



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



## **Appearances**

For Government: William H. Miller, Esq., Department Counsel  
For Applicant: *Pro se*

06/05/2025

## Decision

HALE, Charles C., Administrative Judge:

This case involves security concerns raised under Guidelines H (Drug Involvement and Substance Misuse), I (Psychological Conditions), J (Criminal Conduct), D (Sexual Behavior), and B (Foreign Influence). Eligibility for access to classified information is denied.

## **Statement of the Case**

Applicant submitted a security clearance application (SCA) on April 4, 2023. On December 27, 2024, the Department of Defense (DoD) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines H, I, J, D, and B. The DoD 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 Security Executive Agent Directive 4, National Security Adjudicative Guidelines (AG) (December 10, 2016).

Applicant answered the SOR on February 2, 2025, and requested a decision on the written record without a hearing. Department Counsel submitted the Government's written case on February 25, 2025. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He received the FORM on March 7, 2025, and did not respond. The case was assigned to me on May 7, 2025.

The SOR (Item 1) and the Answer (Item 2) are the pleadings in the case. FORM Items 3-7 are admitted into evidence without objection. Form Items 8-10 are requests for administrative notice of DSM V excerpts related to Major Depressive Disorder, Generalized Anxiety Disorder, Post Traumatic Stress Disorder, and Adjustment Disorder; of facts related to the country of Taiwan, dated February 25, 2025; and of facts related to the country of China, dated February 29, 2025, respectively. These requests for administrative notice are granted.

### **Findings of Fact**

In Applicant's answer to the SOR, he admitted to all of the allegations in detail with the exception of SOR ¶¶ 2.c, 3.b, and 5.b. His admissions are incorporated in my findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact.

Applicant is 33 years old. He earned his bachelor's degree in 2014 and his master's degree in 2020. He has been working on various projects but lists himself as unemployed basically since 2010. He is not married and has no children. He has never held a security clearance.

### **Guideline H**

In Applicant's SCA he explained that the suicide of his closest friend due to drug use in 2021 had him "re-orientate" the direction of his life. However, he admitted in a later security interview that he had used illicit drugs after her death. He stated in his Answer that this use was a one-time event, which occurred after a year of living a drug free life. He did mushrooms and marijuana in one day in August 2022 but instantly regretted the decision and has no interest in returning to drugs.

Applicant admitted his use of a range of drugs alleged in SOR ¶¶ 1.a - 1.j (inhalant amyl nitrate (poppers) September 2010 - March 2023; marijuana from May 2011 - August 2022, Ketamine from August 2013 - January 2021; MDMA (ecstasy) August 2013 - January 2020; GHB (roofies) August 2013 - January 2020; methamphetamine (crystal meth) December 2014 - August 2017; prescription medication Xanax in May 2017; LSD from December 2019 - August 2021; psilocybin (mushrooms) from December 2019 - August 2022, cocaine in January 2020). Applicant also admitted, as alleged in SOR ¶¶ 1.k - 1.m, that he purchased several of these drugs on various occasions (marijuana from

May 2011 - July 2021; MDMA from June 2014 - June 2015; and LSD from December 2019 - August 2020). (Answer; Items 3-7.)

### **Guideline I**

Applicant admitted SOR ¶¶ 2.a and 2.b, that he had been diagnosed with Major Depressive Disorder (MDD) and Generalized Anxiety Disorder (GAD) in 2017 and that he was voluntarily hospitalized in 2021, which resulted in diagnoses of MDD and GAD, as well as Post Traumatic Stress Disorder (PTSD). (Answer; Items 4-7.)

Applicant denies SOR ¶ 2.c, which alleges:

Based on your interview, available records, and Personality Assessment Inventory test, you were diagnosed with Posttraumatic Stress Disorder, unspecified and Adjustment Disorder with anxiety. The psychologist noted that you have not been involved in any type of mental health treatment since 2017, despite recommendation. The psychologist stated your poor decision making seems to predate the confirmed presence of your mental health conditions. The psychologist stated your past judgment regarding substance use is concerning due to the sheer number of substances you used and your long period of use. Additionally, your naivete and questionable insight regarding your past behavior is concerning, specifically your willingness to engage in criminal sexual behavior because you felt flattered, which raises the question of being susceptible to manipulation. The psychologist opined due to the question of your judgment; your prognosis is guarded to poor.

