

DATE: November 21, 2006

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In re:

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SSN: -----

Applicant for Security Clearance

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CR Case No. 05-14432

## **DECISION OF ADMINISTRATIVE JUDGE**

**CAROL G. RICCIARDELLO**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Melvin Howry, Esq., Department Counsel

#### **FOR APPLICANT**

Pro Se

### **SYNOPSIS**

Applicant is a 44-year-old engineer who has worked for the same federal contractor for 19 years and held a security clearance during that time. He has a long history of alcohol abuse and criminal conduct related to alcohol abuse. He deliberately failed to provide honest answers to questions on two different security clearance applications and in sworn statements made to investigators. Applicant failed to mitigate the security concerns raised under Guideline G, alcohol consumption, Guideline E, personal conduct, and Guideline J, criminal conduct. 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 January 30, 2006, under the applicable Executive Order<sup>(1)</sup> and Department of Defense Directive,<sup>(2)</sup> DOHA issued a Statement of Reasons (SOR), detailing the basis for its decision—security concerns raised under Guideline G, (alcohol consumption), Guideline E (personal conduct), and Guideline J (criminal conduct) of the Directive. Applicant's answer to the SOR was in writing, undated and received on March 2, 2006. He elected to have a hearing before an administrative judge. In his answer, Applicant admitted all of the allegations under Guideline G, except ¶ 1.j. which he denies in part and ¶ 1.k which he failed to answer. He admitted all the allegations under Guideline E with explanations. He failed to answer the allegations under Guideline J. The case was assigned to me on August 16, 2006. It was originally scheduled for October 11, 2006, and at the request of Applicant it was continued. A notice of hearing was issued on September 28, 2006, scheduling the hearing for October 25, 2006. I conducted the hearing as scheduled to consider whether it is clearly consistent with the national interest to grant or continue a security clearance. The Government offered eleven exhibits for admission in the record and they were marked as Government Exhibits (GE) 1-11. In addition, two witnesses testified on the Government's behalf. The exhibits were admitted into evidence without objection. Applicant testified on his own behalf, and did not offer any exhibits. DOHA received the hearing transcript (Tr.) on November 2, 2006.

### **FINDINGS OF FACT**

Applicant's admissions to the allegations in the SOR, are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is a 44-year-old engineer who has worked for the same federal contractor for over 19 years. He has held a security clearance for that entire time. He is twice married and twice divorced. He has one child from the first marriage and two children from the second. He has joint custody of the two children with their primary residence being with him.

Applicant began drinking alcohol in the 8<sup>th</sup> grade, but did not drink in high school. He started again in college. He has consumed alcohol, at times in excess and to the point of intoxication, from approximately 1979 to at least 2005. He stopped drinking for a period of time, but then resumed in approximately July 2005. Prior to then, he was drinking infrequently, but then he let his guard down. He increased his drinking from once a week, to weekends, to a few times a week and would consume 6-8 drinks each time. He has not had any alcohol since February 9, 2006, when he was arrested for driving under the influence of alcohol (DUI).

Applicant was arrested on June 19, 1983 and charged with operating a vehicle while intoxicated. He was convicted and fined \$447.50, his license was suspended for 90 days, ordered to undergo an alcohol assessment, and complete 20 hours of community service.

On December 23, 1984, Applicant was arrested for (1) open container, (2) disobeyed stop sign, and (3) operating a vehicle under the influence of an intoxicating liquor. His blood alcohol content was .18%. He was found guilty of Count (3) and ordered to pay \$545 in fines and costs, ordered to complete alcohol information school, perform 10 hours of community service, had his driving privileges revoked for one year, and he was sentenced to 180 days of jail, with 175 days suspended. Counts (1) and (2) were dismissed.

Applicant received alcohol treatment from about April 1985 to June 1985 at a county citizens' commission on alcoholism. This treatment was based on a court ordered evaluation and Applicant's assessment as a potential problem drinker.

