



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



In the matter of:)
)
-----) ADP Case No. 14-01742
)
)
Applicant for Public Trust Position)

Appearances

For Government: Pamela C. Benson, Esquire, Department Counsel
For Applicant: *Pro se*

04/27/2015

Decision

HOWE, Philip S., Administrative Judge:

Applicant submitted his Electronic Questionnaire for Investigations Processing (e-QIP) on December 17, 2013. On July 3, 2014, the Defense of Defense Consolidated Adjudications Facility (DODCAF) issued a Statement of Reasons (SOR) detailing the trustworthiness concerns under Guidelines J (Criminal Conduct), G (Alcohol Involvement), and E (Personal Conduct) for Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program*, dated Jan. 1987, as amended (Regulation); and the Adjudicative Guidelines (AG) effective within the Department of Defense after September 1, 2006.

Applicant answered the SOR in writing on July 28, 2014, and requested a hearing before an Administrative Judge. Department Counsel was prepared to proceed on November 4, 2014, and I received the case assignment on November 10, 2014.

The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on January 26, 2015, scheduling a hearing on February 11, 2015, by video

teleconference. That hearing had to be cancelled because of technical difficulties. A second notice of hearing was sent on February 19, 2015, setting the hearing for February 26, 2015, by video teleconference.

I convened the hearing as scheduled. The Government offered Exhibits (Ex.) 1 and 2, which were received without objection. Applicant testified. He did not submit any exhibits at the hearing. I granted him until March 12, 2015, to submit any exhibits. Applicant did not submit any exhibits by that date, although he told the Department Counsel on April 13, 2015, that he sent documents on March 11, 2015. Neither she nor I received them. He resent them on April 13, 2015, and the Department Counsel had no objection to the three documents being admitted into the record. I did so and marked them as Exhibits A, B, and C.

DOHA received the transcript of the hearing (Tr.) on March 10, 2015. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to sensitive information is denied.

Procedural and Evidentiary Rulings

Motion to Amend SOR

Department Counsel moved to amend the SOR by correcting the SOR in Paragraph 3 by changing the designations to Subparagraphs 3.d and 3.e from their typed designations that duplicated Subparagraphs 3.a and 3.b. The four subparagraphs were then designated in the correct alphabetical sequence. I granted the motion after Applicant had no objection to it. (Tr. 8, 9)

Findings of Fact

In his Answer to the SOR Applicant admitted all factual allegations in the SOR, except the one pertaining to falsification on his e-QIP (3.b). He also provided additional information to support his request for eligibility for a public trust position.

Applicant is 29 years old, unmarried, and does not have children. He has a high school diploma, having graduated in 2004. He has been employed by a defense contractor in the healthcare industry since November 2013. (Tr. 17-19)

Applicant's father died of a heart attack when Applicant was 17 years old, and his mother died of the same ailment when he was 18 years old. His last living grandparent died shortly after his mother died. He has two brothers, including a half-brother. Applicant moved frequently after his parents died. (Tr. 20-22; File e-QIP)

Applicant has seven arrests for criminal conduct from November 2009 to August 2013. Six offenses involved excessive use of alcohol and one involving marijuana usage in 2012. He admitted at the hearing to an eighth arrest in October 2014. The SOR also alleges five allegations of personal conduct concerns, including his criminal activity resulting from alcohol use, one falsification of an answer to an e-QIP question,

and three workplace disciplinary incidents. Applicant denies the falsification allegation, claiming it was a mistake on dates only. (Tr.51, Exhibits 1, 2; SOR; Answer)

Applicant drank alcohol for the first time when he was 18 years old. He resumed consumption when he was 21 years old. He drinks alcohol now about three times a month. He admits he does get intoxicated sometimes, maybe two or three times each month. He abstained from alcohol from 2009 to 2011. He stated he did not think alcohol was a problem in his life. He also opined that his alcohol incidents were isolated. Later in the hearing he admitted he has alcohol problems in "certain circumstances." (Tr. 22-25)

