



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



In the matter of:)	
)	
[Redacted])	ISCR Case No. 16-03613
)	
Applicant for Security Clearance)	

Appearances

For Government: Benjamin R. Dorsey, Esq., Department Counsel
For Applicant: *Pro se*

12/28/2017

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines F (Financial Considerations) and E (Personal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on March 23, 2016. On April 17, 2017, the Department of Defense Consolidated Adjudications Facility (DOD CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines F and E. The DOD CAF acted 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 (AG) implemented by the DOD on September 1, 2006.¹

¹ Security Executive Agent Directive 4 (SEAD 4) was issued on December 10, 2016, revising the 2006 adjudicative guidelines for all adjudicative decisions issued on or after June 8, 2017. The changes resulting from issuance of SEAD 4 did not affect my decision in this case.

Applicant answered the SOR on June 2, 2017, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on June 22, 2017, and the case was assigned to me on August 3, 2017. On August 15, 2017, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled for September 12, 2017. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 5 were admitted in evidence without objection. Applicant testified but did not present the testimony of any other witnesses or submit any documentary evidence. DOHA received the transcript (Tr.) on September 21, 2017.

I kept the record open until October 12, 2017, to enable Applicant to submit documentary evidence.² At his request, I extended the deadline for submitting documentary evidence until November 10, 2017. I extended the deadline again when he was unable to transmit some of his documents electronically. He submitted Applicant's Exhibits (AX A through O) by alternate means, and the record closed on December 5, 2017, upon receipt of AX P (a state tax account statement), AX Q (a receipt for \$203.18), and R (a statement from his ex-wife), which were transmitted electronically.

Findings of Fact³

In Applicant's answer to the SOR, he admitted the allegations in SOR ¶¶ 1.a, 1.b, 1.d, 1.h-1.o, and 2.a(i)-2.a(iv). He denied the allegations in SOR ¶ 1.c, 1.e-1.g, and 1.p. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is a 38-year-old senior engineer employed by defense contractors since February 2014. He was previously employed by defense contractors from June 2001 to May 2013. He was unemployed from May 2013 to February 2014. He served on active duty in the U.S. Army from October 1997 to July 2001 and was honorably discharged. He attended college part time and online, and he received a bachelor's degree in October 2007. He testified that he first received a security clearance in 1997. His clearance lapsed when it was not revalidated in 2013. (Tr. 25.)

Applicant married in October 2011 and divorced in May 2017. (Tr. 23.) He has three children from previous relationships, an 18-year-old and twins who are 13 years old. He is obligated to pay child support of \$599 per month. (GX 2 at 8.)

Applicant's financial problems began when he was notified in 2011 that he had a son from a previous relationship. He initially denied paternity, but it was established by DNA testing, and a child-support arrearage was computed retroactively back to the date

² On September 7, 2017, Applicant requested that his hearing be postponed because a character witness was not available on September 13, 2017, the scheduled hearing date, and he had not had sufficient time to gather documentary evidence. I denied his request to postpone the hearing, but I informed him that I would give him additional time after the hearing to gather and submit documentary evidence. (Hearing Exhibit (HX) I.)

³ Applicant's personal information is extracted from his security clearance application (GX 1) unless otherwise indicated by a parenthetical citation to the record.

of the child's birth. The arrearage initially was about \$4,000-\$5,000. (GX 2 at 12.) An April 2016 credit report reflected that the child-support payments were past due for \$7,762. (GX 4 at 4.) However, this credit report is contradicted by state child-support records reflecting that his arrearage in February 2016 was about \$2,058, and child-support records reflecting that he had made timely \$599 payments since at least September 2015 and that his past-due debt as of October 2, 2017 was \$0. His child-support payments are current. (AX B and C.) The child support arrearage is alleged in SOR ¶ 1.e

Applicant testified that he was certain that he would receive a federal tax refund for 2011, but his accountant advised him not to file his federal tax returns, because the refunds would be seized to satisfy the child-support arrearage. (Tr. 35-36.) He did not timely file his federal and state income tax returns for tax years 2011 through 2014. His tax problems were exacerbated when he withdrew funds from his retirement account to support himself during his unemployment in 2013 and 2014 and incurred a federal tax liability of about \$55,000. He filed his past-due federal returns in April and May 2015. (AX J through M.) In a personal subject interview (PSI) in July 2016, he told an investigator that his federal tax debt was resolved by applying his tax refunds. He timely filed his returns for 2015 and 2016. (AX N and O.) His failures to timely file his federal and state income tax returns are alleged in SOR ¶¶ 1.a and 1.b.

