



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



In the matter of: )  
)  
) ISCR Case No. 17-02745  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Chris Morin, Esquire, Department Counsel  
For Applicant: *Pro se*

10/18/2018  
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**Decision**  
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RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline H, drug involvement, Guideline G, alcohol consumption, and Guideline E, personal conduct. Applicant's eligibility for access to classified information is denied.

**Statement of the Case**

On September 18, 2017, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline H, drug involvement, Guideline G, alcohol consumption, and Guideline E, personal conduct. The action was taken under Executive Order (EO) 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) effective within the DOD on June 8, 2017.

Applicant answered the SOR on March 1, 2018, and requested a hearing before an administrative judge. The case was assigned to me on May 14, 2018. The Defense

Office of Hearings and Appeals (DOHA) issued a notice of hearing on May 16, 2018. I convened the hearing as scheduled on July 26, 2018. The Government offered exhibits (GE) 1 through 3.<sup>1</sup> Applicant testified and offered Applicant Exhibits (AE) A and B. There were no objections to any exhibits, and they all were admitted into evidence. DOHA received the hearing transcript on August 6, 2018.

### **Request for Administrative Notice**

Department Counsel submitted Hearing Exhibit III, copies of sections from the U.S. Code and asked I take administrative notice of the laws. Applicant did not object, and I have taken administrative notice of the federal laws pertinent to the allegations in the SOR.

### **Findings of Fact**

Applicant admitted all of the allegations in the SOR, with explanations. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 31 years old. He earned a bachelor's degree in 2010. He has never been married and has no children. He was employed with a defense contractor in Afghanistan as a postal clerk from August 2011 to July 2012. He remained in Afghanistan and was employed by different defense contractor as an analyst from July 2012 to January 2013. He was unemployed until March 2015 when he worked in the corporate office of a large retail store until October 2016. He began working for his present employer, a federal contractor in October 2016. Applicant was granted an interim security clearance in July 2012 and a secret security clearance in August 2012.<sup>2</sup>

Applicant testified that when he returned from his job in Afghanistan, he was not interested in continuing employment with the federal government and did not think he would need a security clearance for future employment.<sup>3</sup>

Applicant used marijuana with varying frequency from December 2007 to 2013. He used it frequently during college and continued to use it occasionally after college from 2010 to 2013. Applicant used it one time while he was in Afghanistan in December 2012. He held a security clearance at the time. A coworker gave him the marijuana. He used it again with a friend in March 2013.<sup>4</sup>

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<sup>1</sup> Hearing Exhibit (HE) I is the exhibit list. HE II is the discovery letter.

<sup>2</sup> Tr. 10, 21-26; GE 2.

<sup>3</sup> Tr. 31.

<sup>4</sup> Tr. 26-28; GE 1, 2, 3.

Applicant admitted he purchased marijuana from July 2008 to August 2013. He testified that he purchased marijuana more frequently while in college from 2007 to 2010. He said that from 2010 to 2013, he purchased it one time for a friend around August 2013, because his friend did not know the drug dealer.<sup>5</sup>

Applicant sold marijuana from July 2008 to March 2010, with varying frequency. Applicant testified that he did not sell it for profit.<sup>6</sup>

Applicant used the banned hazardous product alkyl nitrates, also known as poppers, as a recreational product with varying frequency from March 2013 to August 2014. This product is not illegal to manufacture for sale, offer for sale, distribute in commerce or import for commercial purposes or any other purpose approved under the Federal Food, Drug, and Cosmetic Act. It is illegal if used for inhaling or otherwise introducing it into the human body for euphoric or physical effects.<sup>7</sup> Applicant testified he purchased it legally, but was aware that use of the substance by inhaling it was illegal. He estimated that over seven to eight months he used it 15 to 20 times. Applicant testified that he has moved and no longer associates with those who use drugs.<sup>8</sup>

