Date: November 19, 1996

In Re:

SSN: ----------

Applicant for Security Clearance

ISCR Case No. 96-0181

DECISION OF ADMINISTRATIVE JUDGE

ROBERT R. GALES

APPEARANCES

FOR THE GOVERNMENT FOR THE APPLICANT

Claude R. Heiny, II, Esquire

Department Counsel

Daniel J. Bruntrager, Esquire

STATEMENT OF CASE

On March 20, 1996, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865, *"Safeguarding Classified Information Within Industry,"* dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *"Defense Industrial Personnel Security Clearance Review Program"* (Directive), dated January 2, 1992, as amended and modified, issued a Statement of Reasons (SOR) to ---------- (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 Applicant, and recommended referral to an Administrative Judge to determine whether a clearance should be granted, continued, denied, or revoked.

A copy of the SOR is attached to this Decision and included herein by reference.

In a sworn written statement, dated April 15, 1996, Applicant responded to the allegations set forth in the SOR, and requested a hearing. The case was assigned to, and received by, this Administrative Judge on May 16, 1996. A notice of hearing was issued on October 16, 1996, and the hearing was held before me on October 24, 1996. During the course of the hearing, ten Government exhibits and no (none were offered) Applicant exhibits, and the testimony of one witness (the Applicant), were received. The transcript was received on November 8, 1996.

FINDINGS OF FACT

Applicant has admitted most of the factual allegations pertaining to drug involvement under Criterion H (subparagraphs 1.b., 1.c., and 1.i. through 1.m.); some, or portions, of the factual allegations pertaining to personal conduct under Criterion E (subparagraphs 2.a.(1), 2.b., and 2.c.); and most of the factual allegations pertaining to criminal conduct under Criterion J (subparagraphs 3.b. through 3.d.). Those admissions are hereby incorporated herein as findings of fact.

After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:[(1)]

Applicant is a fifty-two year old male employed by a defense contractor, and he is seeking to obtain a SECRET clearance. He was originally granted another security clearance, which he held for about ten or fifteen years, but which was administratively terminated as a cost-saving move. In July 1990, he was granted a CONFIDENTIAL clearance.

Applicant has been a poly-substance abuser whose choice of illegal substances has been primarily marijuana, crack cocaine, and amphetamines, but who has also used cocaine, lysergic acid diethylamide (LSD), and Quaaludes. He commenced using marijuana in about 1970, when he was about twenty-six years of age, and continued doing so, on an irregular, occasional basis of about three or four times per year, totaling between about twenty and fifty times during his entire period of use, until his most recent use, in early September 1995.[(2)] He smoked marijuana in both cigarettes and pipes.

Applicant's position regarding the use of marijuana is significant. He was aware that such use was against the law generally, and against his probation specifically, as well as against corporate policy. However, he equates the abuse of marijuana to the consumption of beer;[(3)] contends that marijuana abuse is not really "that bad;"[(4)] and claims that it is not as bad as robbery. Accordingly, when asked as to his future intentions, Applicant replied that while he had no immediate plans to do so, he might succumb to temptation, as he had in the past, and abuse it again in the future.[(5)]

On about three occasions in the early 1970s, Applicant also experimented with LSD. On one occasion, he took about seven "hits," and on two other occasions, he took one "hit" each time. He has not used LSD since that time, and has vowed not to use it again in the future. There is no evidence to rebut his contentions regarding use or future intent.

During at least a one or two month period in the early to mid-1970s, Applicant regularly used amphetamines. He consumed approximately two hundred pills -- identified as "white crosses" -- during that period. He has not used amphetamines since that time, and has vowed not to use them again in the future. There is no evidence to rebut his contentions regarding use or future intent.

On about three occasions in about 1980, Applicant also experimented with Quaaludes. He has not used Quaaludes since that time, and has vowed not to use them again in the future. There is no evidence to rebut his contentions regarding use or future intent.

During 1977-80, and again in 1987-88, Applicant experimented with cocaine. During the initial period of experimentation, on two separate occasions, he inhaled one or two "lines" of powdered cocaine. During the latter period, on two separate occasions, he injected liquid cocaine into himself. He has not used cocaine since that time, and has vowed not to use it again in the future. There is no evidence to rebut his contentions regarding use or future intent.