SOR ¶ 2.c is based on a 2024 evaluation by a licensed psychologist that was ordered as part of the security clearance application process. Consistent with Applicant's conduct throughout the security clearance application process the psychologist found him to be "very honest in admitting to problematic behavior in the past" and he did not present as deceptive or manipulative regarding his history." However, the psychologist concluded that "his pattern of judgment remains a sticking point for granting a clearance." The psychologist did find improvement since Appellant experienced personal trauma but questioned Appellant's judgment and strength of character "at this time." While the psychologist noted a number of favorable steps Appellant had taken, the psychologist noted Appellant had "not returned to mental health treatment despite recommendation" and concluded his prognosis is guarded to poor without treatment. With the addition of treatment, such as individual counseling, the psychologist indicated the prognosis would improve and if that were to occur, his fitness for holding a security clearance could be reevaluated and determined at the discretion of his potential employer. (Item 6.)

In his denial Applicant did acknowledge that he had met with a licensed psychologist in July 2024. In response to the evaluation, he stated:

I have not experienced symptoms of Posttraumatic Stress Disorder since 2017, nor have I ever had anyone express concerns that I might suffer from Adjustment Disorder. Furthermore, my anxiety levels are no more or less than the average person. In the past, I did not have coping techniques for anxiety, but I have since learned a handful of coping mechanisms that helped me be cognizant of when I am feeling anxiety and properly deal with these emotions. These mechanisms include ground techniques, breathing exercises, and mindfulness. I do admit that I have not been in mental health treatment since 2017. (Answer)

## **Guidelines J & D**

SOR ¶ 3.a cross-alleges Applicant's admitted conduct discussed above in SOR ¶¶ 1.b. through 1.m. Consistent with his August 2023 interview, he notes in his Answer that the passing of his closest friend changed his perspective on life and made him re-evaluate the direction of his own life. He cited one important takeaway was cultivating "good healthy habits and stripping away the ones that do not serve [his] long-term goals." He affirmed he no longer associates with people who partake in drugs, and he avoids environments where drug usage occurs. (Answer; Item 4.)

Applicant denies SOR ¶ 3.b, that he engaged in insurance fraud by falsely using the insurance policy of another person for a medical procedure. He denied the allegation because he did not know if any insurance fraud took place. He acknowledged to an investigator in an interview that he used his father's name to obtain the medical procedure because he did not have medical insurance at the time. Applicant and his father have the same name, and the doctor and his father knew each other. (Item 4.)

Applicant admitted SOR ¶ 3.c and SOR ¶ 4.a, that from 2013 until January 2022, he engaged in sex for monetary payments. He engaged in this conduct while living in China and in multiple states in the United States. He notes in his Answer it has been over three years since he last had sex for money and that he has no desire to do so again. He states this behavior "no longer suits the person that [he is] now nor want[s] to be in the future." He recognizes these actions could have potentially put him in dangerous situations, and he does not wish to endanger himself in the future. He provided his financial statements to show he does not have to rely on sex for monetary payments any longer. (Answer; Items 4-5.)

## **Guideline B**

Applicant admits SOR ¶ 5.a, that he has friends who are citizens of Taiwan. In his Answer he states he understands that relationships with foreigners must be handled carefully. He argues that his "relationships with Taiwanese nationals are not very strong" on the basis that their communication is infrequent and has dropped significantly after he "greatly limited [his] Instagram usage about a year ago." He notes he has not been in Taiwan for almost a decade and as a result his relationships with Taiwanese nationals

has “thus diminished.” He admitted that, while in Taiwan between 2014 and 2015, he used and purchased MDMA (ecstasy), SOR ¶ 5.c. He states almost all his memories, and all of his strongest friendships and family members reside in the United States.

Applicant denied SOR ¶ 5.b on the basis he was only in China during the summer of 2013, not “between 2013 and 2014” as alleged. He affirmed he did engage in sex for monetary payments while in China. He states this conduct will not occur again because he has no desire to engage in sex for monetary payments. He notes he has not returned to China since August 2013 and that he has not maintained any relationships with Chinese nationals.

### **Whole person**

In addition to his candid answers to the SOR, Applicant offered financial statements and his grades. These documents support his argument he no longer had a financial need to engage in sex for money and that he was focused on academics as evidenced by his outstanding grades in his master of arts degree program. With his Answer he also provided a handwritten statement of intent to no longer purchase or use drugs again; not engage in sex for monetary payment; an assurance that he would handle his relationships with foreign nationals to preserve the security of the United States; and a promise to return to therapy if it is deemed in the interest of national security. The handwritten statement of intent does not formally acknowledge that any future involvement or misuse is grounds for revocation of national security eligibility. Applicant did not respond to the FORM, so he did not provide any updated evidence to be considered in mitigation.

