



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



In the matter of:)
)
 [REDACTED]) ISCR Case No. 19-01659
)
 Applicant for Security Clearance)

Appearances

For Government: William H. Miller, Esq., Department Counsel

For Applicant: *Pro se*

09/20/2023

Decision

MARINE, Gina L., Administrative Judge:

This case involves security concerns raised under Guideline J (Criminal Conduct) and Guideline G (Alcohol Consumption). Eligibility for access to classified information is denied.

Statement of the Case

Applicant most recently submitted a security clearance application (SCA) on November 15, 2016. On May 21, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines J and G. The CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

On June 9, 2021, Applicant responded to the SOR (Answer) and requested a decision based on the written record in lieu of a hearing. The Government requested that this matter be converted to a hearing before an administrative judge on September 15, 2021. Although the Government's request was untimely under paragraph E3.1.7 of the Directive, Applicant did not object to the hearing. The Government was ready to proceed on May 17, 2022. The case was assigned to me on February 16, 2023. On April 17, 2023, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that his hearing was scheduled for May 12, 2023. I convened the hearing as scheduled via video conference.

I admitted Government Exhibits (GE) 1 through 5, without objection. Applicant testified and submitted Applicant Exhibit (AE) A, which I admitted without objection. I appended an administrative letter and the Government's exhibit list to the record as Hearing Exhibit (HE) I and II. At Applicant's request, I held the record open until May 26, 2023. Applicant timely provided an additional document, which I admitted as AE B, without objection. DOHA received the transcript (Tr.) on May 22, 2023.

Findings of Fact

The SOR alleged security concerns about Applicant's alcohol use and alcohol-related criminal activity that occurred between 1991 and 2017. In his Answer, Applicant admitted the SOR allegations, but he denied that they establish a basis to deny him eligibility for access to classified information. Based on Applicant's admissions, his testimony, and the evidentiary record, I make the following findings of fact.

Applicant, age 57, is unmarried without children. He has been in a relationship analogous to marriage with his girlfriend for the greater part of 20 years. He received a Bachelor of Science degree in electrical engineering in 1987. He has been employed by the same defense contractor since 1987. He worked in an electrical engineering position for several years before transitioning into his current systems engineer position. He has maintained a security clearance since about 1987. (AE B; GE 1; GE 2 at 7-8; Tr. at 9, 21-22, 61-63)

1991 charge

In about August 1991, while alone at a nightclub, Applicant consumed beer in an amount he could not recall. He denied that he drank to the point of intoxication or impairment. While driving home from the nightclub, a police officer stopped his vehicle for a traffic infraction in a construction zone. He was arrested after failing a field sobriety test. A preliminary breath test registered his blood alcohol content (BAC) as "something like 0.05" percent. He refused to submit to a breathalyzer test. (GE 1; GE 2 at 6-7; GE 5 at 14; Tr. at 23-28, 74-78)

In November 1991, Applicant pled guilty and was convicted of operating a vehicle while impaired. He was sentenced to 15 days in jail (all suspended), one year supervised probation, and fined \$150. He was also ordered to complete an alcohol education

program and to attend Alcoholics Anonymous (AA) meetings. (GE 1; GE 5 at 14; Tr. at 27-28, 54)

Applicant found that the alcohol program (consisting of “some meetings” and education on the “dangers of alcohol and stuff like that”) and the AA meetings were “useful.” He refused to submit to a breathalyzer test due to concerns that it could “possibly hurt” him. He attributed the traffic infraction to his confusion about the cones and signage in the construction zone, and not to his alcohol use. He recalled, “I definitely didn't consider myself drunk or anything like that.” (Tr. at 25, 27, 75-77)

2005 charge

In about September 2005, while alone at home watching a football game, Applicant consumed beer in an amount he could not recall. He estimated that he drank “a few.” After the game ended, about midnight, he drove to buy more beer so that he could continue drinking to celebrate his team’s “come-from-behind” win. An officer stopped his vehicle after observing it swerve on the road. He was arrested after failing a field sobriety test. He did not recall his BAC. (GE 1; GE 2 at 6; GE 5 at 15-16; Tr. at 28-34, 78-81)