Applicant participated in an alcohol treatment program. He was admitted on March 14, 2015, and discharged on April 13, 2015. Applicant attended a 30-day partial hospitalization program. It "included individual and group therapy with an emphasis on developing tools and a sober support system for prevention of relapse." The April 10, 2015 letter from the counseling center lists the number of hours in each part of the program Applicant completed. It shows 156 hours of group counseling, 16 hours of individual counseling, 24 hours of self-help meetings, 16 hours of "CoDA (sic)," and 24 hours of "coping skills/DBT with emphasis on distress tolerance, mindfulness, emotion regulation, and interpersonal effectiveness." The discharge summary does not contain a diagnosis or prognosis but is signed by the manager of the program. The professional credentials of the letter writer from the recovery center Applicant attended are not stated in that letter. (Tr. 25; Exhibits B and C)

Applicant's recent exhibits do not contain any information about any aftercare program participation. There is no evidence from Applicant that he is active in Alcoholics Anonymous (AA) or any continuing aftercare program. He does not provide any information about how he selected this recovery program. (Exhibits A-C)

Applicant was arrested in November 2009 for being publicly intoxicated and disorderly (Subparagraph 1.a). He was found guilty and sentenced to three days in jail. Applicant testified he was at a bar and about to leave when he misspoke to a police officer and was arrested. Applicant had just lost his job at one company and was depressed and drinking. A friend was on his way to pick him up and Applicant stumbled twice as the police officer tried to help him. Then he said something inappropriate to the officer and was arrested. This arrest was Applicant's first and it caused him to stop drinking but for once or twice a year. (Tr. 25-27; Exhibits 1, 2)

In July 2011 Applicant was again arrested and charged with public intoxication and disorderly conduct (Subparagraph 1.b). This incident occurred because Applicant sought to intervene when he found his date intoxicated outside a bar they attended and police officers were helping her. He tried to help his date and was told by the police to return to the bar while they handled the situation. Applicant disagreed with that advice and was arrested for not complying with police instructions. He was found guilty and sentenced to three days in jail. (Tr. 27-29; Exhibits 1, 2)

Applicant's third arrest occurred in October 2011 and also involved alcohol usage (Subparagraph 1.c). The arrest was for criminal trespass and public intoxication. This incident occurred at a casino in another state, to which Applicant traveled with friends. Applicant searched for his friends and was told by a casino security officer to leave the premises because of his substantial intoxication. Applicant refused and was arrested. He said he did not drive so he needed his friends to get home. This charge is not resolved according to Applicant's Answer. (Tr. 29-31; Exhibits 1, 2)

In June 2012 Applicant was arrested for a fourth time on a charge of public intoxication (Subparagraph 1.d). He and a friend drank together and Applicant became intoxicated. He was arrested and found guilty. He was ordered by the local court to pay \$304 in fines and costs. (Tr. 31, 32; Exhibits 1, 2)

In August 2012 Applicant was arrested on charges of possession of drug paraphernalia and marijuana (Subparagraph 1.e). Applicant was found guilty and ordered to pay a \$200 fine. Applicant first tried marijuana in high school. He used it on occasion to try to help his depression and to feel better. At that time he used marijuana once or twice a year. Around the time of the arrest, he used it weekly for the previous six-month period. His last use of marijuana was in July 2012, he claims. He has not used any other illegal drug and has no intention of using them in the future. (Tr. 32-37; Exhibits 1, 2)

Applicant's sixth arrest was in July 2013 for alcohol intoxication (Subparagraph 1.f). Applicant was staying at his friend's house. He went to another friend's house and drank alcohol. Returning to the first location he was outside smoking and intoxicated when his first friend, who was his landlord, returned with a police officer. The landlord wanted Applicant to move out because his father was moving into that house. Applicant admitted he did not remember exactly what happened. He was later found guilty of public intoxication and fined \$204. (Tr. 40, 41; Exhibits 1, 2)