Commencing in November 1992, and continuing until at least October 1994, Applicant regularly used crack cocaine. During the period November 1992 until July 1993, he used it on a "pretty regular basis" of up to three times per week. During the period August 1993 until March 1994, he abstained. In June 1994, and continuing until October 1994, he used it about one time per week. It is estimated that the total number of times that he has used crack cocaine is about one hundred twenty-five times. He has not used crack cocaine since that time, and has vowed not to use it again in the future. There is no evidence to rebut his contentions regarding use or future intent.

During his period of substance abuse, Applicant periodically purchased varying quantities of marijuana, with two purchases for a friend's use in 1992, during which he spent fifty dollars on each occasion;[(6)] and crack cocaine, spending up to three hundred dollars each week, during the period November 1992 until July 1993, and up to one hundred fifty dollars each week, during the period June-October 1994.[(7)] Applicant sold personal property, including some handguns, for money sufficient to enable him to make some of his purchases.

In addition, on various occasions, he has sold crack cocaine to friends;[(8)] assisted others to locate a marijuana supplier;[(9)] sold Quaaludes, on commission, to co-workers in a massage parlor where he worked part-time;[(10)] and, on

one occasion in the early to mid-1970s, sold a portion of his prescription drug "Pralude" to a friend.(11)

Applicant has never undergone any drug treatment or rehabilitation.

In addition to his substance abuse, Applicant has been arrested on three occasions. The initial arrest, on February 7, 1972, when he was about twenty-seven years of age, was for carrying a concealed weapon, amended to peace disturbance, and stealing under five hundred dollars. At the time, according to Applicant, he and some friends were supposedly going camping when they stopped at a construction site and loaded a quantity of building supplies on their truck. Applicant claimed that they simply stopped off for some lumber, and he was a victim because he was merely present at the scene. In fact, they attempted to steal thirty-three eight foot boards, and four rolls of four foot square felt tar paper.(12)

Applicant was arrested on April 16, 1982, when he was about thirty-three years of age, and charged with receiving stolen property -- a state felony. He subsequently admitted that he was aware that the 1980 Mazda RX-7 automobile was stolen when he purchased that two year old car for $1,600.(13)

Applicant was arrested on October 5, 1994, when he was about fifty years of age, and charged with five counts of unlawful use of a weapon -- all state felonies. At the time, Applicant's girl friend's residence was under police surveillance, and shortly after they drove away from her residence, with the woman driving and Applicant in the passenger seat, they were stopped by the police. A search of her automobile revealed several fully-loaded weapons, including one by the driver's seat; a crack cocaine pipe, with residue; and several long knives. Applicant subsequently explained that they were on the way to a facility where he would teach her how to shoot, and that the weapons were his property.(14) Part of the eventual sentence called for him to forfeit his weapons, and to be on probation for the period of three years. He will remain on probation for another one and one-half years following the hearing in this industrial security clearance review matter.

Applicant's abuse of marijuana after February 24, 1995 was a violation of the terms of his probation.

On April 23, 1995, Applicant completed the privacy section of a National Agency Questionnaire (NAQ), and in response to an inquiry pertaining to ever having used a variety of illegal substances, including cocaine, depressants (to include Quaaludes), stimulants, hallucinogens (to include LSD), or cannabis,(15) Applicant responded "yes,"and added that he had used marijuana three or four years earlier, and cocaine a year earlier. He certified that his NAQ response was true, complete, and accurate. It was false. He had lied, falsified, omitted, and concealed his true history of substance abuse, as described above.

On April 23, 1995, Applicant completed the privacy section of an NAQ, and in response to an inquiry pertaining to ever having purchased or sold a variety of illegal substances, including marijuana, cocaine, or Quaaludes,(16) Applicant responded "no." He certified that his NAQ response was true, complete, and accurate. It was false. He had lied, falsified, omitted, and concealed his true history of the purchases and/or sales of the illegal substances, as described above.(17)

On September 19, 1995, Applicant was interviewed by an agent of the Defense Investigative Service (DIS), pertaining to his substance abuse. He admitted having used a variety of illegal substances, but specifically denied ever purchasing marijuana.(18) He certified that his sworn, written statement was true, complete, and accurate. It was false. He had lied, falsified, omitted, and concealed his purchases of marijuana, as described above.