In February 2006, Applicant pled guilty and was convicted of driving while intoxicated. He was sentenced to 180 days in jail (175 days suspended), one year supervised probation, and fined \$1,100. He was also ordered to attend an alcohol treatment program and a victim impact panel. (GE 1; GE 5 at 15-16; Tr. at 31-32, 81-82)

Applicant spent two weekends in jail. He attended the alcohol program for “several weeks,” during which he learned about the “dangers of alcohol both to your health, as well as being . . . very dangerous when driving after drinking.” The family members of drunk-driving accident victims comprised the panel he attended. He acknowledged, “I should have realized I was not okay to drive,” and stated, “I guess I was just too excited. I mean, I wasn't okay to drive.” (Tr. at 32, 34, 80)

2013 charge

In November 2013, while alone on a day-hike, Applicant consumed beer that he carried in his backpack, in an amount he could not recall. He estimated that he drank “at least three” during an eight-hour period. While driving home from the hike after sunset, he crashed into a curb on the side of the road. A police officer arrived on the scene and arrested him after he failed both a field sobriety test and a breathalyzer test. (GE 1; GE 2 at 6; Tr. at 34-39, 82-83)

In February 2014, Applicant pled guilty and was convicted of driving while intoxicated with a BAC over 0.20 percent. He was sentenced to 180 days in jail (160 days suspended), fined \$500, and his driver’s license was suspended for 12 months. He was also ordered to complete an alcohol safety action program (ASAP). (GE 1; GE 3 at 2; GE 5 at 12; Tr. at 36-38, 82-83)

Applicant remembered being “surprised” by his BAC. He stated, “I didn’t understand how it could be that high.” He could not recall his specific BAC, but he estimated it “wasn’t way over” 0.20 percent. (Tr. at 38, 83)

Applicant spent 10 days in jail. He successfully completed ASAP, which consisted of 26 weeks of “level 0.5 DUI education” and “group psychotherapy,” in June 2014. During intake, he agreed to abstain from alcohol while in ASAP. The record did not address any aftercare recommendations he may have received upon discharge. Although he could not recall for sure, he conceded that he was “most likely” advised to abstain from drinking after discharge. (GE 2 at 9-10; Tr. at 51-54, 97)

2016 charge

In October 2016, Applicant was involved with law enforcement while out of state on a hiking trip with his girlfriend. One evening, after a day of hiking, they “had a real big argument” that carried over into the next morning, while in their hotel room. Because the argument was “real loud,” a housekeeper or fellow guest called the police. The argument ended by the time the police officer arrived. After questioning both parties, the police officer arrested Applicant. (AE B; GE 1; GE 2 at 6; Tr. at 39-46; Tr. at 84-86)

In August 2017, Applicant pled guilty to three misdemeanors: domestic violence (DV) assault, intoxication, and DV unlawful detention. After holding his plea in abeyance for an unspecified period, the court dismissed the charges. The terms of the abeyance required him to undergo a DV assessment, complete any recommended DV treatment, and pay a \$780 fine. His assessment did not recommend any DV treatment. He was not ordered to seek alcohol counseling. (GE 1; GE 2 at 6; GE 3 at 3-4; Tr. at 42-44)

Applicant admitted that he consumed alcohol (“a few beers or so”) during the period leading up to his arrest. He recalled that he “probably drank” in the park during their hike; drank “a bit” that night because he was upset; and “did get a beer” the following morning “just to start feeling better,” because he “wasn’t feeling very well.” However, he denied that he was intoxicated or unlawfully detained his girlfriend. He acknowledged that, while arguing that morning, he may have grabbed his girlfriend’s arms to defend himself. However, he denied hitting or otherwise assaulting his girlfriend at any point, either during the argument, or ever. He has remained in a long-term relationship with this same girlfriend. In a post-hearing letter, his girlfriend corroborated that he has never been violent towards her and referred the incident as “an unfortunate situation” that “incorrectly assigned” fault to him. Applicant and his girlfriend asserted that he was wrongfully arrested and attributed his arrest to the state’s strict DV laws, and to the police officer deeming Applicant a danger and threat due to his intoxicated appearance. (AE B; GE 2 at 6; Tr. at 40-44, 57, 84-86)

