

DATE: July 31, 2006

In re:

SSN: -----

Applicant for Security Clearance

CR Case No. 04-11447

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant, who first realized he was an alcoholic in 1997, struggled to deal with his addiction for the next four years until December 28, 2001. The alcohol consumption concerns are mitigated by his successful completion of two alcohol rehabilitation programs in 2002, ongoing commitment to Alcoholics Anonymous, abstinence for more than four years, and stable lifestyle. Financial considerations persist where he owes more than \$30,000 in delinquent debt, including child support arrearage. Personal conduct concerns related to alleged falsification of his security clearance application are not proven. Clearance is denied.

STATEMENT OF THE CASE

On August 2, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. ⁽¹⁾ DOHA recommended referral to an administrative judge to determine whether his clearance should be granted, continued, denied, or revoked. The SOR was based on alcohol consumption (Guideline G), financial considerations (Guideline F), and personal conduct (Guideline E).

Applicant answered the SOR on August 28, 2005, and requested a hearing before a DOHA administrative judge. The case was assigned to me January 3, 2006. On February 27, 2006, I convened a hearing pursuant to notice dated January 13, 2006. Fifteen government exhibits and eight Applicant exhibits were admitted and testimony was taken from Applicant and four witnesses on his behalf. A transcript of the proceeding was received March 13, 2006.

FINDINGS OF FACT

DOHA alleged under Guideline G that Applicant consumed alcohol at times to intoxication, to include daily, from about 1985 to at least December 2001; he was twice arrested for driving while intoxicated in November 1997; and he received alcohol treatment, including for diagnosed alcohol dependency, at several different facilities over the years from

October 1997 to November 2003. Applicant was alleged under Guideline F to owe \$10,100 in delinquent credit card debt (§§ 2.a., 2.i.), \$6,733 in medical debt in collection (§§ 2.b., 2.e., 2.f., 2.g.), \$24,522 in child support (§§ 2.c., 2.d.) and a \$4,214 judgment for state unemployment benefits. Applicant was alleged under Guideline E to have deliberately falsified his January 2003 security clearance application (SF 86) by not disclosing one of his two arrests for DWI in November 1997 (§ 1.c.), and omitting several of his alcohol treatments.

In his answer, Applicant admitted the alcohol treatment/counseling with limited exception. He denied receiving alcohol treatment from July to September 1998 in a community prevention and addiction services program (§ 1. j.), or from October 5, 1998 to October 17, 1998, in a hospital's drug rehabilitation center (§ 1.m.). Applicant admitted receiving treatment for alcohol dependence in an alcohol rehabilitation facility from December 31, 2001 to February 12, 2001, but denied he was also treated for cocaine dependence (§ 1.r.). Concerning the alleged indebtedness, Applicant admitted owing the medical debts in collection and an \$8,649 delinquent credit card balance. He denied the other credit card debt (§ 2.a.), past due child support, and judgment debt, averring the child support and judgment were being paid by weekly payroll deduction. Applicant also denied the alleged deliberate falsification of his SF 86. Applicant's admissions are incorporated as findings of fact. After a thorough consideration of the evidence of record, I make the following additional findings:

Applicant is a 38-year-old first class shipfitter in a defense contractor's apprenticeship program. He started with the company in January 2003 and seeks a secret-level security clearance for his duties. Hardworking and with a keen ability to learn, Applicant has proven to be an outstanding performer. He has had no attendance problems. Applicant has earned the respect of coworkers, union officials, and management on the job. His supervisor over the past three years considers Applicant to be "of upstanding moral character."

Alcohol Consumption

Applicant has a history of depression from about age 10 when his parents divorced. He first consumed alcohol at age 14. He was twice arrested for possession of alcohol as a minor. Starting in about 1992, he began to consume alcohol regularly, three or four beers or one or two shots of liquor while socializing with friends after work hours five to six times a week. In September 1995, Applicant got married to his first wife, who had given birth to their daughter in April 1993.