Applicant subsequently admitted that he had not been "completely truthful." On December 6, 1995, he acknowledged that because he was embarrassed by his actions, and because he did not want it to appear that he was really an abuser of illegal drugs, his prior comments and responses were not true, complete, and accurate. In light of his history of deception, his lack of candor, his inconsistencies, and his acknowledgment that he was not "completely truthful," I conclude that, in fact, Applicant was an abuser of illegal drugs, and had, repeatedly, lied, falsified, omitted, and concealed his substance abuse.

Applicant has been employed by his present employer since May 1963. The quality of his performance is not known.

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (Disqualifying Factors) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (Mitigating Factors).

An Administrative Judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the Adjudicative Process provision -- an expansion of the factors set forth in Section F.3. of the Directive, are intended to assist the Administrative Judge in reaching fair and impartial common sense decisions.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. The Adjudicative Process factors which an Administrative Judge should consider are: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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.

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

[Drug Involvement - Criterion H]: Improper or illegal involvement with drugs, raises questions regarding an individual's willingness or ability to protect classified information. Drug abuse or dependence may impair social or occupational functioning, increasing the risk of an unauthorized disclosure of classified information.

Drugs are defined as mood and behavior altering:

(a) drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens) and

(b) inhalants and other similar substances.

Drug abuse is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.

Conditions that could raise a security concern and may be disqualifying include:

(1) any drug abuse (see above definition);

(2) illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution;

(3) failure to successfully complete a drug treatment program prescribed by a credentialed medical professional. Current drug involvement, especially following the granting of a security clearance, or an expressed intent not to discontinue use, will normally result in an unfavorable determination.

Conditions that could mitigate security concerns include:

None apply.

[Personal Conduct - Criterion E]: Conduct involving questionable judgment, untrustworthiness, unreliability, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

The following will normally result in an unfavorable clearance action or administrative termination of further processing for clearance eligibility:

(2) refusal to complete required security forms, releases, or 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.

Conditions that could raise a security concern and may be disqualifying also include:

(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;

(3) deliberately providing false or misleading information concerning relevant and material matters to an investigator, security official, competent medical authority, or other official representative in connection with a personnel security or trustworthiness determination;

(4) personal conduct or concealment of information that increases an individual's vulnerability to coercion, exploitation or pressure;

(5) a pattern of dishonesty or rule violations;

(6) association with persons involved in criminal activity.

Conditions that could mitigate security concerns include:

None apply.

[Criminal Conduct - Criterion J]: A history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness.

Conditions that could raise a security concern and may be disqualifying include:

(1) any criminal conduct, regardless of whether the person was formally charged;

(2) a single serious crime or multiple lesser offenses.

Conditions that could mitigate security concerns include:

None apply.

Since the protection of the national security is the paramount determinant, the final decision in each case must be arrived at by applying the standard that the issuance of the clearance is "clearly consistent with the interests of national security,"[(19)] or "clearly consistent with the national interest." For the purposes herein, despite the different language in each, I have concluded that both standards are one and the same. In reaching this Decision, I have endeavored to draw only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have attempted to avoid drawing inferences that are grounded on mere speculation or conjecture.

In the decision-making process, the burden of producing evidence initially falls on the Government to establish a case which demonstrates, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. If the Government meets its burden, the heavy burden of persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation or mitigation sufficient to overcome the doubts raised by the Government's case, and to ultimately demonstrate that it is clearly consistent with the national interest to grant or continue the applicant's clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to the potential for, rather than actual risk of, compromise of classified information.

One additional comment is worthy of note. Applicant's loyalty and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides that industrial security clearance 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." Security clearance decisions cover many characteristics of an applicant other than loyalty and patriotism. Nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied decision as to Applicant's loyalty or patriotism.

