Date: April 24, 1997

In Re:

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

Applicant for Security Clearance

ISCR Case No. 96-0869

DECISION OF ADMINISTRATIVE JUDGE

ROBERT R. GALES

APPEARANCES

FOR THE GOVERNMENT FOR THE APPLICANT

Michael H. Leonard, Esquire

Department Counsel

Joshua R. Treem, Esquire

STATEMENT OF CASE

On December 9, 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 December 30, 1996, Applicant responded to the allegations set forth in the SOR, and requested a hearing. The case was initially assigned to Administrative Judge John R. Erck on January 27, 1997, and he issued a notice of hearing on February 4, 1997, scheduling the hearing for February 26, 1997. On February 13, 1997, Applicant's attorney moved to continue the matter because of scheduling conflicts and to complete discovery, and the motion was granted. An amended notice of hearing was issued on February 19, 1997, but due to caseload considerations, the case was subsequently reassigned to, and received by, this Administrative Judge on March 10, 1997. The hearing was eventually held before me on March 20, 1997. During the course of the hearing, five Government exhibits and seven[(1)] Applicant exhibits, and the testimony of one Government witness and six[(2)] Applicant witnesses (including the Applicant), were received. The transcript was received on April 1, 1997.

RULINGS ON PROCEDURE

At the close of the evidentiary portion of the hearing, Department Counsel conceded that no evidence had been offered to support a finding that the individual who had made the diagnosis of episodic alcohol abuser was a "credentialed medical professional" defined as a licensed physician, licensed clinical psychologist, or board certified psychiatrist, as mandated by the adjudicative guidelines pertaining to alcohol consumption.(3) Consistent with my earlier ruling, those portions of Government Exhibit 1 and Applicant Exhibit G, which touch upon opinions dealing with diagnosis and prognosis, in the absence of evidence pertaining to a credentialed medical professional, were given no weight.(4)

FINDINGS OF FACT

Applicant has admitted nearly all or portions of the factual allegations pertaining to alcohol consumption under Criterion G (portions of subparagraphs 1.a. and 1.f., and all of subparagraphs 1.b. through 1.e.). Those admissions are hereby incorporated herein as findings of fact. He denied subparagraph 1.g., and portions of subparagraphs 1.a. and 1.f.

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:

Applicant is a fifty-one year old male employed by a defense contractor, and he is seeking to retain a TOP SECRET clearance which was originally granted to him in June 1977.

Applicant has an alcohol problem. He has consumed alcohol, at times to excess, and to the point of intoxication, from approximately 1963, when he was eighteen years of age, until at least December 31, 1996. While the general characterization of his alcohol consumption during that period continued at a rather moderate to relatively heavy level, generally fluctuating between the two, the two separate incidents in 1990 and 1994, as well as the estimates furnished by Applicant's drinking companions, seemingly confirm another pattern of consumption which is much higher than that projected by the general description. The more moderate of the two levels is at the rate of between one and five drinks per night, but the higher one soars to between ten and twelve drinks per night, or five to six beers over a four hour period -- a significant difference.

The frequency and quantity of Applicant's alcohol consumption during the entire period of such consumption periodically changed. The figures which follow are a mosaic of range estimates furnished by Applicant and other eyewitnesses. Applicant's initial consumption was generally unremarkable, and commenced with four to five drinks per night, at a frequency of up to three nights per week, and remained relatively unchanged until 1968. It changed in 1969, and he consumed one or two drinks per night, at a frequency of up to four nights per week, as well as up to five drinks per night, at a frequency of up to two times per month. It again changed in 1977, and he consumed up to three drinks or more per night,(5) at a frequency of up to four nights per week, as well as up to five drinks or more per night, at a frequency of up to one night per week. Following an incident in June 1990, described further below, Applicant abstained, and continued to do so until September 1990, when he again resumed his consumption of alcohol.(6)

In September 1990, he consumed up to two drinks or more per night, at a frequency of up to two times per week. That consumption remained relatively unchanged(7) until March 1994, when another incident, described further below, occurred. He abstained from March 1994 until August 1994, when he again resumed his consumption of alcohol.(8) In August 1994, and continuing until about January 1995, he consumed up to two drinks or more per night, at a frequency of up to two times per month, and thereafter, until at least October 1996, he consumed up to two drinks or more per night, at a frequency of up to two times per week. Applicant last admittedly consumed alcohol on December 31, 1996, when he consumed two scotches and one champagne. There is no evidence to rebut Applicant's contention that he has abstained since January 1, 1997.