In October 1997, Applicant's mother died. Applicant's drinking escalated and he ended up in detoxification (§ 1.d.). While he was in the hospital, his wife left him, taking their daughter whom he has not seen since. Depressed over the dissolution of his marriage⁽²⁾ and his mother's death, Applicant began to drink to intoxication daily, usually five to six 12-ounce beers, sometimes a pint to a quart of vodka.

In November 1997, he was arrested twice for drunk driving. Applicant was injured in an automobile accident caused by the other driver failing to obey a stop sign. At the hospital, it was determined that he was under the influence of alcohol. Applicant had consumed four or five beers and one or two shots of liquor before the accident. Since he was not at fault in the accident, a decision was made not to file drunk driving charges against him. About a week later, Applicant was arrested for operating a motor vehicle while under the influence (OUI) as he was leaving a local tavern. He had consumed approximately 1 1/2 pints of whiskey and at least a six-pack of beer to intoxication. Applicant was subsequently charged with the earlier operating under the influence as well. The cases were consolidated and in February 1998, Applicant was sentenced to six months in jail, suspended after four days served, 18 months probation, fines totaling \$1,356, and 16 months loss of driver's license.

Sometime in early 1998, Applicant reported to his job to operate a snowplow. Smelling alcohol on his breath, his employer notified him he would be given other duties. An argument ensued and Applicant was told his services were not needed. He collected the maximum unemployment benefit, which was successfully contested by his former employer.

Over the next three plus years, Applicant struggled to deal with his alcohol problem. Abstinent during several detoxification treatments as well as three alcohol treatment programs, he relapsed each time into daily drinking to intoxication. Fourteen different times from October/November 1997 to February 2001, he received detoxification

treatment at two area hospitals (seven stays of less than 24 hours as to ¶ 1.a., and seven stays of two to three days as to ¶ 1.b.).

After his first two detoxifications, Applicant had outpatient mental health counseling in December 1997 (¶ 1.f.) as he struggled to deal with his alcoholism and grief over the death of his mother. After four individual sessions, Applicant was discharged on December 24, 1997, with a good prognosis, provided he continued to receive counseling. Applicant relapsed, and underwent eight days of detoxification at an alcohol treatment center (treatment center A) from April 27, 1998 to May 4, 1998 (¶ 1.g.), followed by an inpatient stay for diagnosed alcohol dependency at another facility (¶ 1.h.). Treatment goals there were met, and he was discharged early on May 24, 1998, only to relapse into daily drinking on his discharge. From April 27, 1998 to July 13, 1998, Applicant also had four sessions of mental health counseling (¶ 1.f.) from a clinician who noted Applicant was not serious about his abstinence.

On July 13, 1998, Applicant returned to treatment center A for another seven days of detoxification (¶ 1.i.) with plans thereafter for long term treatment. On his discharge, he entered a structured long-term residential treatment program (residential program B) for the first time (¶ 1.k.). He received inpatient alcohol counseling for about sixty days but was discharged in September 1998 because he failed to maintain abstinence. He underwent detoxification treatment in a hospital's drug rehabilitation center from September 29, 1998 to October 3, 1998 (¶ 1.l.), and October 5 to 17, 1998 (¶ 1.m.), but continued to drink on a daily basis to intoxication when not at the facility.

After being unemployed for about a year, he got a job as package hauler in November 1998. In February 1999, he began working as a laborer at a local quarry. On at least eight occasions, he failed to report for duty at the quarry because of drinking, and he was eventually fired in June 2000 for poor performance.⁽³⁾ Applicant underwent another five days of detoxification in November 2000 (¶ 1.n.).

Out of work and living in a shelter, Applicant drank enough vodka, whiskey, and beer on March 15, 2001, to go to the hospital where his blood alcohol content tested at almost .5 %. On March 27, 2001, Applicant voluntarily readmitted himself to residential program B where he was diagnosed as alcohol dependent (¶ 1.o.). He maintained abstinence during his eight months at the facility, managing to work during the day as a laborer for a trucking company since June 2001, and was discharged on December 1, 2001. He had his own apartment, and relapsed the same day. Thinking he could control his drinking, he consumed from a pint up to a quart of liquor on average every other day for the next two weeks.