Applicant was arrested on December 16, 1989, and charged with driving under the influence (DUI). His blood alcohol content was .18%. He was found guilty of the amended charge of negligent driving on April 2, 1990, after he completed an alcohol education school and paid a \$250 fine.

From April 3, 1993 to April 23, 1993, Applicant received alcohol treatment, at a rehabilitation center, as an in-patient for a condition diagnosed as alcohol dependency by a medical doctor. [\(3\)](#)

On January 17, 2001, Applicant was charged with DUI. His blood alcohol content was .17%. He was found guilty of the amended charge of negligent driving 1<sup>st</sup> degree, and was sentenced to 90 days in jail, 88 days suspended, fined \$1,000, with \$500 suspended, placed on two years probation, and was required to undergo an alcohol assessment, and attend a victim's panel.

On November 11, 2001, Applicant was charged with DUI. His blood alcohol content was .15%. The Court deferred prosecution, fined him a total of \$425, placed him on 24 months probation. He was required to attend a 24 month out-patient alcohol program, not consume any alcohol or drugs for five years, not have any alcohol or drug related offenses for five years, and not to drive without a valid license or insurance for a period of five years. Applicant received treatment from November 2001 to December 2003, at a substance abuse recovery center for a condition diagnosed as alcohol dependency.

Applicant was charged on or about July 17, 2002, with (1) assault 4<sup>th</sup> degree and (2) interfering with reporting a domestic. On July 29, 2002, he pled guilty, and the court ordered him not to consume any alcohol and refrain from any assaultive behavior. On November 18, 2002, count (2) was dismissed and Applicant pleaded guilty to count (1) with deferred adjudication on the condition Applicant pay a \$100 fine and have no further violations within six months. Applicant denies he was drinking on the evening of July 8, 2002. His wife at the time alleged he had been drinking and was being verbally abusive and threatening to her. He admits he pulled the phone out of the wall.

Despite the court order from the November 11, 2001 arrest to totally abstain from alcohol, Applicant did not totally abstain from drinking. He drank 3-4 times from 2001 to 2005. He claimed he drank in airport bars infrequently. In July 2005, Applicant's alcohol consumption started to steadily increase culminating with being stopped in his vehicle in February 2006, by law enforcement and asked if he was drinking. He initially refused to take a breathalyzer test, but on the third request he agreed to take one. He was charged with DUI. He was found guilty of DUI and the case is currently on appeal. Once the appeal is completed, the results will be reviewed by the prosecution to see how it may affect his November 11, 2001 deferred prosecution of a DUI offense.<sup>(4)</sup> At the time of his hearing, Applicant was scheduled to start another alcohol treatment program.

On his security clearance application dated March 3, 1989, Applicant answered "NO" to Question 17, that inquired about past arrests. He failed to list his DUI arrest on June 19, 1983, March 1984 criminal trespass arrest, and the December 23, 1984 DUI arrest.<sup>(5)</sup> In a signed sworn statement made on July 31, 1989, and presented to an authorized investigator for the Department of Defense, after being confronted with possible arrest information that Applicant had not previously disclosed on his security clearance questionnaire, he admitted he had been arrested and convicted of DUI. He claimed that his arrest was excluded from the government form in part because he was under the impression that after five years of safe driving this offense would be taken off his record.<sup>(6)</sup>

In a signed, sworn statement dated September 14, 1989, and presented to an authorized investigator for the Department of Defense, Applicant was confronted with other possible arrest information that had not previously been disclosed on his security clearance questionnaire or during his July 31, 1989, interview. Applicant admitted that he had deliberately failed to disclose a March 1984 criminal trespass arrest and the December 1984 operating a vehicle under the influence of an intoxicating liquor arrest because he had hoped these incidents would not be brought up and cause him further grief. He further stated, "I realized this approach was the incorrect one but have ensured my interviewer that this was the only thing from my past which was not disclosed."<sup>(7)</sup>

On his security clearance application (SCA) submitted on July 21, 2004, Applicant answered "Yes" to Question 24 that requested information about his police record for alcohol and drug offenses.<sup>(8)</sup> He listed he had been arrested for a DUI and the charge was reduced to Reckless Driving on December 14, 1988. He deliberately failed to disclose his other alcohol-related arrests on June 19, 1983, December 16, 1989, January 17, 2001, and November 11, 2001.

