

DATE: \_September 15, 1997

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In re:

Applicant for Security Clearance

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ISCR OSD Case No. 97-0427

**DECISION OF ADMINISTRATIVE JUDGE**

**ELIZABETH M. MATCHINSKI**

**APPEARANCES**

**FOR THE GOVERNMENT**

Carol A. Marchant, Esq.

Department Counsel

**FOR THE APPLICANT**

*Pro se*

**STATEMENT OF THE CASE**

The Defense Office of Hearings and Appeals (DOHA) pursuant to Executive Order 10865 (as amended by Executive Orders 10909, 11382 and 12829) and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992 (as amended by Change 3) issued a Statement of Reasons (SOR) dated June 17, 1997, to the Applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant and recommended referral to an Administrative Judge to conduct proceedings and determine whether clearance should be granted, continued, denied or revoked.

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

On July 3, 1997, Applicant responded to the allegations set forth in the SOR and requested a hearing. The case was assigned accordingly to this Administrative Judge on July 28, 1997, and on August 7, 1997, a hearing was scheduled for August 25, 1997. At the hearing held as scheduled, five Government exhibits were admitted into evidence. Testimony was taken from a Defense Investigative Service (DIS) Special Agent and the Applicant. A transcript of the hearing was received by this office on September 11, 1997.

**FINDINGS OF FACT**

After a thorough review of the evidence in the record, and upon due consideration of same, this Administrative Judge renders the following findings of fact:

Applicant is a 36 year old custodian who has worked for her current employer, a federal contractor, since December 1994. She seeks a security clearance for her duties there.

Applicant's first experiences with alcohol came at the young age of twelve when she began to drink beer. Over the next four years, she consumed one to four beers per occasion almost every weekend. At age sixteen (circa 1976), Applicant's

intake of alcohol increased to up to twelve beers per occasion. While in high school, she was suspended from school for three days once after coming to school intoxicated. She also began to use illegal drugs. In 1975, she tried marijuana out of curiosity in a social situation. Applicant enjoyed the drug and continued to smoke it until 1988. Twice in 1975, she also used a methamphetamine in an effort to lose weight. The following year, she experimented with LSD ("blotter paper") on three occasions.

Over the period from 1978 to 1981, Applicant continued to consume up to twelve beers per occasion and to abuse illegal drugs. In addition to trying heroin twice, Applicant ingested cocaine one to three times per month. She ceased use of cocaine when the physical effects of the substance were no longer pleasurable.

Affected by the death of her boyfriend, Applicant began to engage in self-destructive behavior in 1981. For about a six month period that year, Applicant consumed up to a quart of vodka per day, and suffered five or six blackouts related to drinking. Concerned about her excessive drinking, Applicant sought detoxification in a local alcohol treatment center (intervention program A) in February 1982. After her treatment, Applicant ceased drinking alcohol for two months. Applicant attended a couple of Alcoholics Anonymous (AA) meetings, but did not continue with AA as she felt uncomfortable at the meetings. She resumed drinking thereafter at a rate of a couple of beers a couple of times per week, a pattern which continued to 1988. In June 1983, Applicant re-entered intervention program A for a brief period of treatment.

After a third episode of treatment in intervention program A in April 1988, Applicant stopped drinking and using marijuana for three years. She managed to remain alcohol and drug free on her own without any AA or other counseling.

During the approximate period 1990 to December 1993, Applicant took Valium which was not prescribed for her on about ten occasions total as a sleep aid. She obtained the Valium from friends.

Circa 1991, Applicant resumed her marijuana use at a rate varying from daily to monthly. She also returned to drinking, initially up to six beers once per month but escalating to almost every weekend. By late April 1991, Applicant was consuming alcohol on a daily basis. For missing work and reporting in with hangovers, her employment was in jeopardy. Applicant admitted herself to treatment intervention program A on May 3, 1991. At her discharge on May 8, 1991, it was recommended to Applicant that she attend Alcoholics Anonymous (AA) or Narcotics Anonymous (NA). Applicant did not participate in aftercare and instead continued to consume alcohol following her discharge. On June 11, 1991, Applicant was re-admitted for five days of detoxification to treatment intervention program A. She was discharged on June 16, 1991, condition stable. Aftercare recommendations included daily AA and outpatient counseling. Applicant refused further treatment and continued to consume alcohol.

