, we have a relatively late start time and I want to minimize any potential delays. (Appellate Exhibit II)

Applicant responded, noting that earlier that day he had personally delivered to DOHA the documents he intended to offer at the hearing. He also provided notice of his intent to call a witness and indicated he anticipated his case would take about 30-45 minutes. (Appellate Exhibit II) Department Counsel did not respond.

On September 7, 2017, the hearing was convened as scheduled. Department Counsel offered the SCA and interview summary, which were admitted into the record over Applicant’s objection as Exhibits 1 and 2. (Transcript (Tr.) 27-29)<sup>2</sup> Department Counsel called no witnesses.

After the Government rested, Applicant moved to dismiss the case. Applicant’s motion was denied. (Tr. 23-24) Applicant then testified and called a longtime reference, the former director of another federal agency, as a witness. He also offered letters from several references, including his oldest daughter, which were collectively marked and admitted into the record as Exhibit A. Applicant testified substantially consistent with his

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<sup>2</sup> The parties were offered the opportunity to question and challenge me, and both declined the opportunity. (Tr. 5) See ISCR Case No. 14-03569 (App. Bd. May 31, 2016) (applicant waived objection to judge who served as Department Counsel in a previous DOHA case involving the same applicant).

prior statements denying he paid the adult film actress for sex.<sup>3</sup> After Applicant rested his case, I offered Department Counsel additional time to call a witness or present further evidence. Department Counsel indicated the Government had no rebuttal. (Tr. 68)<sup>4</sup>

DOHA received the transcript of the proceeding on September 15, 2017. Four days later, on September 19, 2017, I reopened the record to give Department Counsel an opportunity to submit additional evidence to establish the veracity and reliability of the interview summary, Exhibit 2. Department Counsel declined the offer and, instead, argued that when Applicant signed the interrogatory response it effectively became his own words. (Appellate Exhibit VII, Government's Brief at 7)<sup>5</sup> No additional evidence, such as an affidavit from the investigator verifying the accuracy and completeness of the interview summary, was received before the record closed on September 26, 2017.

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<sup>3</sup> See Tr. 32-33, 51-53.

Judge: I don't think it's the business relationship [between you and the adult film actress] that really is the issue here, so let's get to it. Did you have sex with this woman, did you pay for sex with this woman?

Applicant: I did not have sex with her. . . . sexual intercourse never occurred.

\* \* \*

Judge: Hold on a second. She [the investigator] tells you, you've given her [the adult film actress] money for sex. That seems to be an odd thing for an investigator to say out of the blue. . . . Your testimony is, then, it [the interview] went off the rails and she [the investigator] said all right, so you've given her money for sex. Right? Is that accurate?

Applicant: She said, I think she said, have you given her any money? I said, well, I may have given her some money. She said, well, what did you get for that money? I said, you know, I'm a nice guy, I gave her some gifts, and she said well, did you have sex? I said no, we didn't have sex.

Judge: So you told her, I did not have sex [with the adult film actress].

Applicant: Yes. . . .

Department Counsel: So you at no point told the investigator that you had sex with [adult film actress]?

Applicant: I told her that we had not had sex, and there was no exchange of money for that purpose.

<sup>4</sup> The parties were offered an opportunity to raise any issues at the end of the hearing. Both sides indicated they had none. (Tr. 75-76) See ISCR Case No. 14-03569 (App. Bd. May 31, 2016) (by not timely raising issue, applicant waived issue that presiding judge previously served as Government counsel in applicant's previous DOHA case).

<sup>5</sup> Department Counsel's post-hearing recusal motion and Applicant's post-hearing summary judgment motion were denied. See Appellate Exhibit VII. Department Counsel's supplemental motion, dated September 25, 2017, was marked Appellate Exhibit VIII.

## Evidentiary Ruling

DOHA proceedings are designed to allow the parties to present a full, fair, and accurate record of an applicant's security clearance eligibility. In order to achieve these goals, DoD Directive 5220.6 (Directive) ¶ E3.1.19, states that the federal rules of evidence "shall serve as a guide." Furthermore, the DOHA Appeal Board has stated that administrative judges should liberally apply the "technical rules of evidence," and err on the side of admitting all relevant and reliable evidence.<sup>6</sup>

The Directive, however, does contain one major exception to this evidentiary rule of inclusion. Specifically, pursuant to ¶ E3.1.20, a DoD personnel background report of investigation, including a summary of a person's security clearance interview, is generally inadmissible.<sup>7</sup> The danger posed by admitting an unauthenticated interview summary is obvious. Namely, an investigator due to inattention, forgetfulness, or for other reason may incorrectly summarize the interview or portions of the interview. Notwithstanding the proceeding, a summary of a security clearance interview is admissible in a DOHA proceeding if an applicant waives objection to its admission or adopts the summary as an accurate recitation of what they said during the interview.<sup>8</sup>

Here, Applicant objected to Exhibit 2, the interview summary. Department Counsel did not call a witness nor presented any other evidence authenticating the exhibit. Thus, the exhibit is inadmissible unless Applicant adopted the interview summary. At hearing, I overruled Applicant's objection and admitted the exhibit, but noted that I would consider Applicant's statements in the interrogatory response qualifying his adoption of the summary in assessing the weight to give the document. See Tr. 27-29.