Applicant submitted a written statement that says he does not intend to use, possess or distribute illegal drugs in the future. If granted a security clearance and he violates his promise he agrees that his security clearance may be revoked. His statement also said that he has disassociated himself from his former associates who used drugs and he is no longer part of any environment where illegal drugs are present.<sup>9</sup>

Applicant admitted that from January 2014 to September 2014, he drove a vehicle about 25 to 30 times while intoxicated. He testified that during this time, he would go out with the intention of having drinks with family and friends. He would consume three to four drinks during some of those times and would drive home. During this time period, he would drink to intoxication once a week. He admitted that from January 2014 to November 2014 he blacked out multiple times due to alcohol consumption. He believed one time was in March 2014, on his birthday, and another on July 4, 2014.<sup>10</sup>

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<sup>5</sup> Tr. 26-28, GE 1, 2, 3.

<sup>6</sup> Tr. 26-28; GE 1, 2, 3.

<sup>7</sup> HE III is a copy of 15 U.S. Code § 2057-Banned hazardous products; and 15 U.S. Code § 2057b-Banning of isopropyl nitrite and other nitrites.

<sup>8</sup> Tr. 28-30.

<sup>9</sup> Answer to the SOR.

<sup>10</sup> Tr. 31-34.

Applicant testified that he continues to consume alcohol, but limits himself to two to three drinks during the weekend. He estimated that he will drink alcohol about two to three weekends a month. Usually just one day on the weekend, but sometimes both days. He also testified that he is intoxicated about four to five times a year depending on the holiday or celebration. He understands the dangers of alcohol consumption and drug use. He stated that he previously drank hard liquor, but now mixes the liquor with ice. He no longer drives after consuming alcohol. He explained he was unemployed at the time he was consuming more alcohol and was going out with his friends. At the same time, he was also going through a security clearance process with another agency where he was seeking employment. He stated he was never stopped by the police or arrested after consuming alcohol.<sup>11</sup>

Applicant admitted that he participated in a check fraud scheme in 2007. He testified that he was in college and a friend introduced him to another man who offered Applicant a way to make money. The man would give Applicant a bogus check and then Applicant would deposit the check in Applicant's bank account. After the amount was made available by the bank, Applicant would withdraw the money from his account. He testified the check was for about \$2,400. Applicant received about \$500 to \$600 for his participation. Applicant stated in his answer to the SOR, that his participation in the scheme was "due to a lack of income as a full time student[,] whole school schedule did not permit for a job during that semester. The decision was also due to a lack of judgment."<sup>12</sup> Applicant said he only did this one time. Applicant testified that he was young and dumb, but was aware his conduct was illegal. Several people were eventually arrested and charged. Applicant completed government Interrogatories and swore to their accuracy in September 2017. He provided typewritten changes to the summary of the statements he made to the government investigator during his background interview. In his December 2016 follow-up interview, he told the investigator that he participated in the scheme on multiple occasions. He said he received a total of about \$700. Applicant did not change or correct this admission.<sup>13</sup>

While in college in 2007, Applicant worked part-time for a large retail store loading trucks. Boxes would be delivered. Applicant opened a box, took out an iPod from the shipping box, unwrapped it from its box, put it in his pocket, and walked out of the store with it. He continued to work for this employer for two or three more weeks. He testified that he did not have an explanation for stealing from his employer.<sup>14</sup>

Applicant admitted that while he was in college, he posted an online advertisement offering to have sexual contact for money or marijuana. His advertisement was answered. Applicant met the person at the person's house.

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<sup>11</sup> Tr. 34-43.

<sup>12</sup> Answer to SOR.

<sup>13</sup> Tr. 43-45; GE 2.

<sup>14</sup> Tr. 45-48.