CONCLUSIONS

Upon consideration of all the facts in evidence, an assessment of the witness testimony, demeanor, and credibility, and after application of all appropriate legal precepts and factors, including those described briefly above, I conclude the following with respect to each allegation set forth in the SOR:

With respect to Criterion H, the Government has established its case. At the outset, I am obliged to state that I had ample opportunity to evaluate the demeanor of Applicant, observe his manner and deportment, appraise the way in which he responded to questions, assess his candor or evasiveness, read his statements, listen to his testimony, and watch the interplay between himself and those around him. It is my impression that his explanations regarding his illegal substance abuse are remarkably fluid, and hence, hollow. While he presently seems to have successfully abstained from marijuana for a little over one year, and from crack cocaine for about two years, in light of his expressions pertaining to marijuana, I am, nevertheless, left with the impression that he is continuing to minimize his past substance abuse, and has still not arrived at the complete truth.

Applicant's irregular, occasional abuse of marijuana clearly continued up to September 1995, and his fairly regular abuse of crack cocaine clearly continued up to October 1994. It occurred while he was an employee of defense industry, and continued after being granted his various security clearances, including his most recent clearance in 1990. In order to abuse marijuana and crack cocaine, as well as the other illegal substances, as described above, he had to knowingly ignore both corporate and DoD policy, as well as the law -- components in a legal society which were of no apparent significance to Applicant. In continuing his marijuana abuse while on court-mandated probation, Applicant has again proclaimed his disregard for the law, and chosen a personal standard which differs from one which is acceptable to society. Furthermore, Applicant has demonstrated that he may continue to be guided by drug-induced pleasures, consistent with his philosophy regarding marijuana, rather than accepting his fiduciary responsibilities towards the Government.

Applicant's continuing abstinence is to be encouraged, but the current period of abstinence is still relatively brief, too brief, in light of his substance abuse history. In this instance, I believe that both the successful completion of a drug treatment and rehabilitation program, as well as a longer period of abstinence should be required to demonstrate the truly successful completion of a transformation from long-term illegal substance abuser to an abstinent, drug-free person, and to provide the basis for a conclusion that such conduct will not continue or recur in the future. Under the evidence presented, I am not confident that Applicant's substance abuse is a thing of the past, or that it will not recur.

I do not take this position lightly, but based on the law, as set forth in *Department of Navy v. Egan,* 484 U.S. 518 (1988), my evaluation of the evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under Enclosure 2 of the Directive, I believe that Applicant has failed to mitigate or overcome the Government's case. The evidence leaves me with grave questions and doubts as to Applicant's continued security eligibility and suitability. Accordingly, allegations 1.a. through 1.g., and 1.l. of the SOR are concluded against Applicant.

Applicant's experimentation with LSD on about three occasions in the early 1970s; regular abuse of amphetamines over a one or two month period in the early to mid-1970s; experimentation with Quaaludes on three occasions in about 1980; and sale of the prescription drug identified as "Pralude" on at least one occasion in the early to mid-1970s, have not been repeated thereafter, and I consider such abuse, including use and sales, to be stale, with little current security significance. Thus, I conclude that Applicant has, through evidence of extenuation and explanation, successfully mitigated and overcome the Government's case. Accordingly, allegations 1.h. through 1.k., and 1.m. of the SOR are concluded in favor of Applicant.

With respect to Criterion E, the Government has established its case. Examination of Applicant's actions reveals a pattern of conduct involving questionable judgment, untrustworthiness, unreliability, and unwillingness to comply with rules and regulations; and a continuing association with persons of ill-repute -- those abusing illegal substances and those under police surveillance. There is little dispute surrounding Applicant's pattern of deceptive actions or his purposes, for he has admitted the essential elements of the allegations. Applicant contended that he tried to be honest, but the facts support a different conclusion. He lied, willfully falsified, omitted, concealed, and minimized his history of substance abuse, and eventually, incrementally admitted doing so, and attributed his actions to embarrassment over his illegal substance abuse and because he did not want it to appear that he was an abuser of illegal drugs.

Notwithstanding his certifications, oaths, and affirmations that his responses and statements were true and accurate, Applicant succumbed to temptation and embarrassment, and in so doing, repeatedly, willfully falsified, omitted, or concealed material facts pertaining to his history of substance abuse, and intentionally tried to mislead DIS with half truths and lies in an effort to distort the truth and minimize any damage he might have done to himself. It is significant that at the very time he answered the NAQ in April 1995, he was actively abusing marijuana. I cannot accept those deceptions, or the explanations as justification for same.

