



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



In the matter of:)
)
 ---) ISCR Case No. 18-02543
)
 Applicant for Security Clearance)

Appearances

For Government: Andrew H. Henderson, Esquire, Department Counsel
For Applicant: *Pro se*

10/02/2019

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the security concerns regarding personal conduct and alcohol consumption. Eligibility for a security clearance is denied.

Statement of the Case

On November 18, 1996, June 12, 2003, and again on April 8, 2016, Applicant applied for a security clearance and submitted either Questionnaires for National Security Positions (QNSP) or a Security Clearance Application (SCA). On April 6, 2017, she submitted an Electronic Questionnaires for Investigations Processing (e-QIP) version of a Security Clearance Application. On a subsequent date, the Defense Office of Hearings and Appeals (DOHA) issued her a set of interrogatories. She responded to those interrogatories on December 15, 2018. On January 30, 2019, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to her, under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and Directive 4 of the Security Executive Agent (SEAD 4), *National Security Adjudicative Guidelines* (AG) (December 10, 2016) for all covered

individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position, effective June 8, 2017.

The SOR alleged security concerns under Guidelines E (Personal Conduct) and G (Alcohol Consumption), and detailed reasons why the DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In a notarized statement, dated May 9, 2019, Applicant responded to the SOR and elected to have her case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by DOHA on June 10, 2019, and she was afforded an opportunity, within a period of 30 days, to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Adjudicative Guidelines applicable to her case. Applicant received the FORM on July 23, 2019. Her response was due on August 22, 2019. Applicant chose not to submit any other documents. The case was assigned to me on September 24, 2019.

Findings of Fact

In her Answer to the SOR, Applicant admitted most, or portions thereof, of the factual allegations pertaining to personal conduct (SOR ¶¶ 1.a. through 1.d., and 1.f.); as well as most, or portions thereof, of the factual allegations pertaining to alcohol consumption (SOR ¶¶ 2.a. and 2.b.). Applicant's admissions and accompanying comments are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 44-year-old employee of a defense contractor. She has been serving as a system engineer with her current employer since January 2008. She received a bachelor's degree in 2010. Applicant enlisted in the U.S. Army in November 1996, and served until April 2004, when she was honorably discharged. Applicant was granted a top secret clearance with access to sensitive compartmented information (SCI) in 1997, and that clearance remained active until another U.S. Government agency denied Applicant's access to SCI in March 2017, following an initial decision in December 2016. (Item 2, at 31-33; Item 8, at 2; Item 10; Item 11) Applicant was married in late 2000, and divorced three months later in 2001. She married again in 2004, and divorced in 2014. She has been cohabiting since the summer of 2017. (Item 2, at 17-18; Item 7 (2017 Enhanced Subject Interview, at 3); Item 7 (2018 Enhanced Subject Interview, at 4) She has no children.

Personal Conduct

Applicant was a recreational substance abuser whose primary substances of choice were marijuana, cocaine, and 3,4-Methylenedioxymethamphetamine (MDMA) – a psychoactive drug commonly known as ecstasy. She also used Vicodin – a prescription

combination of an opioid pain reliever, hydrocodone, and a non-opioid pain reliever, acetaminophen, that was not prescribed for her. In addition, although not alleged in the SOR, prior to joining the U.S. Army in 1996, Applicant also experimented with a variety of illegal substances, including those identified above. (Item 1, at 3; Item 8, at 2)

Applicant is not a reliable historian regarding her history of drug involvement and substance misuse because of her inconsistent and frequently false statements in which she either denied, concealed, or omitted significant portions of her history. In August 1997, she denied ever using any illegal drug when she was a teenager, and she explained that, because her parents believed she was using drugs, they enrolled her in a treatment facility where she underwent group and individual counseling for two and one-half months. She stated that she omitted the information from her QNSP because she did not feel it was pertinent to the U.S. Army to know. (Item 6; Item 3) In June 2003, she again denied any use of illegal substances or drug activity. (Item 4) In January 2015, Applicant again denied any past illegal use of drugs or drug activity. (Item 5) In April 2017, when completing her e-QIP, she reported that she had used her husband's Vicodin prescription both "occasionally" and "a few times," but denied any other past illegal use of drugs or drug activity. (Item 2, at 29-31)