Realizing that his drinking was getting out of hand, Applicant had a friend take him back to residential facility B on December 11, 2001. A staff member brought him back to his apartment pending arrangements for his admission into a treatment facility after work that day. Applicant drank to excess once he was left alone in his apartment. When they returned for him, Applicant passed out in the car and was taken to a local hospital where he was admitted in an unresponsive state. He had a seizure during his examination, and was placed on medication for seizure disorder attributed to alcohol withdrawal, and on detox protocol for acute alcohol intoxication with a blood alcohol level of .481%. Six days later, he declined an offer of further detoxification, and was discharged to home (¶ 1.p.). He presented at the hospital again for detoxification (¶ 1.q.) on December 28, 2001, and was told that he would have to leave; that there was nothing the hospital could do for him if he did not want to stop drinking. He was given contact numbers of local alcohol treatment centers, and managed to secure admission to an alcohol rehabilitation program (alcohol rehabilitation facility C).

On his admission to alcohol rehabilitation facility C on December 31, 2001 (¶ 1.r.),⁽⁴⁾ Applicant was given a provisional diagnosis of alcohol dependence and cocaine dependence based on self-report of drinking one half gallon of liquor per day and using cocaine five days out of the last 28. Desperate to obtain help, Applicant falsely reported he had used cocaine to ensure his admission. Toxicology tests were negative for all substances tested, including cocaine.⁽⁵⁾ After an initial four or five days of detoxification, Applicant was placed in an off-campus ("Life skills") housing program. Applicant attended education and therapy groups, and nightly Alcoholics Anonymous (AA) meetings, with the goal of establishing routines supportive of recovery from his chemical dependence and understanding the dynamics, progressive nature, and medical consequences of addiction. He also worked with a staff psychiatrist to gain a better appreciation of his depression. He made minimal progress in treatment, but was sober. On discharge on February 12, 2002, he was diagnosed with alcohol dependence on Axis I, and given a fair prognosis. Aftercare plans included

continuation of treatment within the structured environment of residential program B and AA meetings.

Applicant was discharged directly from the Life skills program into residential program B at his request on February 12, 2002, for treatment of alcohol dependence (§ 1.s.). Also identified as problem issues that needed to be addressed were his lack of commitment to AA, relapses, mental health (depression), homelessness, and unemployment. An active participant in group therapy, Applicant made notable progress toward his treatment goals, including regaining the fundamentals of AA and developing new relapse prevention skills. His mental health remained stable through medication and counseling at a behavioral health center from March 7, 2002 through November 7, 2003 (§ 1.t.). On July 15, 2002, Applicant was discharged from active therapy in residential program B to a staff position of crew leader responsible for outside maintenance at the facility. He was given a prognosis of fair to good provided he maintain his affiliation with AA, his sponsor and home group.

Applicant was offered the position of crew leader because of his progress in treatment. While living at the facility in charge of grounds maintenance, Applicant attended AA just about nightly. After about six months, Applicant was offered an apprenticeship opportunity by the defense contractor. After discussing it over with the residential program's director, Applicant elected to leave the structured environment of the facility and reintegrate into the community.

Applicant has been abstinent from alcohol since December 28, 2001, and has no intent to drink again. He is taking one day at a time and knows he had to stay committed to his recovery. Applicant has attended at least two AA meetings ("big book" and men's group) per week since he was readmitted to residential program B in February 2002. He does not attend a step meeting as he tries to focus on the particular situation facing him at the time. Applicant has an AA chip marking four years of sobriety, which he pulled out of his pocket while testifying. He has had a sponsor in AA since he was discharged as a client from residential program B in July 2002. His sponsor, who has 27 years of sobriety, is a counselor at the facility. As of February 2006, Applicant has once weekly contact with his sponsor at a Wednesday night AA meeting. In the sponsor's opinion, Applicant has gradually improved in his recovery ("a flow towards wellness" Tr. 55) and he is doing well.