Applicant's seventh arrest was in August 2013 (Subparagraph 1.g). He was charged with criminal trespass and public alcohol intoxication. Applicant did not have a home at the time, staying with friends or one of his brothers intermittently. On this occasion Applicant had been drinking. He stopped to rest and smoked a cigarette. He then fell asleep briefly. A police officer approached him. Applicant walked onward and it started to rain. He went to a church with an overhang over the front steps seeking shelter where he could sleep off his intoxication out of the rain. He was fined \$200 after being found guilty of criminal trespass and public intoxication. (Tr. 42, 43; Exhibits 1, 2)

Applicant's alcohol and marijuana arrests are incorporated into the allegations of excessive alcohol intoxication and personal conduct in Paragraph 2, and Subparagraph 3.a of the SOR. (Tr. 11-42; Exhibits 1, 2)

As stated, Applicant admitted at the hearing he was arrested for public intoxication in the September to October 2014 time period. That incident occurred when a car in which he was the passenger hit the curb and popped a tire. Applicant had been drinking and was rude to the police officer who responded to assist the driver. Applicant

could not recall being arrested after that incident. This incident was not alleged in the SOR and the punishment did not involve probation. (Tr. 47-49)

Applicant did not answer Section 23 on his e-QIP correctly. Applicant listed his marijuana use as being from March 2010 to November 2010 when it was actually in March to November 2012 (Subparagraph 3.b). Applicant admitted he used marijuana in the past but does not currently. He stated he used it to relieve the stress he experienced in his life. He claims he made a mistake in listing 2010 instead of 2012. Applicant testified he completed the e-QIP over a period of time, making changes as he obtained information. He admits he overlooked making an amendment to his answer on that question of the e-QIP (Tr. 38, 39, 50-52; Exhibits 1, 2)

Applicant received a verbal reprimand from his supervisor in July 2013 for his absences resulting from his being in court to answer the intoxication charges, and his subsequent jail time sentences as part of the punishment for those offenses (Subparagraph 3.c). In late 2014 Applicant was reprimanded by the same employer for failing to meet a 95% accuracy goal on his assigned work. (Tr. 52-54)

Applicant was fired from another employer in July 2009 for a safety violation (Subparagraph 3.d). He worked in the warehouse and did not comply with some procedure involving a forklift vehicle. One supervisor told him to move the vehicle to a specific location without a spotter, a senior management official saw it, and that observation led to his termination. (Tr. 54, 55)

In December 2007 Applicant was terminated by another company because of attendance issues (Subparagraph 3.d). He worked there for two and a half years when he was fired. Under the company's attendance system an employee could accumulate points for each tardiness incident, early departure, or absence not otherwise approved. Applicant thinks he accumulated enough points to be terminated. (Tr. 55-58)

Applicant does not have a license to drive. His license is suspended because of his failure to appear in court on one of the charges against him in years past but he does not remember which one it was. He is not certain how long he has been without a license. He does not have a car and takes public transportation because he lives in a city. (Tr. 44-46)

Applicant does not regard himself as having an alcohol consumption problem. He has never been evaluated by a licensed professional in the alcohol treatment or medical profession. He has never sought assistance for his drinking, feelings of depression, or homelessness. He faced each problem himself and tried to take action. He was homeless in the second half of 2013 and drank alcohol to relieve stress and depression. While homeless he continued to work at his job. He did not ask for help, believing he could work his way out of his situation. He accepted only a little help on occasion to find a shelter for the night. Applicant learned from his experiences to be responsible. During this period he saved what money he could by giving it to his brother to keep. He saved enough that with assistance from an employer's program he saved the deposit amount to rent an apartment where he lives now. (Tr. 59-68)

Applicant's supervisor submitted a character reference letter for him. She has known him for several years and saw him advance from a new employee to being an interim supervisor in the customer service representative area. She considers him an asset on her team. He completes all assignment competently and efficiently. The supervisor stated he had one of the best attendance records in her unit. She finds him to be trustworthy and reliable. (Exhibit A)

Policies

Positions designated as ADP I/II/III are classified as "sensitive positions." (See Regulation ¶¶ C3.1.2.1.1.7 and C3.1.2.1.2.3.) "The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person's loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security." (See Regulation ¶ C6.1.1.1.) The Deputy Under Secretary of Defense (Counterintelligence and Security) Memorandum, dated November 19, 2004, indicates trustworthiness adjudications will apply to cases forwarded to DOHA by the Defense Security Service and Office of Personnel Management. Department of Defense contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made. (See Regulation ¶ C8.2.1.)