The psychologist in the 2024 evaluation noted Applicant was very honest in admitting to problematic behavior in the past, and that he did not present as deceptive or manipulative regarding his history. The psychologist lauded his dedication to his studies and his progress in his decision making, such as ceasing substance abuse, cutting ties with those who were causing conflicts in his life, and using healthy coping skills. (Item 6.)

### **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 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 "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 H, Drug Involvement and Substance Misuse**

The concern under this guideline 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. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

Applicant's admissions and the record establish the following disqualifying conditions under this guideline, as detailed in AG ¶ 25:

- (a) any substance misuse (see above definition); and
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

Applicant admitted using and purchasing the drugs listed in SOR ¶¶ 1.a - 1.m. AG ¶¶ 25(a) and (c) apply.

The following mitigating conditions under AG ¶ 26 are potentially applicable to SOR ¶¶ 1.a - 1.m:

- (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 taken to overcome this 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 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.

AG ¶ 26(a) is not established. Applicant's drug use started in 2010 and ended in 2023. While some drugs such as cocaine and prescription Xanax were used for limited periods, his use of marijuana (11 years), Ketamine (7 years), MDMA (7 years), GBH (7 years), methamphetamine (6 years), LSD (2 years), and mushrooms (2 years) spanned multiple years. After a year of being drug-free, he used marijuana and mushrooms in

August 2022. Given Applicant's lengthy history of drug involvement, insufficient time has passed concerning his actions. His illegal drug use continues to cast doubt on his reliability, trustworthiness, and good judgment.

AG ¶ 26(b) does not fully apply. Applicant states he has matured and regrets his previous drug use. He has had only one relapse, which occurred in August 2022. He no longer associates with the individuals with whom he used drugs. He wants a career and a stable future. He drafted and signed a statement swearing to his intent to abstain from all drug involvement and substance misuse and to always put the security of the nation first. However, given his long history of drug use, the pattern of abstinence is not sufficiently established.

### **Guideline I, Psychological Conditions**

The concern under this guideline is set out in AG ¶ 27:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

The guideline notes several conditions that could raise security concerns under AG ¶ 28. Given Applicant's 2024 diagnoses Posttraumatic Stress Disorder, unspecified, and Adjustment Disorder with anxiety, as well as the earlier diagnoses of MDD and GAD, the following disqualifying conditions are applicable in this case:

- (a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness; and
- (c) voluntary or involuntary inpatient hospitalization.

The following mitigating conditions under AG ¶ 29 are potentially applicable:

- (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
  - (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;
  - (c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation; and
- (e) there is no indication of a current problem.

AG ¶ 29(a) is not established. Applicant acknowledges SOR ¶¶ 2.a - 2.c. The most recent medical opinion from a psychologist opined Applicant's prognosis is guarded to poor. Given the untreated diagnoses and no evidence they are readily controllable with treatment or a demonstrated treatment plan, Applicant's risky decision making, and behavior casts doubt on his judgment, stability, and reliability.

AG ¶ 29(b) is not established. Applicant has not been in mental health treatment since 2017. He is not voluntarily participating in a treatment program or receiving counseling or medication. While he has offered to return to a treatment program, he has not entered a treatment program.

AG ¶ 29(c) is not established. Applicant has not been in mental health treatment since 2017. He provided no contrary evidence from a medical professional regarding his mental and behavioral health.

AG ¶ 29(e) is not established. Sufficient time has not passed to demonstrate Applicant's problems have been worked out given his history of mental illness and risky behavior.

#### **Guideline J: Criminal Conduct**

AG ¶ 30 expresses the security concern for criminal conduct:

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 following disqualifying condition is potentially applicable as detailed in AG ¶ 31:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant's admissions in his Answer, SCA, and security clearance interviews establish the applicability of the above disqualifying condition.

The following mitigating conditions are potentially applicable as detailed in AG ¶ 32:

(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, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

AG ¶ 32(a) and (d) do not apply to SOR ¶ 3.a. Applicant's criminal conduct is serious. His long pattern of illegal drug involvement casts doubt on his current reliability, trustworthiness, good judgment, and willingness to comply with laws, rules, and regulations. The above mitigating conditions, individually or collectively, are insufficient to alleviate those concerns given his history of illegal drug involvement. He needs to establish a longer record of accomplishment of responsible behavior and compliance with rules, regulations, and the law before his criminal conduct can be considered mitigated.