Applicant's consumption of alcohol over the 33 year period has resulted in four alcohol-related arrests; a written warning from his employer; and volunteer or court-mandated participation in alcohol awareness and treatment programs.

In December 1963, when he was 18 years of age, Applicant was arrested and charged with a violation identified variously as "public drinking" and "drunk." In reality, while there was no evidence that he had consumed alcohol to

excess at the time, he was arrested by an off-duty police officer working at a restaurant as part of a crackdown on underage drinkers at the restaurant where Applicant had consumed some alcohol. Three months later, under the same circumstances, Applicant was again arrested for the identical violation.

Applicant was arrested in June 1990, and charged with (1) driving while intoxicated (DWI), and (2) failure to obey traffic device. Upon his plea of guilty to the reduced charge of driving under the influence (DUI), the second charge was *nolle prosequi*. As a result, he was granted probation before judgment, and placed on 12 months probation. He subsequently volunteered to undergo an alcohol awareness program, and did so, one hour a week, during July and August 1990, for a period of six weeks.

The events which led up to the arrest commenced when Applicant consumed between ten and twelve beers over a six or seven hour period while shooting pool at a local bar.(9) While driving a friend home at about midnight, he made an illegal U-turn and was arrested. Applicant was administered both a field sobriety test and a breathalyzer test, and while the actual results of the former were not officially revealed, the results of the latter were 0.13 per cent -- a clear indication of excessive consumption of alcohol, and an amount in excess of the legal limit. Notwithstanding those test results, Applicant steadfastly denied being intoxicated "to the point of losing control," stated that the incident was caused by "alcohol related poor judgment," and contended that he might have made the same decision had he been completely sober.

Applicant was arrested in March 1994, and charged with DWI. Despite his plea of not guilty to the charge, Applicant was found guilty of the reduced charge of DUI. As a result, in August 1994, he was placed on 18 months probation, to be supervised through the Drinking Driver Monitor Program on a monthly basis; ordered to remain abstinent during the probation term,(10) during the period August 1994 until February 1996; directed to attend for a minimum period of six months, and to successfully complete, an approved alcohol program; obtain a sponsor, and attend an unspecified number of Alcoholics Anonymous (AA) meetings per week for the period of the probation.(11)

The events which led up to the arrest commenced when Applicant consumed between ten and twelve beers over a six hour period at a local bar. While driving home, he failed to obey a traffic light and turned left even though the left turn signal was red. He was immediately arrested. Applicant was administered a field sobriety test and flunked it. He was also administered a breathalyzer test, the results of which were 0.15 per cent -- another clear indication of excessive consumption of alcohol, and an amount in excess of the legal limit. Notwithstanding those test results, Applicant again steadfastly denied being intoxicated "to the point of losing control," stated that the incident was caused by "alcohol related poor judgment," and contended that he might have made the same decision had he been completely sober.