Applicant met his current spouse, who is also a recovering alcoholic, at an AA dance in September 2002. He moved in with her in December 2002, and they married in November 2003. They socialize with others in the AA fellowship. Applicant's stepdaughter attests to his sobriety, and to his concern for others, including her elderly grandparents.

Applicant continues on Zoloft medication for his depression, which has been prescribed by his primary physician since November 2003. Seeking a recent clinical assessment, Applicant presented for a psychiatric evaluation on February 8, 2006. After reviewing discharge summaries from Applicant's previous rehabilitation and detoxification treatments, and evaluating Applicant, a board certified psychiatrist opined Applicant's alcoholism was in remission and there was no psychiatric reason to bar him from receiving a clearance.

At the time of his divorce from his first wife in May 1999, the court contemplated that Applicant would have contact with his daughter at some future time if he received treatment for his alcoholism and showed a significant period of sobriety. In February 2005, Applicant filed a motion in court to reestablish contact with his child. As of January 2006, there had been no resolution as his ex-wife was opposed to any contact. The stress of the court proceedings had not led to any relapse into alcohol abuse by Applicant.

Financial Considerations

Due to several periods of unemployment when he was actively abusing alcohol, Applicant fell seriously behind in his financial obligations, including his child support for two daughters. He has a daughter (daughter #1) born to him and a former girlfriend in March 1992. His daughter by his first wife was born in April 1993. The financial history of his delinquent debts is set forth in the following table.

Debt as alleged in SOR	Delinquency history	Payment status as of Feb 06
\$1,451 in collection (§ 2.a.)	Retail charge opened May 91, \$1,501 delinquency sold Apr 98, \$1,451 sent for collection Sep 02	\$1,451 balance as of Aug 03, paid \$50 in final settlement Jan 06

\$1,157 hospital debt in collection (¶ 2.b.)	Debt incurred Sep 00, \$1,157 in collection as of Oct 02	Unpaid; contacted hospital, informed of collection status; no contact with collection agency
\$19,788 child support arrearage for daughter #2 (¶ 2.c.)	Arrearage assessed Feb 99, \$21,348; \$20,738 balance as of Apr 04; \$19,580 balance as of Jun 05	Payments automatically deducted from wages starting in about Jul 02; \$149.50 per week as of Feb 06
\$4,734 child support arrearage for daughter #1 (¶ 2.d.)	Arrearage assessed May 00, \$5,846; \$5,130 balance as of Apr 04; \$4,734 balance as of Jun 05	Reconciled with girl's mother briefly in 98, paid mother directly in 99; wages being attached at \$50.10 per week as of Feb 06
\$125 medical debt in collection (¶ 2.e.)	\$125 debt in collection as of Feb 98, unpaid as of May 04	No record of payment
\$4,833 hospital debt in collection (¶ 2.f.)	In collection as of May 98	Unpaid, contacted hospital, informed of collection status; no contact with assignee
\$618 hospital debt in collection (¶ 2.g.)	In collection as of May 98	Unpaid, contacted hospital, informed of collection status; no contact with assignee
\$4,214 judgment owed to state (¶ 2.h.)	Unemployment compensation benefits successfully contested by former employer in 98; wage execution order Nov 03 to collect \$3,766.70 unpaid judgment balance	Wages garnished when he earns over \$1,000 in a week, \$21.65 deducted from pay in Jan 06
\$8,649 credit card debt (¶ 2.i.)	\$4,984 debt incurred during first marriage; with interest and fees to \$8,649 in collection as of Jul 00	Last contact with creditor late spring 05, wanted lump sum payment, made partial payments of about \$30 as recently as Dec 05

Applicant was paid \$9 an hour as a crew leader for residential treatment facility B. Applicant started the defense contractor's apprenticeship program at \$10 an hour. On April 25, 2004, Applicant provided the DSS agent with a personal financial statement. He estimated a monthly net remainder of only \$5 after payment of expenses and \$50 on the debt in ¶ 2.a., but this did not include any spousal income. He indicated that with her income, he had a net monthly remainder of \$595 because his spouse had no monthly debts that he was required to pay.