Applicant answered "No" to Question 26 which requested he provide information about any other arrests, charges or convictions he may have had in the past 7 years.<sup>(9)</sup> Applicant deliberately failed to disclose he had two criminal offenses in July 2002, for assault and interfering with reporting a domestic.

On his SCA dated July 21, 2004, Applicant answered "NO" to Question 30 that inquired whether he had received any alcohol-related treatment or counseling in the past seven years. He deliberately failed to disclose the treatment he received at an alcohol recovery center from November 2001 to December 2003, where he was diagnosed as alcohol dependent. At his hearing, Applicant did not know why he did not list his treatment.

Applicant claimed his failure to divulge one of his DUI arrests was not intentional because he assumed the DUI was a deferred prosecution that he did not have to disclose. He also claimed he did not have to disclose another because it was reduced to reckless driving. He also claimed his failure to disclose requested information was an oversight and maybe he was confused about the deferred prosecution and reduced charges. He had no idea why he failed to disclose his alcohol treatment. He did admit that he did not list the requested information because it was embarrassing and he stated he did not want to disclose it because of "job security." In a sworn statement made to a Defense Investigative Services Investigator on May 21, 1996, Applicant acknowledged he had been enrolled in alcohol awareness classes and that he had been to alcohol rehabilitation in April 1993 and had attended after care. He stated he planned to stay sober and continue with his aftercare. He claimed he did not list a DUI on his SCA because he had discussed it and made a written statement about it at length on a previous security application. He stated he was also confused about how far back he was to go in listing offenses.<sup>(10)</sup> Applicant's testimony for the reasons he did not truthfully disclose information on the numerous questions was not credible. I find he intentionally did not divulge the requested information. Applicant's deliberate failures to disclose the requested information on his SCA and other information when questioned by authorized investigators is a violation of 18 U.S.C. 1001, a felony.

Applicant admits he is an alcoholic. He presently attends court ordered Alcoholic Anonymous meetings. He has abstained from alcohol for periods of time, usually when court ordered. He admits he has relapsed into drinking alcohol again. Applicant has a great deal of pride and dedication in his work. He claims he was going through a painful relationship from 1999-2001 culminating in getting a divorce. At the time of the hearing he was not sure what was going to happen with his deferred prosecution for DUI. He was to have a hearing in that regard in the future.

Applicant is involved in his children's lives by being a coach for basketball and little league. He has given lectures at their elementary schools and is a volunteer math tutor. He is dedicated to the company he works for and received many awards and commendations and is considered an expert in his field. (11)

## POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in evaluating a person's eligibility to hold a security clearance. Included in the guidelines are disqualifying conditions (DC) and mitigating conditions (MC) applicable to each specific guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the factors listed in the Directive. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant. (12) The government has the burden of proving controverted facts. (13) The burden of proof is something less than a preponderance of evidence. (14) Once the government has met its burden, the burden shifts to an applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him. (15) Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision. (16)

No one has a right to a security clearance (17) and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." (18) Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information. (19) The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. (20) 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.

Based upon consideration of the evidence, I find the following adjudicative guidelines most pertinent to the evaluation of the facts in this case:

**Guideline G-Alcohol Consumption**-a security risk may exist because 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.

**Guideline E-Personal Conduct** is a security concern when an individual's conduct involves questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations that could indicate that the person may not properly safeguard classified information.

**Guideline J-Criminal Conduct** is a security concern because a history or pattern of criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. Willingness to abide by rules is an essential qualification for eligibility for access to the nation's secrets. A history of illegal behavior indicates an individual may be inclined to

break, disregard, or fail to comply with regulations, practices, or procedures concerning safeguarding and handling classified information.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guidelines are set forth and discussed in the conclusions below.

### CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards. The government has established a *prima facie* case for disqualification under Guidelines G, E and J.

Based on all the evidence, I considered all the disqualifying conditions and especially considered Alcohol Consumption Disqualifying Conditions (AC DC) 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*), and AC DC E2.A7.1.2.3 (*Diagnosis by a credentialed medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence*) and conclude both apply. Applicant has a long history from 1983 to 2006 of alcohol-related arrests and convictions. He was diagnosed by a medical doctor in 1993 as alcohol dependent. He had the same diagnosis in 2001, but no evidence was offered of the qualifications for whomever made the diagnosis. In any event, Applicant admitted he was diagnosed as alcohol dependent again in 2001.

I have considered all the mitigating conditions and especially considered Alcohol Consumption Mitigating Conditions (AC MC) E2.A7.1.3.1 (*The alcohol-related incidents do not indicate a pattern*), AC MC E2.A7.1.3.2 (*The problem occurred a number of years ago and there is no indication of a recent problem*); AC MC E2.A7.1.3.3 (*Positive changes in behavior supportive of sobriety*); and AC MC 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 licensed clinical social worker who is a staff member of a recognized alcohol treatment program*). I conclude none of the above mitigating conditions apply. Applicant has a history of incidents related to alcohol abuse that clearly establish a pattern over a period of 23 years. He has been diagnosed and treated for his alcohol dependence, at different points in his life he slowed down his drinking for a period of time, only to relapse. Although he stopped drinking after his last arrest, there is nothing to indicate that he has made positive behavior changes to prevent another relapse and that there is a lifetime commitment to sobriety. It appears he commits to abstinence when it is court-ordered. Once he completes the legal requirements, there is a trend of drifting back to alcohol abuse. Applicant has been through two alcohol treatment programs and numerous court-ordered alcohol information courses, assessments and victim awareness programs. He participated in aftercare, but has not abstained from alcohol use for 12 months, as evidenced by his most recent DUI in February 2006. Based on all of the evidence, I find he has failed to mitigate the alcohol consumption security concern under Guideline G.

Based on all the evidence, Criminal Conduct Disqualifying Conditions (CC DC) E2.A10.1.2.1 (*Allegations or admissions of criminal conduct, regardless of whether the person was formally charged*), and CC DC E2.A10.1.2.2 (*A single serious crime or multiple lesser offenses*) both apply.

Applicant has a history of criminal arrests, charges and convictions for DUI and other alcohol related offenses, some of which were reduced charges from the more serious charge. He presently has a deferred prosecution on a pending DUI offense which is potentially jeopardized by his last arrest in February 2006.

I have considered all the mitigating conditions and especially considered Criminal Conduct Mitigating Condition (CC MC) E2.A10.1.3.1 (*The criminal behavior was not recent*), CC MC E2.A10.1.3.2 (*The crime was an isolated incident*), CC MC E2.A10.1.3.3 (*The person was pressured or coerced into committing the act and those pressures are no longer present in that person's life*), CC MC E2.A10.1.3.4 (*The person did not voluntarily commit the act and/or the factors leading to the violation are not likely to recur*), and CC MC E2.A10.1.3.6 (*There is clear evidence of successful rehabilitation*), and conclude none apply. Applicant's most recent charge that was part of the SOR allegations occurred in 2002. However, Applicant falsification on his SCA was in 2004, and is a felony violation. I find CC MC E2.A10.1.3.1 does not apply because the falsification offense in 2004 is recent. I find Applicant has a number of