2017 charge

In April 2017, while at home alone, Applicant consumed beer in an amount he could not recall. He estimated that he drank “somewhere around three” in the immediate hour or two before he left home. While driving to his girlfriend’s home, his vehicle stopped

operating due to a mechanical failure. He believes someone may have called the police due to his inebriated state. A police officer arrived on the scene and arrested him because he smelled of alcohol and failed a field sobriety test. He refused to submit to a breathalyzer test. (GE 2 at 5-6, 7; GE 5 at 1-11; Tr. at 46-50, 87-89)

In August 2017, Applicant pled guilty and was convicted of driving while impaired by alcohol. He was sentenced to 60 days in jail (all suspended), one year probation, and fined \$600. He was also ordered to attend an alcohol education program and a victim impact panel. Due to his refusal to submit to a breathalyzer test and to install an ignition interlock device (IDD) on his vehicle, his driver's license was suspended for nine months. (GE 2 at 5-6, 7; GE 5 at 6-7; Tr. at 49-50)

Applicant completed the alcohol program on an expedited basis before sentencing as a good-faith gesture, upon the advice of counsel. Between June and August 2017, he completed 26 hours of comprehensive alcohol education and awareness programming. Upon intake, he was characterized as a "problem drinker" based on test scores that "clearly indicated there is a serious alcohol problem." During intake, he was strongly advised to abstain from using alcohol. The record did not address any aftercare recommendations he may have received upon discharge. Although he could not recall for sure, he conceded that he was "most likely" advised to abstain from drinking after discharge. (GE 2 at 5-6, 11-18; Tr. at 54-56, 88, 97)

The alcohol program's director opined that Applicant "benefited from programming and organized and increased his understanding of the need to avoid alcohol and other drugs, further studied their negative effects on driving, one's self, one's family and one's society." The director also remarked that Applicant took the program "seriously" and "worked hard," as evidenced by his "voluminous handwritten notes." (GE 2 at 16-17)

Applicant maintained that he refused the IDD because he was not driving a vehicle at the time. He travelled to work via public transportation because his vehicle was unrepairable after the mechanical failure. He recalled that he "felt good and everything" and "didn't feel impaired" when he left home to drive to his girlfriend's home. However, he acknowledged that he should not have driven after drinking. (GE 2 at 7; Tr. at 87-88)

Applicant has only undergone alcohol treatment when court ordered. Although he never voluntarily sought out alcohol treatment, he recognized that it was important for him "to reduce or quit [his] drinking." He could not recall any voluntary cessation from alcohol use, between 1991 and 2017, except as mandated by the courts during his probation periods. However, he stated, "[t]here may have been." He does not attend AA meetings because he finds it "very uncomfortable" to speak in front of groups. Instead, he reads books on how to overcome "drinking problems," from which he has learned the dangers of alcohol and its negative health effects. (Tr. at 54-58, 59, 73-74, 88-90, 95, 99-102)

Alcohol Use

Applicant first described his history of alcohol use during his June 2018 subject interview. He first consumed alcohol at the age of 17, while in college. During college, he

consumed about three to five beers at a time, in social settings, during weekends and on special occasions. As he grew older and his tolerance for alcohol increased, the amount he consumed increased, but he only drank on the weekends. He would sometimes drink to intoxication, which he defined as six beers. He described his behavior under the influence of alcohol as uninhibited. He admitted that he had a problem with alcohol. He acknowledged that his alcohol use negatively impacted his relationship with his girlfriend, due to increased arguing. He denied that his alcohol use impacted his work, but he expressed concerns about his ability to maintain his security clearance. He attributed his criminal activity to his alcohol use, and he maintained that there was no possibility of a recurrence because he stopped drinking in October 2017. He credited his court-ordered alcohol classes with helping him to abstain. (GE 2 at 7)