After now having an opportunity to review the evidence, the transcript, the parties' post-hearing submissions, and Appeal Board precedent, I reaffirm my ruling admitting Exhibit 2. Furthermore, I have weighed this evidence in light of the entire record evidence, giving more weight to those matters in the interview summary that Applicant adopted before or at hearing.<sup>9</sup> See *generally* Tr. 31-32, 35-42 (Applicant admits he made certain

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<sup>6</sup> ISCR Case No 03-21434 at 5 (App. Bd. Feb. 20, 2007) ("the DOHA process encourages Judges to err on the side of initially admitting evidence into the record, and then to consider . . . what, if any, weight to give to that evidence."); ISCR Case No. 14-06011 (App. Bd. Dec. 9, 2015) ("The weight that a Judge assigns to evidence is a matter within his or her discretion.").

<sup>7</sup> See *also* Executive Order 10865, § 5 (prohibiting "investigative reports" without an authenticating witness); ISCR Case No. 14-00974 (A.J. Foreman Oct. 17, 2014) ("Authentication within the meaning of the Directive ¶ E3.1.210 means producing 'evidence sufficient to support a finding that the matter in question is what its proponent claims'.") (citing Fed. R. Evid. 901(a)).

<sup>8</sup> See *generally* ISCR Case No. 15-01807 at 3 (App. Bd. Apr. 19, 2017) ("In the absence of any objection to [an investigator's summary of a security clearance interview] or indication that it contained inaccurate information, the Judge did not err by admitting and considering that document.").

<sup>9</sup> Department Counsel's position that when a *pro se* applicant, who is not advised of the authentication requirement, signs an interrogatory response that any statements the applicant made in the same interrogatory response contesting the accuracy of the interview summary should be disregarded is without legal support and runs afoul of the due process provided by the Directive. *Contrast with* ISCR Case No. 95-0817 (App. Bd. Feb. 21, 1997), where the Appeal Board held that the judge did not err in admitting an interview summary because "[n]owhere in Applicant's energetic criticisms of various portions of the

statements during interview that were accurately captured by investigator). See *also* ADP Case No. 15-07979 at 4 (App. Bd. May 30, 2017) (“By adopting the summary of the interview at the hearing, Applicant eliminated the need for the Government to call a witness to authenticate that document.”)

### **Findings of Fact**

Applicant, 70, holds a doctorate. After graduating from college, he joined the U.S. military. He served as an aviator and instructor pilot on active duty for about five years, including during the Vietnam War. He has worked as a cleared federal contractor for over 30 years, and was first granted a security clearance in approximately 1970. He has taken and passed several polygraph tests in connection with his employment by other U.S. Government agencies.<sup>10</sup> Several individuals who have worked closely with Applicant submitted letters describing him as honest, trustworthy, and reliable.<sup>11</sup> His witness, a retired member of the senior executive service, who has known Applicant for about 25 years and worked with him on several highly sensitive U.S. projects, testified favorably about Applicant’s character. He has observed Applicant discharge his security responsibilities in highly sensitive settings and has no concerns about his continued eligibility for a security clearance.<sup>12</sup>

Applicant and his former wife divorced many years ago. Applicant has five children, all of whom have attended and graduated college. One of Applicant’s daughters, who has worked with him on classified projects, writes that Applicant is a reliable, responsive and wise parent. She aspires to be like her father.<sup>13</sup>

In about November 2014, Applicant attended an expo where he met Ms. X, a 24-year-old adult film actress. He next saw her at other expos in 2015 and 2016. They had dinner together in 2016 near his summer residence in State Y, where they discussed potential improvements to her website to make it more appealing and user friendly to members of her website. Applicant joined the website sometime in 2015, and pays the annual \$100 dues. As a member of the website, Applicant is able to watch Ms. X’s live performances, generally by herself and, at times, with her girlfriend. He and Ms. X talked over email and via text message and met in person about half a dozen times between

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[Government’s evidence] does he challenge the completeness, accuracy, or truthfulness of [the summary of the security clearance interview] or any portion of it.” See *also* Judge Ra’nan’s concurring opinions in ISCR Case No. 16-01715 (App. Bd. Dec. 8, 2017) and ISCR Case No. 12-10933 (App. Bd. June 29, 2016) (discussing similar due process concerns). Although the lack of subpoena power in DOHA proceedings and the failure by contract investigators over the last several years to gather sworn statements and other similar evidence create evidentiary hurdles in a limited number of cases, Department Counsel should not expect administrative judges to simply disregard the Directive or act as the proverbial rubber stamp.