When evaluating an Applicant's suitability for a public trust position, the administrative judge must consider the disqualifying and mitigating conditions in the AG (AG ¶ 2 (a)). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to [sensitive] information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant has the ultimate burden of persuasion as to obtaining a favorable trustworthiness decision.

A person who seeks access to sensitive information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to sensitive information. Decisions include, by necessity, consideration of the possible risk the Applicant may deliberately or inadvertently fail to protect or safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information.

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

Analysis

Guideline J, Criminal Conduct

AG ¶ 30 expresses the trustworthiness concerns pertaining to 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.

AG ¶ 31 describes conditions that could raise a security concern, two of which may be disqualifying:

(a) a single serious crime or multiple lesser offenses; and

(c) allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted;

Applicant has seven criminal arrests for public intoxication, marijuana use or possession, or disrespect to police officers alleged in the SOR. He admitted to an eighth arrest in October 2014. AG ¶ 31 (a) and (c) are established.

AG ¶ 32 provides four conditions that could mitigate trustworthiness concerns, one of which may be applicable in this case:

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

Applicant's eighth arrest was in October 2014 for public intoxication. He has continued to work since 2007, even though he was homeless in 2013. Applicant has a

good employment record in his current job. His supervisor wrote a very favorable letter about his duty performance. However, there is no evidence of successful alcohol rehabilitation; his series of offenses continued until recently; he does not have any recent job training or higher education; or any constructive community involvement. He only has the good employment record to support his trustworthiness application, so AG ¶ 32 (d) is only minimally established.

Guideline G, Alcohol Consumption

AG ¶ 21 expresses the trustworthiness concern pertaining to alcohol consumption:

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

AG ¶ 22 describes conditions that could raise a trustworthiness concern, two of which may be disqualifying:

(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 whether the individual is diagnosed as an alcohol abuser or alcohol dependent; and

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

Applicant has seven alcohol-related incidents away from work. His record shows these arrests were for public intoxication. During some of that time Applicant was homeless in 2013. AG ¶ 22 (a) is established.

Applicant habitually consumed alcohol over several years, resulting in numerous arrests for public intoxication. His judgment was impaired by his alcohol drinking, leading to the arrests. He does not have a diagnosis as an alcohol abuser or alcohol dependence but the frequency of these incidents show his good judgment is adversely affected. AG ¶ 22 (c) is established.

AG ¶ 23 provides conditions that could mitigate trustworthiness concerns. None of these conditions apply:

(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 good judgment;

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

(c) the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, and is making satisfactory progress; and

(d) the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant's alcohol consumption problems extended from 2009 to 2014. Insufficient time has elapsed, and the behavior was frequent. Applicant claims his conduct happened under such unusual circumstances as his parents' deaths, becoming responsible for his own life after those deaths, being homeless for at least six months, and trying to maintain a normal life under stressful conditions. These are not persuasive reasons for excusing his repeated alcohol arrests. While he went to a 30-day inpatient alcohol recovery program, he did not present any evidence of the credentials of the program operators, the diagnosis and prognosis of his alcohol problem, evidence of any aftercare program recommendation and participation, AA membership and attendance, or any other evidence that his alcohol problem is resolved. AG ¶ 23 (a) was not established.

Applicant did not admit at the hearing that he is an alcoholic or an alcohol abuser. His periods of abstinence are not current within the last two years. There is no evidence of any period of abstinence or pattern of responsible use. In fact, Applicant admitted at the hearing he continued to drink several times a month, including to the level of intoxication. AG ¶ 23 (b) is not established.

There is no evidence from Applicant that he is participating in a regular counseling program, in which he is making satisfactory progress; is participating in aftercare; is involved in AA or other similar program; or has a favorable prognosis from a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program. AG ¶ 23 (c) and (d) are not established.