Applicant testified that the person was high on cocaine, and Applicant did not feel comfortable, and there was no sexual contact. The person gave Applicant \$200 anyway, and Applicant left the house. Applicant testified he did this only one time and took the advertisement off the online site. His explanation for his actions was that he was trying to make money while in college.<sup>15</sup>

Applicant admitted that from approximately September 2011 to June 2012, while he was working as a postal clerk overseas on a military base for a defense contractor, he stole mail packages on multiple occasions. Applicant testified that on three to four occasions, he stole items or purchased them from others who stole them after they were illegally taken from the mail. One time he purchased a set of headphones stolen by a coworker from the mail. Applicant was aware they were stolen.<sup>16</sup>

The mail was to be delivered to military and civilian personnel who were deployed to the base. Applicant explained that some packages were damaged, and he could see the contents in them. In some cases, alcohol was being shipped. It was illegal to ship alcohol. He testified that on two occasions, a coworker sold him alcohol that had been confiscated from the boxes. The protocol was for the contraband to be turned over to the supervisor or to contact the military police. Applicant had no explanation for his conduct. He testified, "It was a General Rule No. 1, so there was no sex, no drugs, no alcohol allowed while in the military theater."<sup>17</sup> In his December 2016 re-interview, Applicant told the government investigator that at least once or twice per month while working in Afghanistan he would steal alcohol from packages that had been mailed to others. He could not recall how many bottles of alcohol he stole while he was in Afghanistan.<sup>18</sup>

Applicant completed a security clearance application (SCA) in September 2016. It required Applicant to disclose illegal drug use in the past seven years. Applicant disclosed his marijuana use from July 2008 to March 2010. He specifically stated "Used 3-4 times during college in social setting."<sup>19</sup> He did not disclose the extent of his marijuana use which was from December 2007 to August 2013. It also required he disclose other illegal drug activity. He disclosed he purchased marijuana from July 2008 to March 2010, stating "During my period of use while in college."<sup>20</sup> He did not disclose the full extent of his drug purchases from July 2008 to August 2013.<sup>21</sup>

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<sup>15</sup> Tr. 48-50, 98-101.

<sup>16</sup> Tr. 50-55, 94-96.

<sup>17</sup> Tr. 54.

<sup>18</sup> Tr. 50-55, 95-97.

<sup>19</sup> GE 1.

<sup>20</sup> GE 1.

<sup>21</sup> GE 1.

In the September 2016 SCA, Applicant answered “no” to a question asking whether he had ever illegally used or otherwise been involved with drugs or controlled substances while holding a security clearance. He failed to disclose he used illegal drugs in December 2012, after he was granted a security clearance. He also purchased marijuana for a friend in 2013.<sup>22</sup>

Applicant was interviewed by a government investigator in October 2016. When questioned, he told the investigator that he had never sold illegal drugs in his life. Applicant sold marijuana while in college from July 2008 to March 2010. He also told the investigator that he used and purchased marijuana from July 2008 until March 2010, when in fact he used it from December 2007 until the summer of 2013 and purchased it from July 2008 to the August 2013.<sup>23</sup>

Applicant denied he intentionally failed to disclose or falsified information on his SCA and during his October 2016 interview with a government investigator. He explained that he believed because he gave this information in previously completed SCAs and during his interview and polygraph examinations conducted by another government agency that this information would be made available by the agency to DOD. He also indicated that he did not take the time when he submitted the 2016 SCA to ensure that the information he disclosed on other SCAs that were provided to the other agency was now included on his new 2016 SCA. He said he was told by his security officer to update his SCA. He said he was in a hurry and was unaware that the 2016 SCA did not have the updated information from the other SCAs and information he had provided during different polygraphs. He said he did not review each section or the section on drugs and alcohol to see what information was included. He stated during his October 2016 interview he was not asked about specific dates, so he believed the relevant information was already disclosed. When asked why he did not disclose his drug use in Afghanistan during his polygraph he stated he was afraid to do so.<sup>24</sup>

Applicant testified that when his security manager told him to update his September 2016 SCA, he did not go through each section to ensure its accuracy. He did make changes to some sections. He signed the document certifying it was “true, complete, and correct.”<sup>25</sup>

I did not find Applicant’s explanations credible. A review of the report from Applicant’s interview with the investigator from the other government agency shows Applicant did not previously disclose some of the information that was alleged in the SOR until it was revealed during several polygraphs. I also note that his 2016 SCA only disclosed that he used marijuana three or four times from 2007 to 2010 while in college.