In this instance, I have no evidence of inadvertent or accidental oversight, but rather calculated and deliberate omissions of information which Applicant chose not to reveal simply because he felt it necessary to protect his interests or to avoid embarrassment. Applicant's concerns for the national security during this period were seemingly as non-existent as they were for corporate policies and procedures, or for the law.

Complete honesty and candor on the part of applicants for access to classified information is essential to make an accurate meaningful security clearance determination. Without all the relevant and material facts, a clearance decision is susceptible to error, thus jeopardizing the nation's security. The nature of Applicant's offenses therefore pose a serious potential risk to the nation's security precautions which go to the very heart of the nation's security system.

Applicant's subsequent, incremental forthrightness regarding his history of substance abuse does not lessen or minimize, much less erase or nullify, the impact of his initial and recurring concealments, omissions, and deceptions. In this instance, deception was actively practiced by Applicant in April 1995, repeated in September 1995 -- while he remained on probation, and possibly continues to this day, and I remain unconvinced that absolute candor was practiced during the hearing. While he has seemingly taken some positive steps of finally being somewhat candid about his substance abuse history to reduce or eliminate vulnerability to exploitation, there is no evidence of rehabilitation or other pertinent behavioral changes to enable me to conclude that similar actions might not recur.

Applicant had clear opportunities to clean up his act after he had been granted a security clearance, but he chose to continue his illegal substance abuse; and when he responded to questions appearing in an NAQ or being asked by DIS, but he chose to lie, repeatedly. He has chosen to place his self-interests above those of the country, and in so doing, he has sundered the fiduciary relationship which he had with the Government by virtue of his acceptance of his responsibilities attendant to that security clearance. He has taken that special relationship and effectively dashed the trust and confidence which he had previously enjoyed.

Under the circumstances, his security-suitability, in the face of the negative inferences to be drawn, is suspect and, considering the nation's security is at stake, is to be resolved against him. Thus, I conclude that Applicant has failed to mitigate or overcome the Government's case. Accordingly, allegations 2.a. through 2.c. of the SOR are concluded against Applicant.

With respect to Criterion J, the Government has established its case. Statements made by an applicant for access to classified information encompass matters within the jurisdiction of the Department of Defense, and are provided for under Title 18, United States Code, Section 1001.[(20)] Applicant's explanations for failing to accurately relate his entire history of substance abuse simply will not justify or exonerate such actions. I conclude, therefore, that Applicant's felonious conduct --misrepresentations, falsifications, omissions, and concealment (deception) of his substance abuse history, on at least two occasions, were material and made in a knowing and willful manner in contravention of Title 18, Section 1001.

Likewise, Applicant's arrests for carrying concealed weapons in 1972 and 1994, as well as his arrests for stealing and receiving stolen property in 1972 and 1982, respectively, establish a pattern of criminal activity which is exacerbated by his continued criminal activity while on probation.

While a person should not be held forever accountable for misconduct from the past without a clear indication of subsequent reform, remorse, or rehabilitation, I am unable to determine with reasonable certainty the probability that such conduct will not recur in the future. Without more, I simply do not believe that the periods of time from the October 1994 arrest, or September 1995 falsifications, to the hearing are sufficient to persuade me that recurrence of such criminal conduct is unlikely. Consequently, I conclude that Applicant has failed to mitigate or overcome the Government`s case. Accordingly, allegations 3.a. through 3.d. of the SOR are concluded against Applicant.

For the reasons stated, I conclude Applicant is not suitable for access to classified information.

FORMAL FINDINGS

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Paragraph 25 of Enclosure 3 of the Directive, are:

Paragraph 1. Criterion H: AGAINST THE APPLICANT

Subparagraph 1.a.: Against the Applicant

Subparagraph 1.b.: Against the Applicant

Subparagraph 1.c.: Against the Applicant

Subparagraph 1.d.: Against the Applicant

Subparagraph 1.e.: Against the Applicant

Subparagraph 1.f.: Against the Applicant

Subparagraph 1.g.: Against 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.: Against the Applicant

Subparagraph 1.m For the Applicant

Paragraph 2. Criterion E: AGAINST THE APPLICANT

Subparagraph 2.a.(1): Against the Applicant

Subparagraph 2.a.(2): Against the Applicant

Subparagraph 2.b.: Against the Applicant

Subparagraph 2.c.: Against the Applicant

Paragraph 1. Criterion J: AGAINST THE APPLICANT

Subparagraph 3.a.: Against the Applicant

Subparagraph 3.b.: Against the Applicant

Subparagraph 3.c.: Against the Applicant

Subparagraph 3.d.: Against 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.