AG ¶ 32(a) is applicable to SOR ¶¶ 3.b and 3.c. Sufficient time has elapsed since Applicant engaged in sex for monetary payment and medical insurance fraud. This behavior occurred during a specific period in his life. Given these circumstances, it is behavior that is unlikely to recur and does not cast doubt on his reliability, trustworthiness, or good judgment.

#### **Guideline D: Sexual Behavior**

The concern under this guideline is set out in AG ¶ 12:

Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. Sexual behavior includes conduct occurring in person or via audio, visual, electronic, or

written transmission. No adverse inference concerning the standards in this Guideline may be raised solely on the basis of the sexual orientation of the individual.

The sex for monetary payment alleged as part of SOR ¶ 3.c under Guideline J (criminal conduct) is cross-alleged under Guideline D as sexual conduct (SOR ¶ 4.a). The following disqualifying conditions are potentially applicable as detailed in AG ¶ 13:

- (a) sexual behavior of a criminal nature, whether or not the individual has been prosecuted; and
- (c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress.

The following mitigating conditions are potentially applicable as detailed in AG ¶ 14:

- (b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment; and
- (c) the behavior no longer serves as a basis for coercion, exploitation, or duress.

Applicant engaged in this behavior over an extended period but has not engaged in this behavior since January 2022. He acknowledged this behavior, which occurred while in China and in multiple states in the United States. However, sufficient time has passed since this sexual behavior occurred and the behavior no longer serves as a basis for coercion, exploitation, or duress. AG ¶¶ 14(b) and 14(c) are applicable.

## **Guideline B, Foreign Influence**

The concern is set forth in AG ¶ 6:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. Two are potentially applicable in this case:

- (a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and
- (i) conduct, especially while traveling or residing outside the U.S., that may make the individual vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country.

Applicant admitted conduct in China and Taiwan that made him vulnerable to pressure or coercion by a foreign interest. While there is no evidence of record that intelligence operatives, industrial espionage agents, criminals or even terrorists have targeted Applicant, such attempts cannot be ruled out pro forma. Before discounting any material risks of foreign influence being brought to bear on Applicant, either directly or indirectly through his Taiwanese friends, considerations must take account of the human rights record, its intelligence-gathering history, and the nature of these governments' relationships with the United States. See ISCR Case No. 16-02435 at 3 (App. Bd. May 15, 2018) (citing ISCR Case No. 15-00528 at 3 (App. Bd. Mar. 13, 2017)). The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 8 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 8 including:

- (a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;
- (b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and
- (c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

Given the limited nature of the relationships with Applicant's various Taiwanese friends, as well as the diminishing contacts, it is unlikely he will be placed in a position of having to choose between the interests of the United States and some sort of foreign interest. There is no evidence of a conflict of interest. The nature of his contacts is such that they are unlikely to result in a conflict or to be used effectively to influence, manipulate, or pressure him. AG ¶¶ 8(a)-8(c) do apply to SOR ¶ 5.a.

Applicant noted he had not returned to China since August 2013 and that he had not maintained any relationships with Chinese nationals. However, Applicant's conduct in China and Taiwan leaves him vulnerable to being placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States. The record evidence is insufficient to mitigate the concerns for SOR ¶¶ 5.b or 5.c. AG ¶¶ 8(a)-8(c) do not apply.

### **Whole-Person Concept**

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common sense 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. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

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

I have incorporated my comments under Guidelines H, I, J, D, and B in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

After weighing the disqualifying and mitigating conditions under Guidelines H, I, J, D, and B and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his conduct. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more time and effort towards establishment of a treatment plan and a sustained record of abstinence

from illegal drug use he may well be able to demonstrate persuasive evidence of his security clearance worthiness in the future.

### **Formal Findings**

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

Paragraph 1: Guideline H:	AGAINST APPLICANT
Subparagraphs 1.a-m:	Against Applicant
Paragraph 2: Guideline I:	AGAINST APPLICANT
Subparagraphs 2.a-c:	Against Applicant
Paragraph 3: Guideline J:	AGAINST APPLICANT
Subparagraphs 3.a-b:	Against Applicant
Subparagraph 3.c:	For Applicant
Paragraph 4: Guideline D:	For APPLICANT
Subparagraph 4.a:	For Applicant
Paragraph 5: Guideline B:	AGAINST APPLICANT
Subparagraph 5.a :	For Applicant
Subparagraphs 5.b-c:	Against Applicant

### **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.

Charles C. Hale  
Administrative Judge