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<sup>22</sup> GE 1.

<sup>23</sup> GE 1, 2, 3.

<sup>24</sup> Tr. 55-80, 90-93.

<sup>25</sup> Tr. 88-90; GE 1.

The number of uses is significantly lower than what was later disclosed. I find Applicant intentionally falsified material facts on his September 2016 SCA and during his October 2016 interview with a government investigator.<sup>26</sup>

Applicant has not participated in alcohol or drug treatment. He testified he is a changed person and has learned a lot. He is more conscientious about the decisions he makes in his life. Applicant provided character letters as part of his Answer. In them he is described as impressive, professional, creative, intelligent, dedicated, personable, confident, capable, trustworthy, exceptional, and smart.<sup>27</sup>

## **Policies**

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 adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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 access to classified information will be resolved in favor of 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."

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<sup>26</sup> I have not considered any derogatory information for disqualifying purposes that was not alleged. I may consider the information when making a credibility determination, in the application of mitigating conditions, and in my whole-person analysis.

<sup>27</sup> Tr. 93-95, 103-104; Answer to SOR.

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.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I find the following 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 employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;



(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole. Supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information; and

(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.

There is sufficient evidence to conclude Applicant intentionally falsified material facts on his September 2016 SCA and during his October 2016 background interview with a government investigator.

Applicant was granted an interim security clearance in July 2012 and a secret security clearance in August 2012. Applicant used marijuana with varying frequency from December 2007 to August 2013. He used it in December 2012 while working in Afghanistan. He had a security clearance. He purchased marijuana with varying frequency from July 2008 to August 2013. He sold marijuana with varying frequency from July 2008 to March 2010. He illegally used a hazardous product, alkyl nitrate, from March 2013 to August 2014.

While working as a postal clerk on a military base in Afghanistan, Applicant stole items from the mail, including alcohol. While working for a retail employer in 2007, he stole an iPod. He participated in a fraudulent check scheme on multiple occasions in 2007. In 2008, he posted an online advertisement for paid sexual contact and although denies having sex, he did receive payment.

Applicant drove while intoxicated about 25-30 times from January 2014 to September 2014. He consumed alcohol to the point of intoxication on a weekly basis from January 2014 to September 2014. He blacked out from consuming alcohol on his birthday in March 2014 and on July 4, 2014. He continues to consume alcohol. The above disqualifying conditions apply.

After the Government produced substantial evidence of those disqualifying conditions, the burden shifted to Applicant prove mitigation. Five mitigating conditions under AG ¶ 17 are potentially applicable to the disqualifying security concerns based on the facts:

(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;

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

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

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

There is insufficient evidence that Applicant made prompt, good-faith efforts to correct his omissions or falsifications made when completing his SCA or statements made to investigators before being confronted with the facts.

Applicant has a pattern of misconduct that is not minor or infrequent. His drug involvement, alcohol consumption, and criminal conduct cast doubt on his reliability, trustworthiness, and good judgment. His willingness to commit criminal conduct to make money is a concern. There is no evidence that Applicant has participated in counseling to change his behavior. Applicant stole an iPod from his employer; was involved in a check cashing scheme where he made money; he solicited through online advertisement for paid sexual contact; and while working overseas he stole items from the mail. There is some evidence that he has moved to a new city and no longer associates with those with whom he used or purchased drugs from. Applicant's personal conduct shows he has questionable judgment, is dishonest, and is unwilling to follow rules and regulations. This conduct occurred over several years and is of the type that raises serious security concerns about his judgment, reliability and trustworthiness. AG ¶¶ 17(e) and 17(g) have some application. None of the other mitigating conditions apply.

### **Guideline G: Alcohol Consumption**

AG ¶ 21 expresses the security concern for alcohol consumption:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

AG ¶ 22 describes conditions that could raise a security concern and may be disqualifying. I find the following to be potentially applicable:

- (a) alcohol-related incidents away from work, such as driving under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder; and
- (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

Applicant drove a vehicle while intoxicated 25-30 times from January 2014 to September 2014. He consumed alcohol to the point of intoxication on a weekly basis from January 2014 to September 2014. He blacked out from alcohol consumption in March and July 2014. The evidence supports the application of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from alcohol consumption. I have considered the following mitigating conditions under AG ¶ 23:

- (a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment; and
- (b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant acknowledged his alcohol consumption. He testified that he continues to consume alcohol, but does so responsibly. He stated he no longer drinks and drives. He limits his drinking to the weekends, and he limits the number of drinks he consumes. It appears some of his excessive drinking was during a period of unemployment in 2014. Applicant's behavior was not infrequent, but it was several years ago. His acknowledgment that he would drink and drive on numerous occasions casts doubt on his judgment. Applicant continues to consume alcohol. I cannot find that his behavior is unlikely to recur. AG ¶¶ 23(a) and 23(b) have some application. Although, there is some mitigation, Applicant's decision-making continues to cast doubt on his reliability, trustworthiness and judgment.

## **Guideline H: Drug Involvement and Substance Misuse**

The security concern relating to the guideline for drug involvement and substance misuse is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 25 provides conditions that could raise security concerns. The following is potentially applicable:

- (a) any substance misuse;
- (c) illegal possession of a controlled substance, including cultivation, process, manufacturing, purchase, sale, or distribution; or possession of drug paraphernalia; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

Applicant used marijuana from 2007 to 2013. He purchased marijuana from 2008 to 2013. He had a security clearance in July 2012 and used marijuana in December 2012 while in Afghanistan. He sold marijuana from 2008 to 2010. He used alkyl nitrates by inhaling it from March 2013 to August 2014. The above disqualifying conditions apply.

The guideline also includes conditions that could mitigate security concerns under the drug involvement guideline. The following mitigating conditions under AG ¶ 26 are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and
- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions to overcome the problem, and has established a pattern of abstinence, including, but not limited to: (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were being used; and (3)

providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

Applicant provided a written statement that he does not intend to use illegal drugs in the future. He has moved and no longer associates with those who use or sell drugs. He has not used illegal drugs since 2013. It has been several years since Applicant has been involved with illegal drugs. AG ¶ 26(b) applies. The frequency and circumstances around Applicant's use, purchase, and sale of illegal drugs were not unusual. His repeated conduct, especially while holding a security clearance, casts doubt on his judgment, reliability, and trustworthiness. Although, Applicant credibly testified that illegal drugs are no longer part of his life, and the above mitigating conditions have some application, it is insufficient to mitigate the security concerns raised.

### **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(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I 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 E, G and H in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant is a 31-year-old college graduate. He was a frequent drug user in college and at times afterwards. He also consumed alcohol to excess for a period. The evidence supports that Applicant is living a more responsible lifestyle where alcohol and drugs are concerned. However, his past behavior continues to raise concerns about his judgment, reliability, and trustworthiness. Applicant also failed to be honest when disclosing this conduct during the security clearance process. Applicant's past conduct

of stealing from his employer; using marijuana while holding a security clearance; participating in a fraudulent check scheme; advertising to sell sexual contact for money; and stealing items from the mail are serious issues that also raise questions about Applicant's judgment, reliability, trustworthiness, and willingness to follow rules and regulations. Applicant has a long history of criminal conduct. Overall, the record evidence leaves me with serious questions and doubts about Applicant's eligibility and suitability for a security clearance. Applicant has not mitigated the alcohol consumption, drug involvement and personal conduct security concerns.

### **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 H:	AGAINST APPLICANT
Subparagraphs 1.a-1.e:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a-2.c:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a-3.j:	Against Applicant

### **Conclusion**

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

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Carol G. Ricciardello  
Administrative Judge