Applicant and his spouse financed the purchase of two automobiles in 2005. In June 2005, Applicant cosigned on a loan of \$22,000, to be repaid at \$474 per month, taken out by his spouse for a 2005 model-year four-wheel-drive vehicle. In August 2005, he took out a \$23,000 loan for a 2002 pickup truck which he drives. The monthly payment on that loan is \$663.

In September 2005, Applicant and his spouse got behind in their rent. His spouse was out of work for five weeks recuperating from surgery. They have since caught up in their living expenses. They live paycheck to paycheck if he has no overtime earnings. He earns \$20.31 per hour in his job with the defense contractor. As of February 2006, they had \$1,300 on deposit in a joint savings account and \$200 in their checking account.

Personal Conduct

On January 20, 2003, Applicant completed a handwritten Questionnaire for National Positions (QNSP) in application for a secret clearance for his work with the defense contractor. Applicant indicated in answer to question 22 concerning his employment record that he had left two jobs, including the quarry's employ, following allegations of unsatisfactory performance. In response to question 23 concerning his police record, Applicant listed only one DWI offense in November 1997 as the two cases had been consolidated for adjudication purposes and he was sentenced only once. He

also listed a December 2000 driving under suspension offense, for which he was sentenced to 30 days in jail and one year probation. Applicant responded affirmatively to whether he had consulted with a mental health professional in the past seven years ("anxiety only"), but indicated with respect to the provider and dates of treatment "N/A." As for any alcohol treatment, Applicant listed his inpatient stays in long-term residential program B from July to September 1998 and from March to December 2001. Regarding financial difficulties, Applicant disclosed in response to question 27 b wage garnishments to collect the judgment debt (§ 2.h.) and child support for daughter #1 (§ 2.d.). Applicant also responded "Yes" to questions 28 a. ["In the last 7 years, have you been over 180 days delinquent on any debt(s)?"] and 28 b. ["Are you currently over 90 days delinquent on any debt(s)?"], and listed the medical debts in §§ 2.b. (\$1,157.15) and 2.f. (\$4,833.08).

On January 23, 2003, Applicant signed a typewritten security clearance application (SF 86) that had been prepared for him from the information he had provided on his handwritten QNSP a few days before. As to question 20 (22 on the QNSP, left a job under adverse circumstances), only the quarry job was included on the typed SF 86. The DWI was reported under question 24 pertinent to any drug/alcohol offenses, and the driving under suspension was disclosed under question 26 (other offenses). His alcohol rehabilitation treatments in long-term residential program B were listed in answer to question 30 ["In the last 7 years has your use of alcoholic beverages (such as liquor, beer, wine) resulted in any alcohol-related treatment or counseling (such as for alcohol abuse or alcoholism)?"]. The two wage garnishments for \$2,200 and \$4,500 were entered under question 34 (wage garnishments), and the delinquent medical debts for \$1,157 and \$4,833 were listed in response to question 38 (financial delinquencies-180 days). However, inconsistent from his handwritten QNSP, question 39 concerning any debts currently over 90 days delinquent was answered in the negative.

When interviewed by the DSS agent on April 25, 2004, Applicant denied any deliberate omission or concealment of data from his SF 86. He cited his unawareness or lack of recall generally, and specifically stated with respect to the omission of alcohol treatments:

I did not list all of the locations where I had received alcohol-related care on my SCA because I did not believe it was necessary to list all locations as long as I listed the location where I had received treatment for the longest duration. Additionally, I thought that I had listed other locations of treatment such as [alcohol rehabilitation facility C], and various facilities that I outlined above on my draft SCA. I never noticed that they were omitted from my final SCA until my DSS interview/investigation. (Ex. 4)

When asked by DOHA to respond to allegations that he deliberately falsified his typed SF 86 by listing only one DWI and omitting several of his alcohol treatments and detoxifications, Applicant indicated in August 2005 that he answered to the best of his knowledge at the time. At his hearing, he again denied any intentional omission, and testified he had attached a separate document to his handwritten QNSP where he had listed other counseling but it could not be found. (Tr. 128)

Applicant's denial of any knowing and willful falsification is accepted with respect to his omission of one of the two November 1997 DWI arrests in light of the consolidated adjudication of the two drunk driving charges. While those sections of the QNSP that were submitted into evidence (Ex. H) include only two admissions to long-term residential program B, he indicated when he was first confronted about the omissions by the DSS agent that he thought he had included more information when he completed his draft clearance application. His testimony to having attached a sheet to his draft clearance application is considered credible, notwithstanding his inability three years later to produce the corroborating documentation.