Applicant also owed state income taxes of about \$2,200 as of the date of the SOR. In the July 2016 PSI, he told the investigator that he made a payment agreement in the fall of 2015 providing for monthly payments of \$300, but he could not afford the payments at that time. (GX 2 at 11-12.) The state tax debt has since been paid. (AX P.) The state tax debt is alleged in SOR ¶ 1.c.

In addition to Applicant's tax delinquencies and child-support arrearage, the SOR alleges 12 delinquent consumer debts and medical debts. The evidence concerning these debts is summarized below.

SOR ¶ 1.d: judgment for \$3,184, filed in June 2013 for delinquent credit-card account. Applicant testified that the underlying debt (alleged in SOR ¶ 1.i) arose when his ex-wife opened an account in his name without his knowledge. His ex-wife submitted a statement acknowledging that she opened four accounts in his name and without his knowledge, but her statement did not include this debt. (AX R.) The debt was collected by garnishment of his pay at the rate of \$600 per month, and it was satisfied in October 2017. (Tr. 47-48, 51; AX D and E.)

SOR ¶ 1.f: credit-card account placed for collection of \$5,224. Applicant testified that his ex-wife opened this account in his name without his knowledge, and his ex-wife submitted a statement corroborating his testimony. (Tr. 52; AX R.) In December 2015, the creditor cancelled the debt and issued an IRS Form 1099-C. (AX I.)

SOR ¶ 1.g: credit-card account charged off for \$1,799. Applicant testified that this was another account opened by Applicant's ex-wife without his knowledge, and his wife corroborated his testimony. (Tr. 53-54; AX R.)

SOR ¶ 1.h: delinquent loan for motorcycle purchase charged off for \$76. Applicant testified that this debt arose when he financed the purchase of a motorcycle that was stolen and wrecked. He testified that the insurance company paid off the loan, and he did not know why a deficiency of \$76 is reflected in his credit reports. He has not disputed the accuracy of his credit reports regarding this debt. He testified that he received an IRS 1099-C for the \$76. (Tr. 55-56.) He did not submit a copy of the IRS 1099-C, and none of the tax returns and tax return transcripts that he submitted after the hearing reflect that this debt was reported to the IRS as a cancelled debt. (AX J-O.)

SOR ¶ 1.i: credit-card account past due for \$861, with a total balance of \$3,184. This debt is included in the judgment alleged in SOR ¶ 1.d.

SOR ¶ 1.j: charge account placed for collection of \$584. Applicant testified that he had been unable to identify this debt, and he was unaware of it until he saw the January 2017 credit report. (Tr. 57-58.) His ex-wife submitted a statement after the hearing, admitting that she incurred this debt in Applicant's name and without his knowledge. (AX R.)

SOR ¶¶ 1.k-1.o: medical debts placed for collection of \$203, \$92, \$69, \$60, and \$30. The debts alleged in SOR ¶¶ 1.k-1.m have been paid. (AX F, G, H, and Q.) Applicant been unable to identify the debts alleged in SOR ¶¶ 1.n and 1.o. (Tr. 60-63.) The small amounts of the debts alleged in SOR ¶¶ 1.n and 1.o make them minimally significant as security concerns.

SOR ¶ 1.p: delinquent cellphone bill for \$2,151. Applicant testified that this debt was for his ex-wife's cellphone. (Tr. 64.) She admitted that she incurred the debt in Applicant's name without his knowledge. (AX R.)

Applicant testified that he currently earns about \$97,000 per year, and his monthly take-home pay is about \$4,600. (Tr. 28-29.) He depleted his retirement account while he was unemployed. (Tr. 29.) His father has cancer, is disabled, and lives with him. (AX A.) He testified that he lives paycheck to paycheck, with no more than about \$200 left after paying his mortgage, car payment, and living expenses. (Tr. 32.)