<sup>10</sup> Tr. 18-19; Exhibit 1; Answer.

<sup>11</sup> Exhibit A.

<sup>12</sup> Tr. 61-67.

<sup>13</sup> Tr. 18-19; Exhibit A; Answer.

November 2014 and October 2016.<sup>14</sup> Their relationship ended in October 2016, when they met up for dinner in State Z before one of her shows. She then stopped answering Applicant's calls and texts, because "something to do with losing her phone, losing her contacts, and I haven't been able to catch up and she didn't bother letting me know what the new information is, so that's where it stopped."<sup>15</sup> Applicant has told others, including his children, about his relationship with Ms. X, and attending the expos where he met Ms. X "and other people at these things."<sup>16</sup>

Applicant admitted at hearing, in response to Department Counsel's questions, that he watches adult pornography at home on his personal computer.<sup>17</sup> He denies that he ever exchanged money for sex with Ms. X, but admits that he purchased Ms. X gifts, paid for her dinners, and, at times, gave her nominal spending money (\$20 or so) when she claimed not to have any money on her person. He purchased the gifts for Ms. X from an online birthday registry, shying away from the most expensive gifts on the registry (luggage, pocketbooks and shoes) because he realized their relationship would never be more than a casual acquaintance. He denies that any of these purchases, gifts, or money was for sex. He also states that he and Ms. X never had sex, and adamantly denies that he ever told the security clearance investigator anything to the contrary.<sup>18</sup>

In addition to his employment as a federal contractor, Applicant has also worked as an expert witness and consultant for many years. He has apparently had tax-related financial issues in the past, but states that he is not delinquent on his taxes and is financially stable. (Exhibit 2 at 2, 5) He did not report this other employment or any past tax issues on his security clearance application.

### **Law, Policies, and Regulations**

This case is decided under Executive Order (E.O.) 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 National Security Adjudicative Guidelines (AG), which became effective on June 8, 2017.

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). Instead, persons are only eligible for access to classified information "upon a finding that it is clearly consistent with the national interest" to authorize such access. E.O. 10865 § 2.

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<sup>14</sup> Tr. 35-58; Answer; Exhibit 2.

<sup>15</sup> Tr. 48.

<sup>16</sup> Tr. 58; Answer.

<sup>17</sup> Tr. 36. ("Department Counsel: Is it accurate that you watch live streaming pornography videos from your home computer while in your home? Applicant: Live streaming? I'm not sure exactly what that means but, and I'm not sure what the definition of pornography is, but I have done on-line viewing, yes.")

<sup>18</sup> Tr. 32-33, 43-55; Answer; Exhibit 2.

When evaluating an applicant's eligibility for a security clearance, an administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations, the guidelines list potentially disqualifying and mitigating conditions. The guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies the guidelines in a commonsense manner, considering all available and reliable information, in arriving at a fair and impartial decision. AG ¶ 2.

Department Counsel must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.14. Applicants are responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven . . . and has the ultimate burden of persuasion as to obtaining a favorable clearance decision." Directive ¶ E3.1.15.

Administrative Judges must remain fair and impartial, and carefully balance the needs for the expedient resolution of a case with the demands of due process. Therefore, an administrative judge will ensure that an applicant: (a) receives fair notice of the issues, (b) has a reasonable opportunity to address those issues, and (c) is not subjected to unfair surprise. Directive, ¶ E3.1.10; ISCR Case No. 12-01266 at 3 (App. Bd. Apr. 4, 2014).

In evaluating the evidence, a judge applies a "substantial evidence" standard, which is something less than a preponderance of the evidence. Specifically, substantial evidence is defined as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." Directive, ¶ E3.1.32.1.<sup>19</sup>

Any doubt raised by the evidence must be resolved in favor of the national security. AG ¶ 2(b). See *also* Security Executive Agent Directive 4 (SEAD 4), ¶ E.4. Additionally, the Supreme Court has held that responsible officials making "security clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

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. 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 an 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.