In April 2016, prior to undergoing a polygraph examination, Applicant acknowledged that, from 2006 until 2008, she experimented with marijuana, and from April 2009 until the beginning of 2013, she used her husband's medical marijuana from a vaporizer on no more than ten occasions. The marijuana relaxed her. (Item 8, at 2; Item 9, at 2) In August 2018, during an interview with an investigator from the U.S. Office of Personnel Management (OPM), Applicant initially denied using any controlled substance within the last seven years (2011-2018). Upon being confronted with her pre-polygraph statement, she denied the accuracy of that earlier statement and explained that she was told by the examiner that she had to discuss possible dates of drug use so she expanded her period of use. She claimed the correct period of use should have been from 2009 until mid-2010, and that she only did so on five occasions, when she used a vape pipe four times and one-half of a "marijuana sucker" one time at home. (Item 7, at 3-4; Item 1 (Answer to the SOR), at 4) In her 2018 response to the interrogatories, Applicant contended that her use of marijuana consisted of five times between 1996 and 2010, and thereafter of less than 30 instances. (Item 7 (Response to Interrogatories), at 4) Since Applicant was granted her top secret clearance with SCI access in 1997, her use of marijuana occurred while she held her security clearance.

During her 2016 pre-polygraph examination, Applicant acknowledged that, from April 2009 until October 2013, she used Vicodin on no more than 20 occasions, each time taking no more than three pills by mouth. She did so because of the euphoric effect she experienced and in an effort to get high. (Item 8, at 2; Item 9, at 2) Her story changed during her two OPM interviews. In 2017, she told the investigator that her Vicodin use occurred only between October 2011 and April 2012 when she was experiencing migraine headaches. (Item 7 (2017), at 3) The story changed again in 2018. She told the OPM investigator that the correct dates of Vicodin use occurred between 2009 and mid-2010, and consisted of her taking three pills each time on only ten occasions. Vicodin made Applicant feel good. (Item 7 (2018), at 3) Since Applicant was granted her top secret

clearance with SCI access in 1997, her use of Vicodin without a prescription occurred while she held her security clearance.

During her 2016 pre-polygraph examination, Applicant acknowledged that, before joining the U.S. Army in 1996, as well as from about 2006 until about 2008, she “continued to experiment” with ecstasy. (Item 8, at 2; Item 9, at 2) Her story changed during her 2018 OPM interview, when she avoided discussing any pre-Army use of ecstasy, and seemingly altered the previously acknowledged time period of 2006 to 2008 to “it could have been sometime” during that period when she experimented with only one ecstasy pill. (Item 7, at 5) In her 2018 response to the interrogatories, Applicant contended that her use of ecstasy consisted of one time between 1996 and 2006, and thereafter only two instances. (Item 7 (Response to Interrogatories), at 4) Since Applicant was granted her top secret clearance with SCI access in 1997, her use of ecstasy occurred while she held her security clearance.

During her 2016 pre-polygraph examination, Applicant acknowledged that, before joining the U.S. Army in 1996, as well as from about 2006 until about 2008, she “continued to experiment” with cocaine. (Item 8, at 2; Item 9, at 2) Her story changed during her 2018 OPM interview, when she avoided discussing any pre-Army use of cocaine, and she acknowledged that her “one-time” experimentation with cocaine occurred in approximately 2006 or 2007 when a friend furnished it to her. (Item 7 (2018) In her 2018 response to the interrogatories, Applicant contended that her use of cocaine consisted of one time between 1996 and 2007, and thereafter only two instances. (Item 7 (Response to Interrogatories), at 4) Since Applicant was granted her top secret clearance with SCI access in 1997, her use of cocaine occurred while she held her security clearance.

Applicant acknowledged that she was aware of the policy involving drug use while maintaining a security clearance. She justified her drug use by thinking it was not a big deal and that it was similar to drinking alcohol. Moreover, using the drugs was fun, and she was just enjoying herself (Item 9, at 2) She subsequently claimed that she altered her thinking, and, as of 2018, she understands that her position was not correct. ((Item 7 (2018), at 5) As of her 2017 OPM interview, Applicant has no intent of using any illegal drug in the future. (Item 7 (2017), at 4)

While not alleged in the SOR, when Applicant submitted her 1996 and 2015 QNSPs and her 2003 SCA, she denied any history of illegal use of drugs or drug activity. She also had to be prompted and confronted to be candid during her pre-polygraph interview and her OPM interview.