On March 24, 1994, nearly three weeks after the 1994 arrest, upon the advice of his attorney, Applicant enrolled in, and until February 21, 1995, received "treatment" from a local alcohol awareness program. Participation in the program was subsequently included in the court mandate issued in August 1994. The program consisted of outpatient group counseling on a one time per week basis, along with attendance at two AA meetings each week. The program required abstinence, but Applicant refused to comply with the requirement.(12) Applicant was diagnosed as an episodic alcohol abuser. Despite the court-mandate, Applicant never did obtain an AA sponsor.(13)

Applicant remained abstinent from the time of his arrest in March 1994, until sometime around the court date in August 1994, but despite being ordered by the court to remain abstinent during the entire term of the probation period, and in direct violation of the terms of his probation and the alcohol awareness program, Applicant resumed his consumption of alcohol. His declared intention to do so, and his actual consumption of up to two drinks or more per night, at a frequency of up to two times per month, at least during the period August 1994 until January 1995, as well as the increased consumption of up to two drinks or more per night, at a frequency of up to two times per week, at least during the period commencing in January 1995, apparently contributed to his poor prognosis.(14)

On January 22, 1996, Applicant received a written warning from his employer, citing unsatisfactory performance and conduct. The letter referred to two years of inconsistent quality of work, as well as erratic work hours and unprofessional work habits. Applicant "habitually" took a two hour lunch break and would stay at work late to make up the lost time. Applicant subsequently explained that the lengthy lunch periods were the result of his attending AA

meetings. Since issuance of the letter, a noticeable improvement in Applicant's performance was noted.

Applicant's self-assessment is that he is a social drinker,[(15)] who does not have an alcohol problem.[(16)] Moreover, despite the two alcohol-related incidents in 1990 and 1994, Applicant denies that he has consumed alcohol excessively, defined by him to mean a loss of control of his actions.[(17)]

As recently as October 2, 1996, Applicant intended to continue consuming alcohol at the same level and frequency as he had since January 1995. Applicant claims that upon receiving the SOR, an event which occurred on December 17, 1996, he resolved to cease his consumption of alcohol.[(18)] Notwithstanding that resolution, and even after he submitted his Response to SOR on December 30, 1996, in which he asserted that he had stopped consuming alcohol, he gave it one more fling on New Years Eve, and consumed two scotches and one champagne. Applicant agreed that he was "stupid" for doing so.[(19)]

On November 4, 1996, Applicant's personal physician performed a physical examination and review, and opined that he has "no history of . . . alcoholism."[(20)] On March 14, 1997, he added that he saw no evidence of any physical condition which might be associated with excessive alcohol use or abuse, and that he found no evidence of the physical manifestations associated with alcoholism.[(21)]

Applicant was married to his fourth wife in October 1992. He previously served on active military service from November 1966 until September 1968, and remained on inactive duty from that point until September 1973. He has been employed by the same employer since December 1970, and his most recent performance appraisal rated him as fully satisfactory and exceeding expectations. His supervisors, former supervisors, co-workers, and friends, all support his application.

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:

[Alcohol Consumption - Criterion G]: 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.

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

(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;

(4) habitual or binge consumption of alcohol to the point of impaired judgment;

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,"[(22)] 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 potential, 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 G, the Government has established its case. Applicant's alcohol abuse has resulted in behavior that adversely affected his judgment and reliability, and led to periodic and episodic impairment or intoxication during which Applicant abandoned varying degrees of reason, caution, responsibility, and acceptable conduct. On two such occasions, his excessive consumption of alcohol resulted in arrests for DWI. On two other occasions, he consumed alcohol illegally when he was underage.

There are several aspects of Applicant's history of alcohol consumption and alcohol abuse which are of significant concern. It appears that Applicant has diminished the nature of his alcohol consumption, and that effort seems to border on the phenomenon of "denial." He has quantified his fluctuating alcohol consumption over the years, and those levels can reasonably be characterized as moderate to heavy consumption. His estimates were approximately one-half of the

estimate of one friend, and approximately one-third of the number furnished by another friend. Since those individuals would have little reason to offer false estimates, I have given substantial weight to them.

Notwithstanding the results of two separate breathalyzer tests which showed conclusively that Applicant was at least impaired, and probably intoxicated, following alcohol-related arrests in 1990 and 1994, he has steadfastly denied being intoxicated, and attributed his actions to nothing more than "alcohol-related poor judgment." The levels of those alcohol concentrations found in his system support either the opposite conclusion, or an unusually high degree of tolerance for alcohol often associated with heavy, routine consumption of alcohol.