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 authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive. 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.

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 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.

After considering the evidence of record, the following adjudicative guidelines are pertinent to an evaluation of Applicant's security suitability:

Alcohol Consumption. 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. (¶ E2.A7.1.1)

Financial Considerations. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts. (¶ E2.A6.1.1.)

Personal Conduct. Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information. (¶ E2.A5.1.1.)

CONCLUSIONS

Having considered the evidence of record in light of the appropriate legal precepts and factors, and having assessed the credibility of those who testified, I conclude the government established its case with respect to Guideline G, alcohol consumption, and Guideline F, financial considerations, but not as to Guideline E, personal conduct, as Applicant did not knowingly and willfully falsify his January 2003 security clearance application.

Applicant is an alcoholic who managed to function until his mother died and his first wife left him in October 1997. He started a downward spiral of excessive drinking that led to two drunk driving incidents, job loss, and homelessness. Several detoxifications at local hospitals did nothing more than force abstinence for a few days at a time. Not serious about his recovery, he relapsed after completing alcohol rehabilitation in May 1998, and was discharged prematurely in September 1998 from long-term residential program B for drinking. Over the next two and one-half years, he abstained only during short-term detoxification efforts at a local hospital. After being alcohol-free for nine months during his second stay in residential program B in 2001, he relapsed the day of his discharge. To his credit, eventually he had a friend bring him back to residential program B, but when allowed to return home to arrange his affairs pending his return to inpatient rehabilitation, Applicant drank himself into an alcohol-induced coma with a blood alcohol content of .481% as recently as December 11, 2001. It had little effect, as he again drank to excess once he was out of the hospital. On his return to the hospital for detoxification on December 28, 2001, Applicant was told he could not stay at the hospital; that there was nothing more that the hospital could do for him if he did not want to commit himself to recovery. Under Guideline G, disqualifying conditions (DC) DCs ¶ E2.A7.1.2.1. *Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, or other criminal incidents related to alcohol use*, ¶ E2.A7.1.2.3. *Diagnosis by a credentialed medical professional (e.g. physician, clinical psychologist, or psychiatrist) of alcohol abuse or dependence*, ¶ E2.A7.1.2.5. *Habitual or binge consumption of alcohol to the point of impaired judgment*, and ¶ E2.A7.1.2.6. *Consumption of alcohol, subsequent to a diagnosis of alcoholism by a credentialed medical professional and following completion of an alcohol rehabilitation program*, apply.

Applicant is credited with remaining abstinent from alcohol since December 28, 2001, and with voluntarily admitting himself and successfully completing alcohol rehabilitation facility C's life skills program. At his request, on his discharge he re-entered for the third time the long-term residential program (residential program B) for men. As

evidenced by Applicant's very serious relapse history, abstinence and treatment does not necessarily guarantee that he will be able to maintain his sobriety over the long term. However, in contrast to his prior rehabilitation efforts, he has demonstrated a genuine, sustained commitment to his recovery since late 2001. Because of his notable progress toward his treatment goals, he was trusted with a staff position following his discharge from residential program B in July 2002. Within this structured environment, he continued to avail himself of AA meetings. In September 2002, he met his spouse at an AA dance, and later moved in with her in December 2002 around the time he started with the defense contractor. Since his reintegration into the community, he has continued his involvement with AA. Although he is not involved in step meetings within AA, he has been a regular attendee (twice a week, sometimes three) at meetings and has a sponsor who attested to Applicant doing well in his recovery. By all accounts, his work performance for the defense contractor has been stellar and consistent with a sober lifestyle. He has had mental health counseling and been on Zoloft to deal with the depression that contributed to his drinking. Per the psychiatric evaluation in February 2006, Applicant's alcohol dependence is in remission for the last four years. While this psychiatrist's opinion would be entitled to greater weight had he been treating Applicant, his assessment was favorable ("I do not feel that there are any psychiatric reasons for him not to receive his security clearance." Ex. F). Mitigating conditions (MC) ¶ E2.A7.1.3.3. *Positive changes in behavior supportive of sobriety*, and ¶ E2.A7.1.3.4. *Following diagnosis of alcohol abuse or alcohol dependence, the individual has successfully completed inpatient or outpatient rehabilitation along with aftercare requirements, participates frequently in meetings of Alcoholics Anonymous or a similar organization, has abstained from alcohol for a period of at least 12 months, and received a favorable prognosis by a credentialed medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program*, apply. Favorable findings are warranted as to the Guideline G concerns because of his rehabilitation efforts since late 2001.

Under Guideline F, financial considerations, the security concerns arise when the applicant is shown to have a history of excessive indebtedness, recurring financial difficulties, or a history of not meeting his financial obligations. The government must consider whether individuals granted access to classified information are, because of financial irresponsibility, in a position where they may be at risk of having to engage in illegal acts to generate funds. Applicant owes about \$6,733 in medical debt in collection since 1998. As of June 2005, he owes child support of about \$24,314. Assuming ongoing deductions from his pay totaling \$199.60 per week for his child support, Applicant still owes more than \$17,000. (6) He has made no effort to pay the \$8,649 credit card debt (¶ 2.i.) and while the judgment owed for the unemployment compensation is being paid through wage garnishment, the deduction is only when he earns more than \$1,000 per week. The balance of ¶ 2.h. is accordingly less than the \$4,214 alleged, but a reasonably accurate balance cannot be determined from the available evidence. DC ¶ E2.A6.1.2.1. *A history of not meeting financial obligations*, and ¶ E2.A6.1.2.3. *Inability or unwillingness to satisfy debts*, apply.

Mitigating condition (MC) ¶ E2.A6.1.3.3. *The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation)* applies to the extent that the debts can be attributed to his alcoholism and its negative impact on his income. In addition to losing jobs because of drinking, he was unemployed for substantial periods when he was undergoing treatment. While his financial problems were certainly not due to an unforeseen circumstance, he had no reasonable control over his disease and cannot be expected to have paid his debts when he had no income. However, even where debts are incurred through no fault (which is not the case here), security concerns may be raised where financial pressures exist because of unresolved debt or there is indication of ongoing financial irresponsibility. Both circumstances exist in this case.

Applicant has been employed by the defense contractor since early 2003. While he earned only \$10 at the start of his employ, his hourly wage had doubled by February 2006. Yet, despite their full-time employments, Applicant and his spouse live from paycheck to paycheck, likely because of their car loans. His taking on vehicle payments in excess of \$1,000 per month when he owes more than \$30,000 in delinquent debt, the majority being child support, raises serious concerns for his financial judgment and future financial stability. Applicant's satisfaction of the debt in ¶ 2.a. and his payments of his child support through wage deduction are viewed favorably (*see E2.A6.1.3.6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*), but they are not enough to overcome the Guideline F concerns.

Under Guideline E, personal conduct, the government alleges Applicant deliberately falsified his January 23, 2003,

security clearance application (SF 86) by omitting one of his two November 1997 drunk driving offenses and several alcohol-related treatments. As to the arrest, Applicant credibly explained that no charges had been filed against him for the first incident until after the second drunk driving offense, and they were disposed of on the same day in February 1998. His explanation for listing only one of the offenses is plausible under the circumstances. As for the omission of several treatment programs, Applicant placed the government on notice of his alcohol rehabilitation by reporting the treatments of long duration. While it does not relieve him of his responsibility to report all treatment he could recall at the time, willful falsification is not proven where he listed his efforts at rehabilitation in the long-term program, including the 1998 admission from which he was discharged for drinking, and believed in good faith that he had complied with what was required. Accordingly, the disqualifying condition pertinent to a knowing misrepresentation, ¶ E2.A5.1.2.2. *The deliberate omission, concealment, or falsification of relevant and material 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, does not apply.*

FORMAL FINDINGS

Formal findings as required by Section 3, Paragraph 7 of Enclosure 1 to the Directive are hereby rendered as follows:

Paragraph 1. Guideline G: FOR THE APPLICANT

Subparagraph 1.a.: For the Applicant

Subparagraph 1.b.: For the Applicant

Subparagraph 1.c.: For the Applicant

Subparagraph 1.d.: For the Applicant

Subparagraph 1.e.: For the Applicant

Subparagraph 1.f.: For the Applicant

Subparagraph 1.g.: For the Applicant

Subparagraph 1.h.: For the Applicant

Subparagraph 1.i.: For the Applicant

Subparagraph 1.j.: For the Applicant

Subparagraph 1.k.: For the Applicant

Subparagraph 1.l.: For the Applicant

Subparagraph 1.m.: For the Applicant

Subparagraph 1.n: For the Applicant

Subparagraph 1.o.: For the Applicant

Subparagraph 1.p.: For the Applicant

Subparagraph 1.q.: For the Applicant

Subparagraph 1.r.: For the Applicant

Subparagraph 1.s.: For the Applicant

Subparagraph 1.t.: For the Applicant

Paragraph 2. Guideline F: AGAINST THE APPLICANT

Subparagraph 2.a.: For the Applicant

Subparagraph 2.b.: Against the Applicant

Subparagraph 2.c.: Against the Applicant

Subparagraph 2.d.: Against the Applicant

Subparagraph 2.e.: Against the Applicant

Subparagraph 2.f.: Against the Applicant

Subparagraph 2.g.: Against the Applicant

Subparagraph 2.h.: Against the Applicant

Subparagraph 2.i.: Against the Applicant

Paragraph 3. Guideline E: FOR THE APPLICANT

Subparagraph 3.a.: For the Applicant

Subparagraph 3.b.: For the Applicant

DECISION

In light of all 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.

Elizabeth M. Matchinski

Administrative Judge

1. The SOR was issued under the authority of Executive Order 10865 (as amended by Executive Orders 10909, 11328, and 12829) and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992 (as amended by Change 4).
2. Their divorce was final in March 1999. (*See* Ex. E)
3. Applicant indicated in response to question 20 (employment record) on his SF 86 that he had left his job at the quarry by mutual agreement following allegations of unsatisfactory performance, "HAVING PERSONAL PROBLEMS AT HOME." (Ex.1) The record of Applicant's March 2001 admission to the structured residential treatment program reports that he was fired. (Ex. 11)
4. The discharge summary of alcohol rehabilitation facility C indicates he was admitted December 31, 2001. (Ex. 12) Applicant maintains the admission was on December 28, 2001. A medical record of the hospital where he had sought detoxification preceding his admission into facility C indicates Applicant was in the hospital overnight, from at least 1000 on December 28, 2001, to 0700 on December 29, 2001. (*See* Ex. 13, last page) The December 31, 2001 date appears to be correct.
5. Applicant was interviewed by a Defense Security Service (DSS) special agent on May 7, 2004, to address the illegal

drug use that was reported in medical records (Ex. 10 and Ex. 12). He denied any use of cocaine after 1984, and indicated that he had misrepresented the history of his drug use to ensure he would be admitted or retained in treatment.

(Ex. 3) It is noted that Applicant had told clinicians at alcohol rehabilitation treatment facility C that he used cocaine five days out of the 28 immediately preceding his admission (Ex. 12). However, tests administered at the hospital in December 2001 were negative for cocaine. Records of his medication management at the behavioral health center report an admission by him of cocaine use in 2000 rather than in late 2001. There is no evidence proving Applicant in fact used crack cocaine in 2002.

6. It is not clear what percentage of the weekly payment was going toward arrearage.