Unalleged conduct can be considered for certain purposes, as discussed by the DOHA Appeal Board. (Conduct not alleged in an SOR may be considered: (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole-person analysis under Directive § 6.3.). See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006); (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3

(App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. April 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). Applicant's unalleged omissions, concealments, and falsifications regarding her history of drug involvement and substance misuse described above, will be considered only for the five purposes listed above.

On April 6, 2017, when Applicant completed her e-QIP, she responded to certain questions pertaining to her illegal use of drugs or drug activity found in Section 23 – Illegal Use of Drugs or Drug Activity. The most significant questions, and the ones alleged in the SOR, were essentially as follows: In the last seven (7) years “have you illegally used any drugs or controlled substances?”; “have you EVER illegally used or otherwise been involved with a drug or controlled substance while possessing a security clearance other than previously listed?”; and “have you EVER had a security clearance eligibility/access authorization denied, suspended, or revoked?” Applicant answered “no” to each of the questions. (Item 2, at 29-30) She omitted and concealed her admitted use of marijuana, cocaine, and ecstasy, and only acknowledged her misuse of the prescription drug Vicodin during the period October 2011 until April 2012. She also omitted that her application for eligibility for a top secret clearance with access to SCI was denied by another U.S. Government agency in March 2017, approximately one month before she submitted her e-QIP. She certified that her responses to those questions were “true, complete, and correct” to the best of her knowledge and belief, but, because of her omissions and concealments, the responses to those questions were, in fact, false.

Alcohol Consumption

In addition to her extensive use of drugs, Applicant consumed alcohol to excess over a multi-year period. From 1992, when she was 17 years old, until 1997, Applicant consumed two to four 12-ounce beers in a one-to-two hour period, once a month while socializing with friends. The quantity and frequency increased while Applicant was in the U.S. Army, and she consumed three to five 12-ounce beers or average-sized glasses of wine over a three-to-five hour period, twice a week, mainly on the weekends. From 2012 to the beginning of 2015, Applicant again altered her consumption habits by drinking two to four beers or glasses of wine in a three-to-four hour period, while at home, four times per week. Because she was dealing with personal issues, Applicant explained that she was self-medicating with alcohol, and while she intended to consume only one alcoholic drink, she usually ended up consuming two to four drinks. From the beginning of 2015, and continuing until April 2016, Applicant consumed three to five beers or average-sized glasses of wine over a three-to-five hour period, twice a week while socializing with friends. (Item 8, at 4; Item 9, at 2-3)

Applicant contended that to become intoxicated, she needs to consume approximately three to five alcoholic beverages during a two-to-three hour period. Defining intoxication as having a blood-alcohol-content (BAC) of .08 or higher, Applicant acknowledged that from 1992 until the beginning of 2015, she became intoxicated 75 percent of the time she consumed alcohol; and from the beginning of 2015 until April 2016, she became intoxicated 50 percent of the time. During her pre-polygraph interview of April 8, 2016, Applicant acknowledged that she was last intoxicated two days earlier

when she consumed, over a six-and-one-half hour period, three to four beers, one shot, and part of a martini. While she took an Uber from the bar back to her friend's house, Applicant then drove herself approximately ten miles back to her own house. (Item 8, at 4; Item 9, at 3) Driving while intoxicated was nothing new to Applicant, and during the 2016 pre-polygraph interview, she acknowledged that she had done so on numerous occasions between 1992 and 2016. (Item 8, at 5; Item 9, at 3-4) However, during her 2018 OPM interview, she stated that the only time she ever drove while intoxicated was when she was arrested in 2007. (Item 7, at 3)

Applicant also acknowledged that she has experienced both short-term and long-term blackouts after consuming alcohol. She agreed that alcohol has negatively impacted her in several ways. Nevertheless, as of April 2016, she did not think that she needed help to stop consuming alcohol and she was confident that she could make positive changes regarding her consumption of alcohol on her own. (Item 8, at 5; Item 9, at 4-5) In 2018, Applicant acknowledged that drinking alcohol gave her a pleasant feeling, and she did not feel that she has a problem with alcohol. Her future intention was to continue her current usage or less of alcohol. (Item 7, at 3)