During the first six months of 1993, Applicant imbibed about a half a case of beer daily. In June 1993, Applicant was referred to treatment intervention program A by her health maintenance organization. Following an intake evaluation on June 29, 1993, she underwent inpatient detoxification, which included AA, until July 6, 1993. Referrals at discharge included outpatient counseling. Applicant remained alcohol-free for about four months thereafter. She resumed drinking at a rate of one to six beers every other weekend which increased in 1995. By February 1996, she was imbibing as much as a twelve pack of beer daily plus an occasional wine.

Depressed and desiring to stop drinking, Applicant went to a local medical center (hospital B) on February 12, 1996, where she was admitted via the emergency room to the addictions unit for detoxification and rehabilitation of medically diagnosed alcohol dependence. Just prior to her admission, she was using marijuana and drinking on a daily basis. She became more cooperative as treatment progressed and her condition at discharge on February 17, 1996, was noted as improved. Planned aftercare included outpatient therapy with a licensed clinical social worker.

On a couple of occasions in March 1996, Applicant received outpatient counseling from a licensed clinical social worker associated with her employer's employee assistance program (EAP). She stopped seeing this counselor in order to concentrate on her therapy with social worker C from whom she received outpatient counseling from March 8, 1996 to May 31, 1996. Applicant was encouraged to abstain from alcohol and to attend AA. She remained alcohol-free until sometime in ay 1996 when she returned to drinking from two to six beers on weekends. Shortly after she returned to

drinking, Applicant terminated her therapy with social worker C prior to completion of her rehabilitation as she did not feel at ease with social worker C and did not think the therapy was of help.

Applicant continued to consume two to six beers just about every weekend to at least mid August 1997. On at least one occasion in July 1997, she imbibed up to nine beers. She intends to drink beer in the future as she enjoys it. Applicant does not attend AA but has a couple of friends in AA who she relies on for support.

Applicant does not intend to use any illegal drug, to include marijuana, in the future. She continues to associate with individuals who use marijuana but they do not pressure her to use it. Appellant has not told her friends that she is no longer using marijuana.

In application for a security clearance, Applicant executed a Standard Form 86 on August 29, 1996. Applicant responded "No" to inquiry thereon concerning any illegal drug use within the last seven years as she feared disclosure of her marijuana abuse would negatively impact her chance of obtaining a security clearance.

On March 10, 1997, Applicant was interviewed by a Special Agent of the Defense Investigative Service (DIS) in regard to her alcohol and drug involvement. After being apprised of the requirement to be truthful under Title 18, Section 1001 of the United States Code, Applicant falsely denied that she had used any illicit drug use within the last seven years as she did not want to jeopardize her chances of obtaining a security clearance. In disclosing her alcohol abuse history, Applicant indicated that between 1991 and February 1996 she consumed up to six beers per occasion on a monthly basis which escalated to almost weekly and she executed a signed, sworn statement to that effect. Applicant deliberately did not reveal that on some occasions during the period she had imbibed up to twelve beers daily. <sup>(1)</sup>

Applicant granted permission for DIS to obtain records of her alcohol treatment. Information obtained through interviews of treating personnel and documents indicated Applicant had been involved with some illicit drug use within the last seven years, which led to Applicant being reinterviewed by the Special Agent on April 7, 1997. Applicant was forthright about her history of drug and alcohol abuse on that occasion. While she indicated that she has some difficulty recalling specific details regarding the quantities, frequencies and time frames of her alcohol abuse because of her long history, she admitted she did not disclose that she used up to twelve beers of alcohol daily for periods of time "because it tended to make [her] alcohol consumption look worse than it was." Applicant admitted smoking marijuana between 1975 and February 1996 as well as the use of heroin, cocaine, methamphetamines and LSD prior to seven years ago. She also volunteered that she had used Valium from 1990 to 1994 to help her sleep at night.

Applicant would like to retain her present employment for the educational benefits it offers her.