At the hearing, Applicant attributed his cessation from drinking in October 2017 to the negative impacts it had on his life, which he defined as the drunk-driving charges and related loss of driving privileges. He could not recall the amount he was drinking prior to October 2017, but he acknowledged that it was “definitely too much.” Applicant was unsure for how long he maintained his sobriety after October 2017, but he estimated “several months.” At some point, he resumed consuming alcohol on the weekends. He could not recall what prompted him to resume consuming alcohol, but he stated, “I think maybe I was at an event with alcohol and I probably . . . started slow . . .” He thought it was okay to drink again because he was doing well and believed that drinking “a little” would not cause him harm or any issues. He never drove after consuming alcohol following his 2017 charge. (Tr. at 54-59, 60, 90-95, 98, 101-102)

Applicant could not recall the amount that he “normally” drank when he consumed alcohol, he estimated that it was “a few beers” at a time. On occasion, he consumed other types of alcohol. He clarified that, when he described himself as intoxicated, which he redefined as three beers, he did not mean “super drunk or anything like that,” just “high enough blood levels to be intoxicated.” (Tr. at 28-29, 73-75, 78, 101)

Applicant stopped consuming alcohol as of January 2022, which was also the last time he drank to the point of intoxication. He denied that his abstinence since January 2022 was prompted by concerns about his security clearance. He stated, “I had to be ready to do that. And, it wasn’t until January [2022] that I was ready.” He attributed his abstinence since January 2022 primarily to his past “negative experiences” and “all the problems it’s caused” him, concerns about his health, and to his girlfriend not wanting him to drink. (AE B; Tr. at 54-60, 90-95, 98, 101-102)

On the occasions when Applicant had been in environments where people were consuming alcohol since January 2022, he was “okay just drinking soft drinks.” Although he did not “normally” think about or crave alcohol, those environments “sometimes” caused him to do so. His girlfriend’s alcohol consumption “doesn’t really bother” him. He does not “normally” have alcohol in his home, where his girlfriend resides with him part time, except “maybe a special event for her.” Recognizing that stress was a contributing factor to his drinking, he has learned alternative ways to manage his stress without consuming alcohol, including hiking and photography. (Tr. at 63, 103-104)

To Applicant's knowledge, he has never been diagnosed with an alcohol use disorder. However, he described himself as an alcoholic, which he defined as "[b]asically not having control over your whole life. I mean, there is . . . alcohol is just causing . . . issues in your life that you can't control." He defined those issues as "all those arrests and stuff." He acknowledged, "once you're an alcoholic, you're always an alcoholic." In professing how his commitment to sobriety is different now than in 2017, he stated,

Well, my intention is not to start again because that's where . . . it gets . . . once you start, then . . . you can't really control it. So the important thing is not to restart. So I intend not to restart again." (Tr. at 59, 95, 97, 99-100)

Whole Person

Applicant expressed pride in maintaining a high level of work performance throughout his 35-year career. He asserted, "I never had any issue at work or anything on account of my alcohol use." His employer issued a special recognition to commemorate his 35-year anniversary milestone. In congratulating him and lauding his work ethic, his supervisor described him as a "dedicated, detail oriented employee with a strong technical background." (AE A; Tr. at 60)

Applicant acknowledged that he never reported any of his arrests to his security officer, knowing that he was required to do so. He was concerned that he would lose his job if he reported them. He also never disclosed his arrests to his supervisor or anyone else at work. His security officer only knew of the arrests in connection with his review of Applicant's SCA before it was submitted. His security officer filed an incident report about his 2017 charge, based upon Applicant's SCA disclosure, not because Applicant reported it to him directly. (Tr. at 68-70)

After the hearing, Applicant's long-time girlfriend submitted a letter praising Applicant's character and work ethic. She opined that he is a "100% changed man." She corroborated that, as of May 2023, he had been "totally free from alcohol and drama for more than a year." She believed that he consumed alcohol "to relax and relieve the stress" associated her medical diagnosis and several deaths in their families, including his father in 2006; his mother, her father, and her nephew in 2020; and his nephew in 2021. (AE B)

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." (*Egan* 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." (EO 10865 § 2)

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. 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." (EO 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. (*Egan* 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. (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. (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 [or her] 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* at 531; AG ¶ 2(b))

Analysis

Guideline J: Criminal Conduct

The concern under this guideline is set out in AG ¶ 30: 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.