Applicant's relationship with alcohol has resulted in only one known incident involving police and court authorities. On April 3, 2007, Applicant was celebrating (dining, drinking, and dancing) a birthday with a number of friends from about 6:00 p.m. until early the following morning. She consumed two glasses of wine and five unspecified alcoholic beverages. After the bar closed, she drove herself the ten miles from the bar to her military facility where, at 1:55 a.m. on April 4, 2007, she was stopped at the front gate because the military police officer detected the strong odor of alcohol coming from her. She was administered a field sobriety test, which she failed, and she was arrested and charged with driving under the influence (DUI). Applicant was then administered a breathalyzer test, and it registered a BAC of .141. (Item 12) During her 2016 pre-polygraph interview, as well as during her 2018 OPM interview, Applicant minimized her BAC result by claiming it registered .12. (Item 8, at 3; Item 9, at 2; Item 7, at 2) Applicant remained in jail over night and was released. Before appearing in court on the charge, Applicant performed community service, and she attended unspecified alcohol courses for several months. Her charge was later reduced to driving while ability impaired (DWAI), a misdemeanor. (Item 8, at 3; Item 9, at 2-3)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no 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. The President has authorized the Secretary of Defense or his designee to grant an applicant 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, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.)

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging 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. 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 meaningful decision.

In the decision-making process, facts must be established by "substantial evidence." "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record." (ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1)). "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 Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government's case. The burden of disproving a mitigating condition never shifts to the Government. (See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).)

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those 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 as to potential, rather than actual, risk of compromise of classified information. Furthermore, "security clearance determinations should err, if they must, on the side of denials." (*Egan*, 484 U.S. at 531)

Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." (See Exec. Or. 10865 § 7) Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not

met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. 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 avoided drawing inferences grounded on mere speculation or conjecture.

Analysis

Guideline E, Personal Conduct

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

The guideline also includes examples of conditions that could raise security concerns for Personal Conduct under AG ¶ 16:

(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 national security eligibility or trustworthiness, or award fiduciary responsibilities; and

(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.

As noted above, Applicant is not a reliable historian regarding her history of drug involvement and substance misuse, because of her inconsistent and frequently false statements in which she either denied, concealed, or omitted significant portions of her history. Applicant was a recreational substance abuser whose primary substances of choice were marijuana, cocaine, and MDMA – a psychoactive drug commonly known as ecstasy. She used Vicodin – a prescription combination of an opioid pain reliever hydrocodone and a non-opioid pain reliever acetaminophen – that was not prescribed for her. The focus of the SOR was her drug involvement and substance misuse during certain years while she held a security clearance; and her falsifications regarding same on her 2017 e-QIP. Succinctly described, Applicant has an extensive history of drug involvement and substance misuse, especially while holding a security clearance; and she has not been fully candid, even when confronted with a polygraph examination. According to Applicant, her drug use was not a big deal because it was similar to drinking alcohol. Moreover, using the drugs was fun, and she was just enjoying herself doing drugs.

I have considered the entire record, including Applicant's eventual admissions of some of the SOR allegations. As noted above, Applicant did not controvert the falsification allegations. As to personal conduct attributed to the drug involvement and substance misuse; and the personal conduct attributed to the deliberate falsifications on the 2017 e-QIP, pertaining to SOR ¶¶ 1.a. through 1.d., AG ¶ 16(c) has been established, and, pertaining to SOR ¶¶ 1.e. through 1.g., AG ¶ 16(a) has been established.

The guideline also includes examples of conditions under AG ¶ 17 that could mitigate security concerns arising from Personal Conduct. They include:

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

- (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.

Neither of the conditions apply. Although Applicant finally revealed a significant portion of her history of drug involvement and substance misuse in April 2016, when she was confronted with a pre-polygraph examination conducted by another U.S. Government agency, Applicant's false responses to the e-QIP inquiry occurred in April 2017. Although she was interviewed by OPM investigators in 2017 and 2018, she made little effort to correct the omissions, concealments, or falsifications associated with her 2017 e-QIP. Applicant's attitude towards laws, rules, and regulations while initially seeking, and subsequently holding, a security clearance, lasted for over a decade. Despite her claimed new knowledge and maturity, Applicant's actions under the circumstances continue to cast doubt on her current reliability, trustworthiness, and good judgment.

Guideline G, Alcohol Consumption

The security concern relating to the guideline for Alcohol Consumption is set out in AG ¶ 21:

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.