When Applicant submitted his SCA in March 2016, he answered "No" to a question asking if, in the past seven years, he had been issued a summons, citation, or ticket to appear in court in a criminal proceeding against him. He also answered "No" to a question whether he had been arrested by any police officer, sheriff, marshal, or any other type of law enforcement official. An FBI Criminal History Report (GX 5) reflects the following arrests and their disposition:

- Arrest in March 2012 for assault and found not guilty;
- Arrest in June 2013 for destruction of property and violating a protective order, disposed of by *nolle prosequi*; and

- Arrest in July 2013 for assault on a family member and violating a protective order, disposed of by *nolle prosequi*.

The March 2012 arrest arose from an altercation on a golf course in which Applicant intervened to separate the parties. He learned that a complaint had been filed against him when the police stopped him for a stop-sign violation, discovered an outstanding warrant for his arrest, and took him to the police station where he was processed and released on his own recognizance. At his trial, he was found not guilty. (GX 2 at 9.)

The arrest in June 2013 occurred when his then estranged wife called the police after she learned that Applicant had visited the marital home while she was away. The July 2013 arrest occurred after Applicant and his estranged wife had an argument and she accused him of assaulting her. In both instances, Applicant appeared in court, his estranged wife failed to appear, and the prosecutor filed a *nolle prosequi*. (GX 2 at 9-10.)

Applicant testified that he did not disclose his arrests in his SCA because he was confused about the difference between arrests and convictions and the accusations on which they were based were false and did not result in convictions.⁴ He testified that he told an investigator about the arrests during the PSI and he disclosed the underlying details of each arrest. (Tr. 20-21, 66-67.) The summary of the PSI states, “Subject confirmed that in the last seven years he has not been issued a summons, citation, or ticket to appear in court in a criminal proceeding against him; has not been arrested by any police officer, sheriff, marshal or any other type of law enforcement official, and has not been charged, convicted, or sentenced of a crime in any court.” The summary also states that Applicant provided details about his arrests after he was confronted with his arrest record. (GX 2 at 9.)

Policies

“[N]o 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 applicants 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 § 2.

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, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An

⁴ Applicant also testified that he was given only two days to complete his SCA and did not have sufficient time to review his credit report and gather information. (Tr. 19.) However, the SOR does not allege a deliberate failure to disclose delinquent debts.

administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and 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 that 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 made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance 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. 15-01253 at 3 (App. Bd. Apr.20, 2016).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). An applicant also "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

Analysis

Guideline F, Financial Considerations

The security concern under this guideline 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. . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The debt alleged in SOR ¶ 1.i is included in the judgment alleged in SOR ¶ 1.d. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 (App. Bd. Sep. 21, 2005) at 3 (same debt alleged twice). Accordingly, I have resolved SOR ¶ 1.i in Applicant's favor.

Applicant's admissions, his testimony, and the documentary evidence submitted at the hearing establish the following disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts"); AG ¶ 19(b) ("unwillingness to satisfy debts regardless of the ability to do so"); AG ¶ 19(c) ("a history of not meeting financial obligations"); and AG ¶ 19(f) ("failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required").

The following mitigating conditions are potentially applicable:

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(c): the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(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

AG ¶ 20(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.

AG ¶ 20(a) is not established. Applicant's delinquent debts are numerous, recent, and were not incurred under circumstances making them unlikely to recur.

AG ¶ 20(b) is not fully established. Applicant's unemployment from May 2013 to February 2014, his ex-wife's fraudulent conduct by opening accounts in his name and without his knowledge, the theft and destruction of his motorcycle, and his marital breakup were conditions beyond his control. If, as Applicant testified, he received bad advice from his accountant about his obligation to timely file his tax returns, the bad tax advice also would be a condition largely beyond his control. However, he has not acted responsibly regarding some of his financial obligations. His child-support arrearage was resolved by involuntary seizure of his tax refunds. The judgment alleged in SOR ¶ 1.d was satisfied by involuntary garnishment. He claimed that the debt alleged in SOR 1.h was cancelled by the creditor, but he submitted no documentary evidence to support his claim.

AG ¶ 20(c) is not established. Applicant submitted no evidence of financial counseling.

AG ¶ 20(d) is established for the state tax debt alleged in SOR ¶ 1.c and medical debts alleged in SOR ¶¶ 1.k-1.m. It is not established for the other debts alleged in the SOR. The judgment alleged in SOR ¶ 1.d and the child-support arrearage alleged in SOR ¶ 1.e were resolved by involuntary collection methods that do not constitute a "good-faith effort" within the meaning of this mitigating condition. See ISCR Case No. 09-05700 (App. Bd. Feb. 24, 2011), citing ISCR Case No. 08-06058 (App. Bd. Sep. 21, 2009).