Applicant's admissions and the record evidence establish the following disqualifying condition under this guideline:

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.

I considered each of the factors set forth in AG ¶ 32 that could mitigate the concern under this guideline and find the following warrant discussion:

(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.

Applicant's alcohol-related offenses establish a pattern of criminal conduct that casts doubt about his judgment, reliability, and trustworthiness, and calls into question his ability or willingness to comply with laws, rules, and regulations. The security significance of the 1991 offense is brought current by his more recent 2017 offense. In describing the facts and circumstances underlying his arrests, Applicant minimized his alcohol consumption and failed to fully accept responsibility for his wrongdoing. Notwithstanding his assertions to the contrary, I find that each of the criminal charges resulted from his excessive consumption of alcohol.

I considered that six years have passed since he was last criminally charged, and that he abstained from consuming alcohol from January 2022 through at least May 2023. However, the charges spanned a period of 26 years from 1991 (age 25) through 2017 (age 51), and each incident occurred while he was in possession of a security clearance. His decision to drive after consuming alcohol in 2017 was particularly egregious given that he crashed his vehicle and served jail time after drunk driving in 2013. He continued to consume alcohol while on probation for his 2017 charge. There has neither been a sufficient passage of time nor pattern of modified behavior for me to conclude that Applicant's criminal conduct is unlikely to recur. Accordingly, I find that Applicant failed to meet his burden to establish either AG ¶¶ 32(a) or 32(d).

Guideline G: Alcohol Consumption

The concern under this guideline 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.

Applicant's admissions and the record evidence concerning SOR ¶ 2.c (which cross-alleged the facts in SOR ¶¶ 1.a through 1.e) establish the following disqualifying conditions set forth in AG ¶ 22 under this guideline:

(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; and

Because the facts alleged in SOR ¶¶ 2.a and 2.b refer to treatment without a diagnosis, they do not independently establish any disqualifying conditions. Accordingly, I must find ¶¶ 2.a and 2.b in Applicant's favor. However, the facts alleged in SOR ¶¶ 2.a and 2.b remain relevant to the underlying alcohol-related criminal charges to which they relate and to the overall Guideline G concerns.

I considered each of the factors set forth in AG ¶ 23 that could mitigate the concern under this guideline and find the following warrant discussion:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment; and

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant's five alcohol-related criminal offenses and history of excessive alcohol consumption raise questions about his judgment, reliability, and trustworthiness. Although he continued to drink to the point of intoxication as recently as January 2022, he now understands that he has a problem with alcohol and recognizes that he should not consume alcohol. He abstained from consuming alcohol from January 2022 through at least May 2023. While he appeared sincere in his commitment to maintain sobriety, there has not been a sufficient pattern of modified behavior for me to conclude that his excessive consumption of alcohol and questionable judgment are behind him. Incorporating my comments under Guideline J, I find that Applicant failed to meet his burden to establish either AG ¶¶ 23(a) or 23(b).

Whole-Person Concept

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall common-sense judgment based upon careful consideration of the adjudicative guidelines, each of which is to be evaluated in the context of the whole person. In evaluating the relevance of an individual's conduct, 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 J and G in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). Applicant's intentional failure to report his arrests for fear of losing his job further weighs against mitigation. After considering the disqualifying and mitigating conditions under Guidelines J and G, and evaluating all the evidence in the context of the whole person, I conclude that Applicant has not mitigated security concerns raised by his criminal conduct and excessive alcohol consumption. Accordingly, Applicant has not carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

Formal Findings

Formal findings 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.e:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a – 2.b:	For Applicant
Subparagraphs 2.c:	Against Applicant

Conclusion

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

Gina L. Marine
Administrative Judge