### POLICIES

The adjudication process is based on the whole person concept. All available, reliable information about the person, past and present, is to be taken into account in reaching a decision as to whether a person is an acceptable security risk. Enclosure 2 to the Directive sets forth adjudicative guidelines which must be carefully considered according to the pertinent criterion in making the overall common sense determination required. Each adjudicative decision must also include an assessment of the seriousness, recency, frequency and motivation for an applicant's conduct; the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the circumstances or consequences involved; the age of the applicant; the absence or presence of rehabilitation, the potential for coercion or duress, and the probability that the conduct will or will not recur in the future. *See* Directive 5220.6, Section F.3. and Enclosure 2. Because each security case presents its own unique facts and circumstances, it should not be assumed that the factors exhaust the realm of human experience or that the factors apply equally in every case. Moreover, although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility or emotionally unstable behavior.

Considering the evidence as a whole, this Administrative Judge finds the following adjudicative guidelines to be most pertinent to this case:

### ALCOHOL CONSUMPTION

**Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness.**

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

(3) diagnosis by a credentialed medical professional of alcohol abuse or alcohol dependence

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

Conditions that could mitigate security concerns include:

None.

## DRUG INVOLVEMENT

**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.**

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

(1) any drug abuse

(2) illegal drug possession

Conditions that could mitigate security concerns include:

(1) the drug involvement was not recent

(2) the drug involvement was an isolated or infrequent event

## PERSONAL CONDUCT

**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.**

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

Conditions that could mitigate security concerns include:

None.

## CRIMINAL CONDUCT

**A history or pattern of criminal activity creates doubts 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

Conditions that could mitigate security concerns include:

None.

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Under the provisions of Executive Order 10865 as amended and the Directive, a decision to grant or continue an applicant's clearance may be made only upon an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination required, the Administrative Judge can only draw those inferences and conclusions which have a reasonable and logical basis in the evidence of record. In addition, as the trier of fact, the Administrative Judge must make critical judgments as to the credibility of witnesses. Decisions under the Directive include consideration of the potential as well as the actual risk that an applicant may deliberately or inadvertently fail to properly safeguard classified information.

#### Burden of Proof

Initially, the Government has the burden of proving any controverted fact(s) alleged in the Statement of Reasons. If the Government meets its burden and establishes conduct cognizable as a security concern under the Directive, the burden of persuasion then shifts to the applicant to present evidence in refutation, extenuation or mitigation sufficient to demonstrate that, despite the existence of criterion conduct, it is clearly consistent with the national interest to grant or continue her security clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. Where the facts proven by the Government raise doubts about an applicant's judgment, reliability or trustworthiness, the applicant has a heavy burden of persuasion to demonstrate that she is nonetheless security worthy. As noted by the United States Supreme Court in *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988), "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." As this Administrative Judge understands the Court's rationale, doubts are to be resolved against the Applicant.

#### CONCLUSIONS

Having considered the evidence of record in light of the appropriate legal precepts and factors, and having assessed the credibility and demeanor of those who testified, this Judge concludes that the Government has established its case with regard to criteria G, H, E and J.

With respect to criterion G, Applicant commenced drinking in 1972 when she was only twelve years of age. While she continued to drink socially in high school, it was not until 1981 when despondent over the death of her boyfriend, she began to drink excessive quantities on a daily basis. To her credit, Applicant sought treatment in February 1982 in intervention program A. She resumed drinking two months after her discharge, but reduced her intake of beer and gave up vodka completely. After her third treatment in intervention program A in April 1988, Applicant remained alcohol-free for three years. When she resumed drinking in 1991, it was not precipitated by any circumstance or event. By April 1991, she was consuming alcohol daily and her job was in jeopardy due to drinking. Five days of detoxification in intervention program A in early May 1991 had little appreciable effect as she continued to drink following her discharge with yet another five day stay in intervention program A for detoxification in June 1991 the consequence. Applicant refused aftercare recommendations and continued to drink. In June 1993, Applicant went back to treatment intervention program A for her sixth time. While she attended AA in the facility, she did not continue in AA post-discharge or follow-up with outpatient care. After four months of sobriety, she relapsed into weekend beer drinking, in quantities on occasion reaching twelve beers. By February 1996, she was imbibing alcohol daily and was diagnosed as alcohol dependent on admission to hospital B on February 12, 1996. In contrast to previous rehabilitation efforts, after her detoxification in the hospital, she participated in recommended outpatient counseling, first with the EAP counselor at