arrests/charges and convictions over a 23 year period so the crimes were not isolated and CC MC E2.A10.1.3.2 does not apply. There is no evidence Applicant was pressured or coerced in committing the acts or that they were not voluntary. CC MC E2.A10.1.3.3, and CC MC E2.A10.1.3.4 do not apply. Many of Applicant's criminal offenses were related to his alcohol abuse. He has a long history of alcohol abuse and throughout this history he continued to drive his vehicle, with apparently little concern for the criminal nature of his act or the potential consequences. Being charged with DUI did not appear to have a deterrent effect on him. He is again seeking treatment and has abstained from alcohol for several months after his latest arrest. Applicant has not shown a commitment to resolving his alcohol problems, so at this time, there is no clear evidence that Applicant is rehabilitated. Therefore I find that CC MC E2.A10.1.3.6 does not apply. Applicant failed to mitigate the security concerns under Guideline, J, criminal conduct.

The deliberate omission of relevant and material facts from a security clearance application is a concern and may be disqualifying under Personal Conduct Disqualifying Condition (PC DC) E2A5.1.2.2 (*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 aware fiduciary responsibilities*). Information is material if it would affect a final agency decision or, if incorrect, would impede a thorough and complete investigation of an applicant's background. <sup>(21)</sup> An applicant's criminal history and alcohol related treatments are matters that could affect a final agency decision on whether to grant the applicant a clearance, and an applicant's failure to disclose it would impede a thorough investigation of his background. At the time he completed the 1989 and 2004 SCAs and the sworn statements, Applicant was aware of his criminal offenses and alcohol treatments. He deliberately failed to list this information on the two SCAs and then falsified his reasons for his failures. Hence, the above disqualifying condition applies.

Based on all the evidence, and Applicant's repeated falsifications on his 1989 and 2004 SCA and sworn statements made regarding his background, I find PC DC E2.A5.1.2.5 (*A pattern of dishonesty or rule violations, including violation of any written or recorded agreement made between the individual and the agency*) applies in this case. Applicant was well aware at least after completing his first SCA of the need for honesty. Despite that he repeatedly lied in 1989 and again in 2004.

Applicant repeatedly lied on sworn statements and his SCAs about his alcohol abuse and the criminal arrests and charges related to them. Applicant claimed that the 1989 failure to divulge the required information was because he was unaware he had to list the information. He also admitted he hoped the incidents would not be brought up. He claimed he realized this was not the correct way to address the issue. However, in a 1996 sworn statement, now fully aware of his need to be completely honest, he failed to list another DUI offense because he felt he had previously discussed it. He also claimed he was confused on the amount of time that had passed so did not list it. Finally on his 2004 SCA, he again failed to list his alcohol related offenses, other offenses and his alcohol treatment. This time Applicant claimed he was confused about his deferred prosecution and whether it needed to be disclosed and the status of a reduced charge. Applicant has consistently and deliberately falsified his security clearance applications and provided false information in his sworn statements. In 1989 he became aware of the importance of being completely honest about the information requested. It is not credible that on three separate occasions he did not know he had to provide honest and truthful information. He repeatedly looked for ways to not provide the information. He admits he was embarrassed by his alcohol history and was concerned about his job. His conduct shows a consistent disregard for the truth and a pattern of dishonesty. All of the above personal conduct disqualifying conditions apply. His actions raise serious questions about Applicant's character, judgment, and honesty.

I have considered all the mitigating conditions and especially considered Personal Conduct Mitigating Conditions (PC MC) E2.A5.1.3.2 (*The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily*), PC MC E2.A5.1.3.3 (*The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts*), PC MC E2.A5.1.3.4 (*Omission of material facts was caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided*), and PC MC E2.A5.1.3.5 (*The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress*). I conclude none of the mitigating conditions apply. Applicant has consistently lied about his criminal conduct and alcohol abuse. Although Applicant's alcohol abuse may have been the impetus behind many of his criminal problems, the fact is Applicant deliberately did

not want investigators to know about his past.