Guideline E, Personal Conduct

AG ¶ 15 expresses the trustworthiness concern pertaining to personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The following will normally result in an unfavorable clearance action or administrative termination of further processing for clearance 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, and cooperation with medical or psychological evaluation; 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.

AG ¶ 16 describes conditions that could raise a trustworthiness concern and may be disqualifying, two of which may apply:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing, or (2) while in another country, engaging in any activity that is illegal in that country or that is legal in that country but illegal in the United States and may serve as a basis for exploitation or pressure by the foreign security or intelligence service or other group.

Applicant answered Section 23 of the e-QIP with the wrong year for his marijuana usage. He stated it was in 2010 instead of 2012. Applicant claimed he made a mistake on the proper year. AG ¶ 16 (a) is established.

Applicant's repeated incidents of public intoxication and disrespect of police officers from 2009 to 2014 are the type of personal conduct that creates a vulnerability

to exploitation, manipulation, or duress that affect his personal and community standing. His depression and homelessness may also create the same vulnerability. AG ¶ 16 (e) is established.

AG ¶ 17 provides conditions that could mitigate trustworthiness concerns, two of which may apply:

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

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

Applicant acknowledges his past behavior and sought counseling for his alcohol problem. He has continued to work during all of his problems, eventually saving enough money to rent an apartment. He admits he learned some lessons during his homelessness and from his involvement with police during the public intoxication arrests. However, he only recently acknowledged his alcohol problem and participated in a 30-day recovery program after the hearing. There is no evidence submitted that he changed his drinking behavior or has a viable support program in place to prevent a recurrence of the past problems. His use of incorrect dates in his e-QIP answer was a mistake and not intentional deception. AG ¶ 17 (d) is partially established.

Applicant has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress by consuming alcohol only at home and indoors, and not in public. This approach without professional aftercare program participation and AA or other support program membership is insufficient to apply this mitigating condition to the allegations in Subparagraph 3. a. It can apply to his work situation. He maintains his job and gets rides to work. His brother and friends are aware of his legal and alcohol problems. AG ¶ 17 (e) is partially established.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a public trust position 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 AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of

rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

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

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant suffered personally from the early deaths of his parents and grandfather when he was still in high school. Applicant does not have a college degree, yet obtained a series of jobs which provided him with the necessities of life. Although Applicant was homeless in the last half of 2013, he saved part of his income so he could rent an apartment. He was looking ahead and trying to improve his circumstances. Applicant learned from his harsh experiences and tried to change his behavior to avoid further arrests. He acknowledged that his behavior was inappropriate in the past, but is now committed to change. Applicant has a good job, at which he has worked for two years. He is trying to improve his life. He works hard at his job.

However, it was only after the hearing that he sought any type of alcohol counseling. He did not present any evidence of aftercare recommendations, with which he was attempting to comply. He did not provide evidence that he was enrolled in AA. He testified he drank several times a month even to intoxication but indoors. That approach to addressing an alcohol problem is not persuasive of a dedicated and effective resolution or control of such a long-standing situation.

While Applicant is not eligible now, a longer period of sobriety with active participation in a counseling or rehabilitation program, an extended period of abstinence or responsible use of alcohol, a professional diagnosis and prognosis of his relationship with alcohol, and active regular membership in AA, would make him more eligible for consideration later. He should also remain out of trouble with police authorities and his work supervisors to enhance his chances for positive consideration. Applicant has made a start on a recovery program and he needs more time to demonstrate that he is serious and his work to date is directed toward an effective recovery program.

Overall, the record evidence leaves me with questions or doubts as to Applicant's eligibility and suitability for a public trust position. For all these reasons, I conclude Applicant did not mitigate the trustworthiness concerns arising from his criminal conduct, alcohol consumption, and personal conduct trustworthiness concerns. I conclude the whole-person concept against Applicant.

Formal Findings

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

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant
Subparagraph 3.b:	For Applicant
Subparagraph 3.c:	For Applicant
Subparagraph 3.d:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a public trust position. Eligibility for access to sensitive information is denied.

PHILIP S. HOWE
Administrative Judge