AG ¶ 20(e) is partially established. Applicant claimed that the debts alleged in SOR ¶¶ 1.c, 1.g, 1.j, and 1.p were fraudulently opened by his ex-wife, and he provided documentary evidence (AX R) to support his claim. Actual fraud, established by substantial evidence, may be mitigating in appropriate circumstances. ISCR Case No. 10-02803 at 6 (App. Bd. Mar. 19, 2012.)

AG ¶ 20(g) is established for the past-due federal income tax returns. Applicant submitted no documentary evidence that the past-due state income tax returns have been filed, but he presented evidence that his state tax liability has been satisfied. However, Applicant's eventual compliance with his federal and state income tax obligations does

not end the inquiry. A security clearance adjudication is not a tax-enforcement procedure. It is an evaluation of an individual's judgment, reliability, and trustworthiness. The fact that Applicant has filed his past-due returns "does not preclude careful consideration of Applicant's security worthiness based on longstanding prior behavior evidencing irresponsibility." ISCR Case No. 12-05053 (App. Bd. Oct. 30, 2014). Furthermore, the establishment of some mitigating evidence does not compel a favorable security-clearance decision. ISCR Case No. 11-14784 (App. Bd. Jan. 17, 2014).

In this case, Applicant's deliberate failure to file his income tax returns was intended to prevent collection of a child-support arrearage, and it covered four consecutive years. A person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. ISCR Case No. 15-00216 at 4 (App. Bd. Oct. 24, 2016), *citing Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961)

Guideline E, Personal Conduct

The concern under this guideline is set out in AG ¶ 15:

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. . . .

The relevant disqualifying condition is AG ¶ 16(a):

[D]eliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant "admitted" the allegations of falsifying his SCA in his answer to the SOR, but he denied that his responses were deliberately false. Instead, he claimed that he misunderstood the questions. At the hearing, he testified that he was confused about the difference between an arrest and a conviction, that the accusations on which his arrests were based were false, and that they did not result in convictions. I have construed his explanations as denying the allegations in SOR ¶¶ 2.a(i) through 2.a(iv).

When a falsification allegation is controverted, as in this case, the Government has the burden of proving it. An omission, standing alone, does not prove falsification. An administrative judge must consider the record evidence as a whole to determine an

applicant's state of mind at the time of the omission. See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004). An applicant's level of education and experience are relevant to determining whether a failure to disclose relevant information on a security clearance application was deliberate. ISCR Case No. 08-05637 (App. Bd. Sep. 9, 2010).

Applicant is a mature, well-educated adult. He has held a security clearance for about 20 years and is familiar with the security clearance process. He clearly remembered the details of his arrests during the PSI and at the hearing. He understandably believed that the arrests were unfair and unfounded. However, his explanation for not disclosing them in his SCA was not plausible or persuasive in light of his background and experience. I conclude that AG ¶ 16(a) is established.

The following mitigating conditions are potentially applicable:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

AG ¶ 17(b): the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully; and

AG ¶ 17(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.

AG ¶ 17(a) is not established. Applicant did not correct the omission until he was confronted with the evidence of his arrest record during the July 2016 PSI.

AG ¶ 17(c) is not established. Applicant's falsification was not "minor," because it undermined the integrity of the security clearance process. It was recent, and it did not occur under unique circumstances.

Whole-Person Concept

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. In applying the whole-person concept, an 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 and applying the adjudicative factors in AG ¶ 2(d).⁵

I have incorporated my comments under Guidelines F and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under Guidelines F and E, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his failures to timely file his federal and state tax returns, his delinquent debts, and his lack of candor when he submitted his SCA.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): **AGAINST APPLICANT**

Subparagraphs 1.a-1.b: **Against Applicant**

Subparagraph 1.c: **For Applicant**

Subparagraph 1.d: **Against Applicant**

Subparagraphs 1.e-1.g: **For Applicant**

Subparagraph 1.h: **Against Applicant**

Subparagraphs 1.i-1.p: **For Applicant**

Paragraph 2, Guideline E (Personal Conduct): **AGAINST APPLICANT**

Subparagraphs 2.a(i)-2.a(iv): **Against Applicant**

⁵ The factors are: (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.

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge