



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



In the matter of: )  
)  
) ISCR Case No. 14-03621  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Eric H. Borgstrom, Esq., Department Counsel  
For Applicant: *Pro se*

02/29/2016

**Decision**

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant has a record of criminal offenses from January 1998 to June 2014 that casts serious doubt about whether he can be relied on to comply with rules and regulations regarding the handling of classified information. Clearance is denied.

**Statement of the Case**

On March 28, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline J (Criminal Conduct) and Guideline E (Personal Conduct), and explaining why it was unable to find that it is clearly consistent with the national interest to grant him security clearance eligibility. The DOD CAF took the action under Executive Order 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 September 1, 2006.

Applicant responded to the SOR allegations on April 24, 2015, and he requested a decision on the written record without a hearing. Department Counsel requested a hearing

before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). (Tr. 14-16.) On July 23, 2015, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. I scheduled the hearing for August 20, 2015.

I convened the hearing as scheduled. Seventeen Government Exhibits (GEs 1-17) and four Applicant Exhibits (AEs A-D) were admitted without any objections. Applicant testified, as reflected in a transcript (Tr.) received on August 28, 2015.

I held the record open until September 18, 2015, for Applicant to supplement the record. The deadline passed without any submissions, so the record closed on September 18, 2015.

### **Summary of SOR Allegations**

The SOR alleges under Guideline J and cross-alleges under Guideline E a history of criminal conduct by Applicant between January 1998 and June 2012 involving driving after suspension (SOR ¶¶ 1.a-1.b, 1.e-1.g), larceny or theft (SOR ¶¶ 1.c, 1.h-1.i), possession of marijuana (SOR ¶ 1.i), and domestic assault (SOR ¶ 1.m). The SOR also alleges under Guidelines J and E an arrest in June 2010 on a warrant (SOR ¶ 1.d). Applicant admitted the allegations, but he also indicated that “these foolish mistakes of [his] ignorant troubled youth” would never compromise his pride for his job or the country.

### **Findings of Fact**

Applicant’s admissions to the alleged criminal charges and their dispositions are accepted and incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings.

Applicant is 36 years old. He earned his high school equivalency certification in 1998. He has been married since June 2005, and he and his spouse have two children ages 5 and 8. Applicant also has a six-year-old daughter from another relationship and a 19-year-old stepson. His daughter has always lived with her mother while Applicant’s stepson lived in Applicant’s home from approximately 2005 to 2010. Applicant had an inconsistent work history before his present employment. Except for some part-time work from April 2011 to August 2011, and seasonal work from March 2012 to August 2012, Applicant was unemployed from June 2009 until he started his present employment with a defense contractor in June 2013. (GEs 1, 17; Tr. 52-54.)

Applicant has a long record of criminal involvement starting from his senior year of high school. In late January 1998, Applicant kicked in the door to his mother’s bedroom during an argument with her. On February 10, 1998, he pleaded nolo contendere to misdemeanor charges of simple assault (domestic) and malicious destruction of property (SOR ¶ 1.m). He was placed on one year of probation, and ordered to attend counseling and pay restitution and court costs. (GEs 2, 3.) He subsequently violated the conditions of his probation for assault and was sentenced to 90 days in jail. (GE 3; Tr. 55-56.)

In June 1999, Applicant pleaded nolo contendere to possessing alcoholic beverage as a minor. He was fined and ordered to pay court costs. (GE 4.) In late August 1999, Applicant was charged with driving a motor vehicle while his license was suspended. He pleaded nolo contendere in mid-September 1999 and was ordered to pay a fine and court costs. The court costs were not satisfied until February 2001. (GE 5.) He was charged in February 2001 with violating his 1998 probation for the simple assault when he drove his vehicle on a suspended license. (Tr. 31.) Applicant pleaded nolo contendere and was found to have violated his probation. (GE 6.)

In July 2003, Applicant was charged with felony possession of a stolen motor vehicle or parts, and with misdemeanor possession of marijuana, first offense (SOR ¶ 1.1). Applicant took a friend's car without his friend's knowledge or permission and drove to a restaurant. Applicant was stopped on a report of a stolen car, and the police found marijuana in the vehicle. In mid-December 2003, Applicant pleaded nolo contendere to both charges. He was sentenced to four years of probation and to pay restitution for felony possession of a stolen motor vehicle. On the marijuana charge, he was sentenced to one year in jail, suspended; to one year of probation; to 50 hours of community service; and to obtain alcohol counseling.<sup>1</sup> (GEs 2, 7, 8, 17; Tr. 57-58.) Applicant later spent five months in jail for violating the terms of his probation for the felony vehicle theft. (GE 8; Tr. 77.)

In September 2004, while Applicant was on probation for the felony possession of a motor vehicle, he had an argument with his then girlfriend after they had been out drinking with some friends. After harassing his girlfriend at her apartment, he drove off with her purse. (Tr. 59-60.) He was charged with one count each of criminal trespass, theft by unlawful taking, theft by deception, receiving stolen property, forgery, and issuing bad checks, and with two counts of harassment (SOR ¶ 1.k). (GE 2.) Applicant does not deny harassing his ex-girlfriend on that occasion, although he believes "she just took it a little far." Applicant does not recall what led to the forgery or bad check charges. (Tr. 58-60.) Applicant and his ex-girlfriend terminated their relationship, and he left the area shortly after the incident. He has never checked to see if there are still charges against him in that jurisdiction. (Tr. 59.) He told an authorized investigator for the Office of Personnel Management (OPM) in June 2013 that he paid a fine and was released. (GE 17.)

In early February 2005, Applicant found a wallet in the locker room of a gym where he was playing basketball. He stole the cash and used the credit cards. (Tr. 61-62.) On March 7, 2005, he was charged in district court with one count of misdemeanor larceny (SOR ¶ 1.i). He pleaded nolo contendere to the charge on March 18, 2005, and he was

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<sup>1</sup> Applicant has provided discrepant accounts as to whether the marijuana belonged to him. He told an OPM investigator in June 2013 that it was not his marijuana. (GE 17.) At his security clearance hearing, he initially testified that the marijuana belonged to him. (Tr. 57.) When asked about the discrepancy, Applicant responded, "It's in the vehicle. I've never been much of a marijuana smoker. I took responsibility for it. It's my charge." (Tr. 61.) He admitted to the OPM investigator that he smoked marijuana every two weeks from 1994 to November 2005. (GE 17.) He now admits to smoking marijuana occasionally until 2008. (Tr. 79.) While the Government did not allege drug involvement as an issue of security concern apart from the marijuana possession charge, Applicant's use of marijuana after his arrest reflects ongoing disregard for the drug laws after his arrest.

sentenced to one year in jail, suspended, and placed on one year of probation. He was also ordered to pay restitution and court costs. (GE 10.) On March 21, 2005, Applicant was charged in superior court with three felony counts of fraudulent use of a credit card and with one misdemeanor count of larceny (SOR ¶ 1.h). He pleaded nolo contendere in superior court to all four counts. He was sentenced to three years in jail on one count of fraudulent use of a credit card, to serve 90 days with credit for time served, and placed on probation for 33 months. He was also ordered to perform 100 hours of community service, to attend substance abuse counseling, and to pay restitution. On each of the remaining charges, he was sentenced to one year in jail, suspended, placed on one year of probation, and ordered to pay restitution. (GEs 2, 11, 17.) His February 2005 criminal conduct was in violation of his probation for the July 2003 motor vehicle theft.

In late October 2005, Applicant was charged with one count each of driving after his license had been suspended, reckless driving/eluding police, first offense, and obstructing an officer in the execution of duty (SOR ¶ 1.g). (GEs 2, 12.) According to Applicant, his license was suspended for financial reasons in that he failed to maintain a "SR-22" on his insurance (i.e., pay a financial responsibility fee required after a car accident in 1999). Applicant surmises that the eluding and obstructing the police charges stem from the fact that he turned a corner and pulled into a parking lot before stopping for the police. (Tr. 63-65.) Applicant pleaded nolo contendere to the charges on February 9, 2006. He was fined for driving with a suspended license and reckless driving. For obstructing a police officer, he was given six months of probation. (GE 12.)

Applicant was charged on February 22, 2010, May 3, 2010, and April 14, 2011, with misdemeanor driving with a suspended license (SOR ¶¶ 1.f, 1.e, 1.b), for failure to maintain the financial responsibility coverage on his insurance. He pleaded nolo contendere to each offense, although not to the May 2010 and April 2011 charges until June 18, 2014, after warrants had been issued against him (SOR ¶ 1.d for the May 2010 offense) for failure to appear. Applicant was fined for each offense, but he did not lose his license. (GEs 2, 14, 15, 17; Tr. 67-68, 98-99.) As of June 2015, Applicant owed balances of \$487 for the February 2010 charge (GE 13), \$467 for the May 2010 charge (GE 14), and \$589 for the April 2011 charge (GE 15).

On June 24, 2010, Applicant was arrested and charged with one count each of larceny, credit card theft, credit card fraud, and auto teller fraud (SOR ¶ 1.c). (GE 2.) Applicant admits that he illegally used a debit card belonging to the mother of his six-year-old daughter. He has no explanation for his behavior other than he did not have a job that he enjoyed which could provide a future for his family. (Tr. 69-70.)

While driving home from work in June 2012, Applicant was stopped for speeding. He was arrested for driving with a suspended license (SOR ¶ 1.a) for failure to maintain the SR-22. He posted bail after spending a night in jail. Applicant's license was reinstated before his court appearance, and the charge was dismissed with no fines or court costs assessed. (GEs 1, 17.)

On June 12, 2013, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP) for his defense contractor employment. In response to the police record inquiries, Applicant listed his then most recent driving on a suspended license charge in June 2012, which he indicated was dismissed; the 2003 felony possession of a stolen motor vehicle and misdemeanor marijuana possession charges, for which he was on probation from December 2003 to December 2007; and the 2005 felony fraudulent use of credit card and misdemeanor larceny charges, for which he was incarcerated between March 2005 and May 2005 and served probation through January 2008. Applicant responded negatively to whether he had used any illegal drug in the last seven years. (GE 1.)

On June 24, 2013, Applicant was interviewed by an OPM investigator. He provided details about his police record, including the 1998 simple assault that occurred beyond the seven-year scope of the e-QIP inquiry. Applicant claimed no recall of the June 2010 larceny and auto teller fraud offense or the September 2004 theft and receiving stolen property charges involving his ex-girlfriend. Applicant explained that when he was young, he “did stupid stuff.” Applicant expressed intent of no future involvement in criminal activity. (GE 17.)

Applicant and his spouse rented a new computer game system for her son as a Christmas gift in January 2013. He was unemployed at the time, and they fell behind in their \$79 monthly payments. (Tr. 93.) Applicant was given an option to make payments or return the game system. Applicant chose not to return the game system. He did not want to take a gift back from his stepson. (Tr. 73-74, 83.) Applicant claims that personnel from the rental company came to his house and threatened him, but then gave him another month to make a payment. It became personal for him, and he reacted stubbornly. (Tr. 85.) On June 27, 2014, he was charged with one count of selling/concealing leased personal property. He pleaded nolo contendere to the charge on October 1, 2014. He was sentenced to one year in jail, suspended, placed on probation for one year, and ordered to pay restitution and court costs. He made a payment on December 4, 2014, but a bench warrant was issued on February 24, 2015, for failure to appear on January 30, 2015. (GE 16.) He was at work and could not make the court date. (Tr. 95-96.) Applicant resumed payments in April 2015. He paid \$160 around July 2015 and \$30 in early August 2015. (Tr. 74-75.) When Applicant chose not to return the game system, he did not consider the risk to his employment. (Tr. 82.)

Applicant regrets his criminal conduct. He understands that it is relatively recent, but he intends to put it behind him and move forward. (Tr. 92.) He views his present job as the best job he has ever had. (Tr. 81.)

## **Character References**

Applicant has been a team leader at work since January 2014. (Tr. 90-91.) The operations manager of the department attests to Applicant’s good work ethic and dedication over the past two years. (AE A.) Applicant also presented character references from three friends. A former Marine, who has known Applicant since high school, considers

Applicant to be responsible and mature. (AE B.) This friend and his spouse (AE C) have benefitted personally from Applicant's generosity with his time. Applicant helped the couple with a long distance move when their son was in the emergency room. Another friend, who has known Applicant for six years, had found Applicant to be "reliable, responsible, hardworking, and honest." In his opinion, Applicant is driven to provide for his family. (AE D.)

It is unclear to what extent, if any, these character references know about Applicant's criminal record. About his June 2014 arrest, which occurred about a year into his defense contractor employment, Applicant testified that he notified his security department after he was sentenced to probation for the offense. He admitted that his direct supervisor does not know about his criminal record, although he testified that he would inform his supervisor if asked. (Tr. 78-79.) He has not informed his operations manager about his criminal record history. (Tr. 91.)

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall 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. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government

reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to 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 J, Criminal Conduct**

The security concern about criminal conduct is articulated in AG ¶ 31:

Criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules and regulations.

The criminal conduct concerns are well established by Applicant’s record of criminal offenses. His January 1998 simple assault can be attributed to youthful poor judgment, but he violated his probation in August 1998 by driving on a suspended license. His criminal conduct includes serious felony theft of a motor vehicle and felony fraudulent use of credit cards. While he was on probation for the July 2003 theft of a motor vehicle, he was charged with theft of his ex-girlfriend’s purse in September 2004. In February 2005, he stole a person’s wallet from a gym locker room, and he fraudulently used the credit cards. He served five months in jail at one point for violating his probation. In June 2010, he was arrested for credit card theft and auto teller fraud. He admits that he used a debit card belonging to the mother of his daughter without her authorization. Applicant has four misdemeanor convictions on his record for driving a motor vehicle on a suspended license between October 2005 and April 2011. He continued to drive on occasion when his license was suspended, as evidenced by his latest arrest on the charge in June 2012. Three disqualifying conditions under AG ¶ 31 are established by Applicant’s record of criminal conduct between January 1998 and June 2012:

- (a) a single serious crime or multiple lesser offenses;
  
- (c) allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted, or convicted; and
  
- (e) violation of parole or probation, for failure to complete a court-mandated rehabilitation program.

The evidence includes additional instances of criminal conduct not alleged in the SOR. He was caught operating a motor vehicle while his license was suspended in August

1998 and in February 2001. As of August 2015, Applicant was on probation for concealing leased personal property when he failed to return or make his rental payments for a computer game system in 2014. Offenses not alleged in the SOR cannot provide separate bases for disqualification, but they may be considered for other purposes.<sup>2</sup> To the extent that AG ¶ 31(d), “individual is currently on parole or probation,” may be considered in light of Applicant’s probationary status as of his August 2015 security clearance hearing, the June 2014 concealment of leased property is primarily relevant to assessing Applicant’s reform. The June 2014 misdemeanor charge is relatively recent. Furthermore, court records show that as of June 2015, Applicant still owed \$1,543 in court costs for the February 2010, May 2010, and April 2011 offenses involving driving a motor vehicle while his license was suspended. Considering Applicant’s long history of criminal conduct, it is simply too soon to conclude that future criminal conduct is unlikely to recur. I am unable to apply mitigating conditions AG ¶ 32(a) or AG ¶ 32(d), which provide as follows:

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

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

Applicant’s good work record with his current employer is some evidence of rehabilitation under AG ¶ 32(d), but it is not enough to mitigate the security concerns raised by his pattern of criminal conduct.

### **Guideline E, Personal Conduct**

The security concerns about personal conduct are articulated 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 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.

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<sup>2</sup> The DOHA Appeal Board has long held that the administrative judge may consider non-alleged conduct to assess an applicant’s credibility; to evaluate an applicant’s evidence of extenuation, mitigation, or changed circumstances; to consider whether an applicant has demonstrated successful rehabilitation; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for a whole person analysis under Section 6.3 of the Directive. See, e.g., ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012).

Applicant's criminal offenses were cross-alleged under Guideline E SOR ¶ 2.a.<sup>3</sup> The DOHA Appeal Board has held that security-related conduct can be alleged under more than one guideline, and in an appropriate case, be given independent weight under each. See ISCR Case No. 11-06672 (App. Bd. Jul. 2, 2012). Applicant's theft of financial assets through the illegal use of another person's credit or debit cards in September 2004, February 2005, and June 2010 raises serious doubts about his judgment generally under AG ¶ 15. His multiple theft offenses and recidivist driving on a suspended license establish "a pattern of dishonesty or rule violations" contemplated within AG ¶ 16(d), which provides:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of:

(3) a pattern of dishonesty or rule violations.

However, AG ¶ 16(d) does not strictly apply because his criminal behavior is already covered under Guideline J.

There is no evidence that his criminal record is known to his operations manager or his direct supervisor. AG ¶ 16(e) is implicated where the personal conduct raises issues of vulnerability:

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing.

In mitigation of vulnerability concerns, Applicant disclosed his felony offenses on his June 2013 e-QIP, and he provided details about his criminal conduct during his interview with the OPM investigator. His un rebutted testimony is that he informed security officials about his June 2014 concealment of personal property. AG ¶ 17(e), "the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress," applies in that his criminal record is not likely to be a source of potential blackmail or other types of manipulation or coercion.

Applicant exercised poor judgment for more than ten years so as to remove AG ¶ 17(c) from serious consideration. AG ¶ 17(c) provides:

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<sup>3</sup> The evidence shows that Applicant responded negatively on his e-QIP to whether he had used any illegal drug, including marijuana in the last seven years, when he had in fact used marijuana as recently as November 2008. The SOR does not allege falsification as a basis for disqualification, however.

(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.

Applicant expressed regret for his criminal behavior. His dedication to his work with a defense contractor is objective evidence of a positive change in his conduct. AG ¶ 17(d) applies, but only in part:

(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 caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

While Applicant understandably did not want to take the computer game system from his stepson, he had an option. In lieu of returning the system, Applicant could have made payments, which he should have been able to afford after he started working for a defense contractor in June 2013. He acted unreasonably out of stubbornness, even when faced with threats of a criminal complaint that was eventually filed in June 2014. Even assuming Applicant completed his probation successfully for that offense, he had yet to satisfy in full court costs from driving on a suspended license offenses committed more than five years ago. His reform of the personal conduct concerns is incomplete.

### **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 his conduct and all relevant circumstances in light of the nine adjudicative process factors listed at AG ¶ 2(a).<sup>4</sup> In making the overall commonsense determination required under AG ¶ 2(c), I have to consider Applicant's more than 14 year pattern of criminal conduct. His recidivist driving on a suspended license was because he could not afford to maintain financial responsibility coverage on his insurance. Even so, his probation violations make it especially difficult to find that he possesses the good judgment, trustworthiness, and reliability required of persons entrusted with sensitive and classified matters. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9<sup>th</sup> Cir. 1990.). For the reasons noted above,

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<sup>4</sup>The factors under AG ¶ 2(a) are as follows:

(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.

based on the facts before me and the adjudicative guidelines that I am required to consider, I am unable to conclude that it is clearly consistent with the national interest to grant or continue security clearance eligibility for Applicant.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline J:           AGAINST APPLICANT

    Subparagraphs 1.a-1.m:   Against Applicant

Paragraph 2, Guideline E:       AGAINST APPLICANT

    Subparagraph 2.a:         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 eligibility for a security clearance. Eligibility for access to classified information is denied.

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Elizabeth M. Matchinski  
Administrative Judge