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<sup>19</sup> However, a judge's mere disbelief of an applicant's testimony or statements, without actual evidence of disqualifying conduct or admission by an applicant to the disqualifying conduct, is not enough to sustain an unfavorable finding. ISCR Case No. 15-05565 (App. Bd. Aug. 2, 2017); ISCR Case No. 02-24452 (App. Bd. Aug. 4, 2004). Furthermore, an unfavorable decision cannot be based on non-alleged conduct. ISCR Case No. 14-05986 (App. Bd. May 26, 2017). Unless an applicant is provided notice that unalleged conduct raises a security concern, it can only be used for specific limited purposes, such as assessing mitigation and credibility. ISCR Case No. 16-02877 at 3 (App. Bd. Oct. 2, 2017).

## Analysis

### Guideline D, Sexual Behavior

Sexual behavior that involves a criminal offense, reflects a lack of judgment or discretion, or may subject the individual to undue influence of coercion, exploitation, or duress raises a security concern. See AG ¶ 12. In assessing the present case, I considered the disqualifying and mitigating conditions listed under AG ¶¶ 13 and 14. Applicant's conduct in attending expos featuring adult film entertainers, watching adult pornography on his personal computer in the privacy of his home, and his non-sexual relationship with a young adult film actress may be subjectively distasteful to some, but it does not raise a security concern under Guideline D.<sup>20</sup> Applicant denies he told the OPM contract investigator that he paid the adult film actress money for sex, and his testimony on this key point was un rebutted.

At the same time, Applicant's testimony that he, a 70-year-old man, was merely trying to be a "nice guy" to Ms. X, a 24-year-old adult film actress, was unconvincing.<sup>21</sup> However, the fact that this portion of Applicant's testimony was suspect does not provide a judge sufficient basis from which to find that Applicant engaged in the alleged conduct at issue.<sup>22</sup> Instead, at most, the evidence supports the common sense finding that Applicant tried to seduce the young actress through gifts, dinners, and free technical advice. His efforts, however, fell short. The actress gladly took Applicant's money, gifts, and the like and then ceased their relationship. This conduct – no matter how distasteful (or sadly pathetic) to some – does not raise a security concern under the sexual behavior guideline. Accordingly, the Guideline D allegation is decided for Applicant.

### Guideline E, Personal Conduct

Conduct involving questionable judgment . . . can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. AG ¶ 15.

Arguably, Applicant's decision to enter into a relationship with an adult film actress raises questions about his judgment and reliability. The apparently one-sided, two-year relationship left Applicant vulnerable to potential manipulation, coercion, or worse by unsavory characters working in or around the adult film industry who would not have had a second thought of trying to turn the affections of an older gentleman (with access to classified information) for a younger woman to their own illegitimate gains and purposes.

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<sup>20</sup> ISCR Case No. 02-12199 (App. Bd. Apr. 3, 2006) (" . . . expression of disapproval over Applicant viewing legal pornography in the privacy of his home on his home computer does not provide a sufficient basis for concluding the Judge's decision is arbitrary, capricious, or contrary to law.").

<sup>21</sup> See Tr. 52, 54, 58.

<sup>22</sup> ISCR Case No. 02-24452 (App. Bd. Aug. 4, 2004) ("An unfavorable credibility determination provides a Judge with a basis for deciding to disbelieve an applicant's testimony. However, mere disbelief of that testimony, standing alone, is not a sufficient basis for a Judge to conclude that the applicant did something . . . for which there is no independent evidence."). See also *infra* n. 19.

However, Department Counsel clarified that the security concern from the Government's perspective is strictly limited to Applicant's alleged conduct in paying the adult film actress for sex.<sup>23</sup> Moreover, it appears that Applicant was only on notice that it was this alleged conduct that raised a security concern.<sup>24</sup> As previously explained, the Government failed to show that Applicant engaged in such conduct. Accordingly, the personal conduct security concern is also decided for Applicant.

In assessing Applicant's eligibility for continued access to classified information, I also considered the whole-person concept. See AG ¶ 2; SEAD-4, ¶ E.4 (non-exclusive list of factors a judge should consider). In doing so, I took into account that:

(1) Applicant self-reported the information about the adult film star during the security clearance interview (no evidence was presented that the Government was aware of this information before the interview),

(2) Applicant's service to the nation in and out of uniform, and

(3) The record evidence regarding Applicant's good character and his proper handling of classified information for many years.

Overall, the record evidence does not raise a concern about Applicant's continued eligibility for a security clearance.

### **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 D (Sexual Behavior):	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline E (Personal Conduct):	FOR APPLICANT
Subparagraph 2.a:	For Applicant

### **Conclusion**

In light of the record evidence, it is clearly consistent with the interests of national security to grant Applicant initial or continued eligibility for access to classified information. Applicant's request for a security clearance is granted.

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Francisco Mendez  
Administrative Judge

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<sup>23</sup> See Tr. 71-72 ("It's simply the paying money for sex that is of concern to the Government, and that's intended to be alleged in the Statement of Reasons.").

<sup>24</sup> See *infra*. n. 19.