Applicant is unable to explain the dynamics of his long standing relationship with alcohol, or provide insight as to why he chose to resume the consumption of alcohol after he had previously chosen to become abstinent. If, as he described it, the decision was not a conscious one, I remain concerned over the nature of his unconscious decision-making.

Applicant has attributed his June 1990 drinking habits, as well as the habits of the period leading up to his arrest, to the "tumultuous, volatile, and disruptive period in his life due to an unsuccessful marriage. . . ." His consumption on the night of the arrest was between ten and twelve beers over a six or seven hour period -- a consumption amount which he claims has occurred on only one other occasion, four years later, preceding another arrest. Yet, as Department Counsel pointed out, the March 1994 arrest, and the consumption of ten to twelve beers over a six hour period, occurred while he was happily married to his current wife, and there is no evidence of stressors or other motivators which might reasonably explain his consumption on that occasion. In other words, whereas Applicant has attempted to rationalize his excessive consumption in 1990, he cannot explain that same level of consumption during happier times in 1994.

It is reasonable to presume that when the court ordered abstinence during the eighteen month period of probation, from August 1994 until February 1996; and when the alcohol awareness program required abstinence, at least during the period of enrollment, from March 1994 until February 1995; and when the AA program requested abstinence during the period of enrollment, from March 1994 until about September 1994, a rehabilitated Applicant would have complied with those mandates. Yet, Applicant argued that there was no record of ever having been *ordered, instructed, or otherwise compelled to cease all drinking*. Despite his perception, he supposedly managed to abstain for relatively brief periods during June-September 1990, and March-August 1994. However, during the other times, including long periods of probation, during the alcohol awareness program, and during his participation with AA, Applicant continued to consume varying quantities of alcohol.

Applicant's self-assessment, flying in the face of the facts, indicates that he simply does not understand the nature of the problem or how to address it. The overall wealth of evidence supports a finding of the continuing presence of a "problem" with alcohol, regardless of the official nomenclature. In this instance, there is a physician's opinion, as part of Applicant's physical examination, as well as a subsequent letter, that there was "no evidence of the physical manifestations associated with alcoholism," along with a finding that there was "no history of alcoholism." The value of such opinion is questionable, for there is nothing in the materials to identify either the methods or procedures followed in conducting the examination and review, or the information upon which those opinions were based. Furthermore, there has been no allegation that Applicant displays the "physical manifestations associated with alcoholism." Secondly, the statement regarding history is erroneous, for four alcohol-related arrests, including two for DWI, cannot simply be written off as "no history." The alcohol-related incidents are what have raised a security concern, and not the physical manifestations. Moreover, while I acknowledge that the adjudicative guideliness no longer require the successful completion of an acceptable inpatient or outpatient alcohol treatment or rehabilitation program, given the seriousness of the allegations, and Applicant's alcohol abuse history, the absence of that type of rehabilitation activity merely accentuates my concern.

Applicant should have first become aware of the potential problems associated with alcohol consumption following his initial arrests in 1963-64, but because of his immaturity at the time, I can understand why they did not have a lasting impact on him. However, he should have really become aware of the problems associated with excessive consumption of alcohol following his 1990 alcohol-related arrest, especially during his attendance at the first alcohol awareness program. Perhaps he did learn something, for he briefly entered the first abstinence phase of his life. Unfortunately, that phase seems to have been phased out with his resumption of alcohol abuse three months later. Applicant had another opportunity to learn and abstain in March 1994, following the 1994 alcohol-related arrest. He managed to remain

abstinent from the date of the accident until about the date of his court appearance -- perhaps to convey to the court a good impression. At about the time of the court-mandate regarding abstinence, Applicant resumed his alcohol consumption.