## **Whole Person Analysis**

In all adjudications, the protection of our national security is the paramount concern. The objective of the security-clearance process is the fair-minded, commonsense assessment of a person's life to make an affirmative determination that the person is eligible for a security clearance. Indeed, the adjudicative process is a careful weighing of a number of variables in considering the "whole person" concept. It recognizes that we should view a person by the totality of their acts, omissions, motivations and other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I considered the whole person in evaluating the evidence. I have considered that Applicant is a single parent responsible for raising his children and has volunteered in many ways to support them. I have considered that he is devoted to his job and is an expert in his field. I have considered that he has abstained from alcohol for several months and is to start treatment soon. I have also considered that Applicant has a long history of alcohol abuse and numerous alcohol related offenses. He has taken many alcohol awareness courses, been in alcohol treatment, has abstained from alcohol use for periods of times, but continues to relapse and continues to drive when he does. Applicant's long history and failure to control his problem and show a true commitment to sobriety raises serious security concerns. I also considered that Applicant has not been truthful about his past. His willingness to find excuses for his failures to provide honest information raises concern about his honesty, judgment and reliability. I find Applicant failed to mitigate the security concerns raised under Guidelines G, E and J. Therefore, I am persuaded by the totality of the evidence in this case, that it is not clearly consistent with the national interest to grant Applicant a security clearance. Accordingly, Guideline G, E and J are decided against Applicant.

## **FORMAL FINDINGS**

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

Paragraph 1. Guideline G: AGAINST APPLICANT

Subparagraph 1.a-1.k: Against Applicant

Paragraph 2. Guideline E: AGAINST APPLICANT

Subparagraph 2.a- 2.f: Against Applicant

Paragraph 3. Guideline J: AGAINST APPLICANT

Subparagraph 3.a: Against Applicant

## **DECISION**

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is deny.

Carol G. Ricciardello

Administrative Judge

1. Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960) as amended and modified.
2. Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified.
3. GE 7.

4. This offense was not included as part of the SOR allegations and will not be considered for disqualifying purposes, but will be considered as part of the whole person and Applicant's rehabilitation.
5. Question 17 states: *Arrests a. Have you ever been arrested, charged, cited or held by Federal, state or local law enforcement or juvenile authorities regardless of whether the citation was dropped or dismissed, or you were found not guilty?; b. As a result of being arrested, charged, cited or held by law enforcement or juvenile authorities, have you ever been convicted, fined by or forfeited bond to a Federal, state or other judicial authority or adjudicated a youthful offender or juvenile delinquent?; c. Have you ever been detained, held in, or served time in any jail or prison, or reform or industrial school or any juvenile facility or institution under jurisdiction of any city, county, state, Federal or foreign country?*
6. GE 3.
7. GE 5.
8. Question 24 states: *Your Police Record-Alcohol/Drug Offenses For this item, report information regardless of whether the record in your case has been 'sealed' or otherwise stricken from the court record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607. Have you ever been charged with or convicted of any offense(s) related to alcohol or drugs?*
9. Question 26 states: *Your Police Record-Other Offenses For this item, report information regardless of whether the record in your case has been 'sealed' or otherwise stricken from the court record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S. C. 844 or 18 U.S.C. 3607. In the last 7 years, have you been arrested for, charged with, or convicted of any offense(s) not listed in modules 21, 22, 23, 24, or 25? (Leave out traffic fines of less than \$150 unless the violation was alcohol or drug related.)*
10. GE 8 at 5.
11. Answer dated February 27, 2006.
12. ISCR Case No. 96-0277 at 2 (App. Bd. Jul 11, 1997).
13. ISCR Case No. 97-0016 at 3 (App. Bd. Dec. 31, 1997); Directive, Enclosure 3, ¶ E3.1.14.
14. *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).
15. ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995); Directive, Enclosure 3, ¶ E3.1.15.
16. ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995); Directive, Enclosure 3, ¶ E3.1.15.
17. *Egan*, 484 U.S. at 531.
18. *Id.*
19. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.
20. Executive Order 10865 § 7.
21. ISCR Case No. 01-06870, 2002 WL 32114535 (App. Bd. Sep. 13, 2002).