work and more extensively with social worker C. However, shortly before terminating the counseling prematurely at the end of May 1996, she resumed drinking against professional advice. She continues to consume alcohol, as much as six beers on weekends. On at least one occasion in July 1997 she drank up to nine beers. Given the extent and recency of her abusive use of alcohol, Applicant bears a heavy burden to demonstrate reform.

In assessing the current security significance of Applicant's criterion G conduct, this Administrative Judge must consider the Adjudicative Guidelines pertaining to alcohol consumption set forth in Enclosure 2 to the Directive. It is in Applicant's favor there are no alcohol-related incidents of the type contemplated in disqualifying conditions (DC) 1. or 2. While Applicant admitted there had been occasions when she had operated an automobile after drinking, there have been no documented incidents. Similarly, medical record reports indicate Applicant's job was in jeopardy back in 1991 due to alcohol-related absenteeism. However, there is no incident of record where she reported to work under the influence. In contrast, DCs 3 and 4 are pertinent to an evaluation of her security suitability. Applicant was diagnosed as suffering from alcohol dependence by medical professionals at treatment facility B. During the 1981 and early 1993 and more recently late 1995/early 1996 time frames, Applicant imbibed alcohol in excessive amount on a daily basis. She is therefore found to have engaged in habitual or binge consumption. With respect to DC 5, Applicant continues to consume alcohol subsequent to a diagnosis of alcoholism by a credentialed medical professional. However, it is not clear that she has ever completed an alcohol rehabilitation program of the type contemplated in the Directive. While she has been treated in intervention program A six times and there was an AA component, her treatment there was primarily detoxification.<sup>(2)</sup> Furthermore, even though Applicant was detoxified successfully, she did not follow-up with treatment recommendations. Applicant's more recent treatment at hospital B was for detoxification and rehabilitation, but it was only for five days. While she did follow-up with aftercare recommendations, she terminated her counseling with social worker C prematurely. The alcohol rehabilitation effort in 1996 cannot therefore be considered completed.

On review of the corresponding mitigating conditions (MC), none apply to her benefit. Applicant's alcohol problem is regarded as ongoing, given she continues to drink contrary to professional advice, at times up to six beers, a quantity which has led to impaired motor coordination and slurred speech on occasion. She has failed to demonstrate positive changes supportive of sobriety. Furthermore, whereas she has been diagnosed as suffering from alcohol dependence, she is required under MC 4. to have successfully completed inpatient or outpatient rehabilitation along with aftercare requirements, participate frequently in an organization such as AA, abstained from alcohol for at least a year, and received a favorable prognosis by a credentialed medical professional. As noted, Applicant prematurely terminated her counseling with social worker C and she does not attend AA or maintain the abstinence required.

While the failure to satisfy the pertinent mitigating conditions is not necessarily determinative as the efforts in reform may nonetheless warrant a favorable outcome,<sup>(3)</sup> this Administrative Judge is not persuaded that Applicant's alcohol problem is safely behind her. Applicant has a demonstrated record of pursuing detoxification when she realized she was drinking too much, but she does not exhibit any meaningful insight into her alcohol problem. She continues to consume alcohol on weekends after being advised to abstain completely. While she has managed since May 1996 to limit her drinking to weekends, she presents a historical pattern of resuming drinking initially at moderate levels with eventual escalation to daily drinking in excessive amount. On at least one occasion in July 1997, she imbibed as much as nine beers. Applicant is not involved in any treatment program, having terminated her therapy with social worker C, and she has no formal support system in place to aid her in recovery. There is an unacceptable risk of future abuse on her part. Accordingly, subparagraphs 1.a., 1.b., 1.c., 1.d., 1.e., and 1.f. are resolved against her.

