

DATE: December 20, 2004

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-13151

ECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

Rita C. O'Brien, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has a long history of binge drinking to the point of intoxication. In December 2002, he was found passed out drunk on a lavatory floor at his place of employment. Applicant received extensive treatment and counseling, but resumed heavy drinking in July 2003, a month after his treatment ended. Although Applicant has been sober for 12 months, he failed to establish a sufficient record of sobriety to mitigate the alcohol consumption security concerns. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On 5 April 2004, DOHA issued a Statement of Reasons⁽¹⁾ (SOR) detailing the basis for its decision-security concerns raised under Guideline G (Alcohol Consumption) of the Directive. Applicant answered the SOR in writing on 10 May 2004 and elected to have the case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on 21 September 2004. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant received the FORM on 15 October 2004 and responded on 8 November 2004. The case was assigned to me on 16 November 2004.

FINDINGS OF FACT

Applicant is a 45-year-old program manager for a federal contractor. He has held a top secret clearance with access to sensitive compartmented information (SCI) since 1997, and a security clearance since 1980. Applicant has retained his clearance pending a final decision on his case.

Applicant is the son of two alcoholics. His father died of alcoholism. Applicant began drinking alcohol when he was 15 years old. In college, he drank to the point of intoxication both days of the weekend. He met his wife in college, and

they married during his senior year. Because of her concerns with his heavy drinking, he curtailed his consumption of alcohol. But within two years, he was drinking a 12-pack of beer each night. Although his drinking did not seem to affect his job performance, it did affect his marriage. By 1984, Applicant was drinking to the point of intoxication every night. His wife gave him an ultimatum to stop drinking or she would leave him.

Applicant stopped drinking for three years, although the obsession to drink still haunted him. About 1987, Applicant began drinking again, but tried to hide it from his wife. She found the liquor bottles and began to talk of divorce. Applicant made a concerted effort to stop drinking, but refused to seek professional counseling because he denied he had a problem. For the next 15 years, Applicant drank only on rare occasions. When he did drink, he drank to the point of intoxication. He started hiding the bottles again, but in 2002 finally told his wife that he had begun drinking again. This emboldened him to continue his heavy drinking. He admits that he must have driven while drunk on hundreds of occasions.

On 6 December 2002, Applicant left his place of employment to get something to eat. He purchased and drank a bottle of vodka before returning to work. After a fellow employee saw him staggering in a hallway, a search was conducted for Applicant. A security officer found him passed out on a lavatory floor. He had wandered in and out of 37 different gates at the facility and had fallen causing bruises on his face. Officials at his place of employment found a liquor bottle at his work site.

As a result of the 6 December 2002 incident, Applicant sought professional counseling and joined Alcoholics Anonymous. The counseling consisted of an intensive six-month program consisting of individual and group therapy and attendance at Alcoholics Anonymous (AA) several times a week. He completed his counseling in June 2003 and, almost immediately decreased his attendance at AA meetings, stopped his step work, and became distant from his sponsor. He started drinking again. After four months, he stopped drinking and returned to AA. He was evaluated by a substance abuse counselor. The counselor diagnosed him as being alcohol dependent. The counselor recommended Applicant enroll in a relapse prevention plan including monthly check ups with a licensed professional or certified addiction professional and continue with AA. He asserts he has been sober for over 12 months.

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 occupy a position . . . that will give that person access to such information." *Id.* at 527. The President has restricted eligibility for access to classified information to United States citizens "whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information." Exec. Or. 12968, *Access to Classified Information* § 3.1(b) (Aug. 4, 1995). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.

Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that 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 disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. The Directive presumes a nexus or rational connection between proven conduct under any of the disqualifying conditions listed in the guidelines and an applicant's security suitability. *See* ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to

rebut, explain, extenuate, or mitigate the facts. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

CONCLUSIONS

In the SOR, DOHA alleged Applicant consumed alcohol to excess and to the point of intoxication from the age of 15 until November 2003 (¶ 1.a), was found intoxicated at his place of employment on 11 December 2002 (¶ 1.b), attended alcohol treatment from December 2002-June 2003 (¶ 1.c), resumed consuming alcohol from July 2003-November 2003 (¶ 1.d), and in February 2004, was diagnosed as being alcohol dependent (¶ 1.e). Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness. Directive ¶ E2.A7.1.1.

The Government's evidence and Applicant's admissions constitute substantial evidence of potentially disqualifying conditions under Guideline G. Applicant had an alcohol-related incident at work (DC E2.A7.1.2.2), has been engaged in habitual and binge consumption of alcohol (DC E2.A7.1.2. 5), and been diagnosed as alcohol dependent by a licensed clinical social worker of a recognized alcohol treatment program (DC E2.A7.1.2.4). On the other hand, Applicant has made positive changes in his behavior supportive of sobriety (MC E2.A7.1.3.3), he has successfully completed a rehabilitation program and has not consumed alcohol for more than 12 months (MC E2.A7.1.3.4). Nevertheless, I am not convinced Applicant has his drinking problem under control. Applicant was sober for six months and relapsed for four months a little more than a year ago. Under all the circumstances, there is not a sufficient track record of sobriety to mitigate the security concerns raised by his serious alcohol problem.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline G: 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

DECISION

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 or continue a security clearance for Applicant. Clearance is denied.

James A. Young

Administrative Judge

1. Pursuant to Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified (Directive).