Robert R. Gales

Chief Administrative Judge

1. Applicant has been afforded several opportunities, over a two year period, to furnish detailed scenarios of his substance abuse history, and in doing so, his stories and estimates have been both deceptive and inconsistent. During that period he has admitted very limited use of two substances (marijuana and cocaine); admitted more extensive use of, or experimentation with, a variety of illegal substances; admitted even more extensive use of several substances; denied the purchase of several substances; admitted the purchase of some substances; denied the sale of some substances; and eventually admitted the sale of the substances. In reconstructing his substance abuse history, I have created a mosaic of his various admissions, along with other evidence, and I find this mosaic to represent the actual facts.

2. Applicant has smoked marijuana with friends and co-workers. As recently as late October or early November 1995, he was with friends while they smoked marijuana, but he declined to join in with them.

3. *See*, Government Exhibit 3, at 1-2. He consumes beer and smokes marijuana to be "polite."

4. *See*, Government Exhibit 3, at 4.

5. *See*, Government Exhibit 2, at 1; and Government Exhibit 3, at 3-4.

6. *See*, Government Exhibit 3, at 2.

7. *Id.*, at 2-3.

8. *Id.*, at 3.

9. *Ibid.*

10. *Ibid.*

11. *Ibid.* It should be noted that while Applicant has admitted the allegation pertaining to a prescription drug identified as "Pralude," no other evidence has been presented to characterize the class or trade name of the drug. Moreover, in reviewing the 1995 edition of the *Physicians' Desk Reference*, I can find no references to a drug under that name. However, there is a drug -- a stimulant --identified as "Preludin" -- a trademark for an anorexiant (appetite suppressor) phenmetrazine hydrochloride, so identified in *Mosby's Medical, Nursing, & Allied Health Dictionary* 1264 (4th ed. 1994)

12. *See*, Government Exhibit 5, at 2.

13. *See*, Government Exhibit 6; and Government Exhibit 7.

14. None of the firearms was registered, contrary to local law. *See*, Government Exhibit 9, at 21.

15. Question 20.a.

16. Question 20.b.

17. It is alleged that Applicant lied when he denied having sold the prescription drug identified as "Pralude." However, the question addressed the illegal sale of any narcotic, depressant, stimulant, hallucinogen, or cannabis, and no evidence has been presented to enable me to characterize "Pralude" as any of the above. While it may sound like a depressant, the sedative hypnotic methaqualone, known by the trade name "Quaalude," or even the stimulant known by the trade name" Preludin" (*see*, note 11, *supra*), I cannot speculate as to its class, and conclude that there is insufficient evidence to find that Applicant lied pertaining to "Pralude."

18. *See*, Government Exhibit 2, at 1. The evidence is clear that Applicant subsequently admitted purchasing marijuana. However, the allegation also refers to his sales of Quaaludes, but I can find no evidence that Applicant was asked about selling that particular substance. Accordingly, while the Quaalude sales occurred, on the face of the exhibit, there is no evidence to support the Government's contention that Applicant lied about such sales in this particular statement.

19. *See*, Executive Order 12968, *"Access to Classified Information;"* as implemented by Department of Defense Regulation 5200.2-R, *"Personnel Security Program,"* dated January 1987, as amended by Change 3, dated November 8, 1995. However, the Directive uses both "clearly consistent with the national interest" (*see*, Sec. B.3; Sec. C.2.; and Sec. D.2.; Enclosure 3, Sec. 1.; and Sec. 25), and "clearly consistent with the interests of national security" (*see*, Enclosure 2 (Change 3), Adjudicative Guidelines, at 2-2).

20. The cited provision provides, in relevant part, as follows: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up a . . . material fact . . . shall be fined not more than $10,000 or imprisoned not more than five years, or both."