It appears that neither punishment by the authorities, nor the threat of same, seem to have had any long-term success with alcohol's hold over Applicant. To the contrary, while attending the court-mandated alcohol awareness and treatment program, and AA, he, nevertheless, rejected the mandates to abstain, and returned to alcohol. Thus, even though he "successfully" completed both his probation and the alcohol awareness program, it appears that Applicant remains a rehabilitation failure, unmotivated towards continuing abstinence. His recent three month attempt at abstinence, following receipt of the SOR, is seen as simply another effort to impress the authorities before a decision is rendered. It seemingly worked in 1994.

Under the circumstances, I believe that an appropriate period of abstinence, and perhaps even the successful enrollment in, and completion of, an alcohol treatment and rehabilitation program staffed by a credentialed medical professional, should be required to demonstrate the truly successful completion of a transformation from a long-term alcohol abuser to an abstinent, or possibly even a sober, 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 possess no confidence that Applicant's alcohol 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. 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 G: 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

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.

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Robert R. Gales

Chief Administrative Judge

1. On March 24, 1997, four days after the closing of the record for the purposes of accepting further evidence, but two days prior to the deadline previously set for the submission of his written memorandum of findings and conclusions, Applicant acknowledged an oversight on his part during the hearing, and requested leave to reopen the record to submit an additional exhibit (his seventh) -- one which had been discussed during the hearing, but never actually offered. There being no objection interposed by Department Counsel, the motion was granted, and the document was admitted as Applicant Exhibit G.

2. This figure does not include the expected testimony of two additional witnesses whose expected testimony was admitted through a stipulation agreed to by and between both parties.

3. *See*, Tr., at 199-200.

4. *See, id*., at 72.

5. Applicant's moderate estimates differ from those of one of his friends who happens to be a former supervisor. That person's estimate, based on eight or nine social opportunities (at restaurants, pool halls, and while playing golf) per year during the period 1987 until October 1996, was four to six beers per night -- an estimate which is **double** that of Applicant's estimate. *See*, Applicant Exhibit G, at 4.

6. At that time, Applicant weighed the pleasure of drinking with the consequences that could result therefrom and decided to resume drinking "moderately." *See*, Tr., at 174.

7. Applicant's moderate estimates again differ from those of another one of his friends/co-workers. That person's estimate, based on three social opportunities (at a party, and at pool halls) per year during the period 1991 until October 1996, was five to six beers over a four hour period -- an estimate which is **triple** that of Applicant's estimate. *See, id.*, at 4-5.

8. Applicant cannot explain why he resumed his consumption of alcohol, and believes it was not a conscious decision. *See*, Tr., at 176.

9. Applicant conceded that the incident occurred "during a tumultuous, volatile, and disruptive period in his life due to an unsuccessful marriage which was then in the process of disintegrating." *See*, Applicant's Memorandum of Finding and Conclusions, at 4.

10. Applicant argues to the contrary, and claims that "there is no record of [Applicant] ever having been *ordered, instructed, or otherwise compelled* to cease all drinking. . . ." (emphasis supplied). *See, id*., at 6. His argument is simply in error, for a court-mandate is just that.

11. Applicant was initially required to attend AA meetings one time per week, but the frequency was later changed to two times per month.

12. *See*, transcript (Tr.), at 175.

13. *See, id*., at 186.

14. Despite the poor prognosis, a letter from the program director of the alcohol awareness program, dated February 27, 1995, states that Applicant had "abstained all alcoholic beverage consumption since March 10, 1994." (Applicant Exhibit A). In light of Applicant's subsequent admissions to the contrary, that statement has been shown to be erroneous.

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

16. *See*, Response to SOR, at 1. Furthermore, he concluded that he had "no symptoms of alcoholism other than

sometimes driving with a blood alcohol level above the legal limit."

17. *Ibid*.

18. He stated: "When it becomes a question of whether I should drink or possibly lose my job, then alcohol comes in a very poor second." *See*, Tr., at 155, 180, and 189.

19. *See, id*., at 190.

20. *See*, Applicant Exhibit D, at 2.

21. *See, id.*, at 1. It should be noted that the physician referred to the physical examination as having occurred in 1995, although the examination memorandum clearly states 1996.

22. *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).