The guideline notes several conditions that could raise security concerns for Alcohol Consumption in AG ¶ 22:

(a) alcohol-related incidents away from work, such as driving while 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 acknowledged that from 1992 until the beginning of 2015, she became intoxicated 75 percent of the time she consumed alcohol; and from the beginning of 2015 until April 2016, she became intoxicated 50 percent of the time. During her pre-polygraph interview of April 8, 2016, Applicant acknowledged that she was last intoxicated two days earlier when she consumed, over a six-and-one-half hour period, three to four beers, one shot, and part of a martini. While she took an Uber from the bar back to her friend's house, Applicant then drove herself approximately ten miles back to her own house. Driving while intoxicated, and jeopardizing the welfare and safety of others, was nothing new to Applicant, and during the 2016 pre-polygraph interview, she acknowledged that she had done so on numerous occasions between 1992 and 2016. However, during her 2018 OPM interview, she stated that the only time she ever drove while intoxicated was when she was arrested for DUI in 2007. AG ¶¶ 25(a), and 25(c) have been established.

The guideline also includes examples of conditions under AG ¶ 23 that could mitigate security concerns arising from Alcohol Consumption:

(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.

Neither of the mitigating conditions apply. As of April 2016, Applicant did not think that she needed help to stop consuming alcohol and she was confident that she could make positive changes regarding her consumption of alcohol on her own. In 2018, Applicant acknowledged that drinking alcohol gave her a pleasant feeling, and she did not feel that she has a problem with alcohol. It is significant that while she usually intended to consume only one alcoholic drink, she usually ended up consuming two to four drinks, and that scenario indicates an inability to control her consumption. Her future intention was to continue her current usage or less of alcohol. Applicant's position regarding her pattern of maladaptive alcohol use does not demonstrate a hopeful, much less, demonstrated clear and established pattern of modified consumption or abstinence.

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 the circumstances. The administrative judge should consider the nine adjudicative process factors listed at SEAD 4, App. A, ¶ 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.

Under SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis. (See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); See also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006))

There is some evidence mitigating Applicant's conduct. Applicant is a 44-year-old employee of a defense contractor. She has been serving as a system engineer with her current employer since January 2008. She received a bachelor's degree in 2010. Applicant enlisted in the U.S. Army in November 1996, and served until April 2004, when she was honorably discharged. Applicant was granted a top secret clearance with access to SCI in 1997, and she held that clearance until March 2017.

The disqualifying evidence under the whole-person concept is more substantial. Applicant is not a reliable or candid historian regarding her history of drug involvement and substance misuse, and her history of maladaptive alcohol use because of her inconsistent and frequently false statements in which she either denied, concealed, or omitted significant portions of her histories. Applicant was a recreational substance abuser whose primary substances of choice were marijuana, cocaine, and ecstasy, and

she used Vicodin that was not prescribed for her. While the focus of the SOR was her drug involvement and substance misuse during certain years while she held a security clearance; her falsifications regarding same on her 2017 e-QIP; and her alcohol abuse, because of her lack of candor generally, as well as her related activities that were not alleged in the SOR, Applicant's entire history is relevant to the alleged issues. She has not been fully candid, even when confronted with a polygraph examination.

According to Applicant, her drug use was not a big deal because it was similar to drinking alcohol. Moreover, using the drugs was fun, and she was just enjoying herself doing drugs. She routinely consumed alcohol to the point of intoxication and even blackouts, but it was far more troubling that she routinely drove while she was intoxicated. Her future intention regarding alcohol was to continue her current usage or less. Applicant's position regarding her pattern of maladaptive alcohol use does not demonstrate a hopeful, much less, demonstrated clear and established pattern of modified consumption or abstinence.

Applicant's eligibility for a top secret clearance with SCI access was denied by another U.S. Government agency in March 2017. Her attitude towards laws, rules, and regulations, is unacceptable, especially for one who was granted a security clearance, and was still drinking alcohol to intoxication and concealing her drug involvement and substance misuse when she completed her 2017 e-QIP.

Overall, the evidence leaves me with substantial questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has failed to mitigate the security concerns arising from her personal conduct and alcohol consumption. See SEAD 4, App. A, ¶¶ 2(d)(1) through AG 2(d)(9).

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 E:	AGAINST APPLICANT
Subparagraphs 1.a. through 1.g.:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a. through 2.c.:	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.

ROBERT ROBINSON GALES
Administrative Judge