Applicant's illegal drug involvement dates from her youth as well. With the exception of the 1988 to 1991 time frame, Applicant smoked marijuana with varying frequency from about 1975 to February 1996. Her recent drug use also includes the abuse of Valium, which was not prescribed for her, on ten occasions between 1990 and December 1993. Applicant's illicit drug abuse, which falls squarely within the ambit of criterion H, includes experimentation with heroin, LSD and methamphetamines and one to three times monthly abuse of cocaine prior to 1982. By record account, the drugs were given to her by others as there is no evidence that she was ever engaged in active purchase. DCs 1. and 2. of the Adjudicative Guidelines pertaining to drug involvement are apposite as she was in possession on the occasions of usage.

The Directive provides for mitigation where the drug involvement was not recent (MC 1.), isolated or infrequent (MC 2.), there is demonstrated intent not to abuse any drugs in the future (MC 3.) or satisfactory completion of a prescribed

drug treatment program (MC 4.). Applicant's abuses of heroin, methamphetamines and LSD were limited to twice or three times each and sufficiently remote in time to apply both MCs 1. and 2. in her favor. Applicant's cocaine abuse on the order of once to three times per month between 1978 to 1981 cannot reasonably be considered infrequent. Yet, it occurred more than fifteen years ago with no recurrence, so MC 1. does apply in mitigation of her cocaine abuse. Applicant's involvement with Valium, although limited to ten times total over a span of about four years, is contrasted by its comparative recency. However, Applicant has not used Valium since December 1993 and there is little indication that abuse will recur. Her abuse of marijuana is even more serious because she was using it daily as of February 1996. Applicant no longer intends to use any illegal drug in the future. In light of the longstanding nature of her marijuana abuse, there must be demonstration of this intent by positive action. While Applicant did not return to marijuana abuse following her treatment at hospital B and has not sought out marijuana, Applicant has been in the presence of others using marijuana since February 1996. She continues to associate with individuals who use marijuana and has not told her friends that she is no longer using it. This Administrative Judge has no reason to doubt the sincerity of her intent to abstain, but she admits her friends would have no problem using the drug in her presence. The risk of future marijuana abuse on her part cannot therefore be precluded. SOR subparagraph 2.a. is hence resolved against her with favorable findings returned as to subparagraphs 2.b., 2.c., 2.d., 2.e. and 2.f. of the SOR.

Applicant's failure to be forthright about her illegal drug use raises independent concerns under criterion E. Applicant deliberately falsified her security clearance application executed on August 29, 1996, when she denied any involvement with illegal drugs within the last seven years. Provided the opportunity to set the record straight during a DIS interview of March 10, 1997, Applicant instead again denied any illicit drug use. Moreover, while she was candid to a great extent about her alcohol use during that interview, Applicant intentionally did not reveal that her consumption of alcohol between 1991 and February 1996 at times amounted to as much as twelve beers daily and she significantly underreported the extent of her abuse in a signed, sworn statement executed on March 10, 1997. DC 2. and 3. under the personal conduct guidelines must be considered because of these knowing and willful misrepresentations.

Of the four listed mitigating conditions which correspond to acts of deliberate falsification, none apply in her favor. At the time she executed the standard form 86, security clearance application, Applicant had been drug-free only for five months. Recent abuse of marijuana clearly has the potential for influencing an agency's investigative and/or adjudicative decisions. It is therefore pertinent to a determination of Applicant's judgment, trustworthiness and reliability. Similarly, the excessive use of alcohol up to twelve beers on a daily basis is significant in assessing whether Applicant possesses the requisite judgment to be entrusted with the Nation's secrets. The recency of Applicant's latest falsification (March 10, 1997) precludes favorable consideration of MC 2. Whereas Applicant elected to conceal her history of illegal drug involvement when initially asked by the DIS Special Agent on March 10, 1997, it cannot be said that she promptly corrected the deliberate misrepresentation made on her security clearance application. Nor is there any evidence that Applicant was improperly advised by an authorized person to deny any drug use on her questionnaire or during her first interview. While Applicant corrected the record with regard to both her drug and alcohol use on April 7, 1997, she did not volunteer the information up-front but provided it in response to the Agent's questions. The Government can ill afford allowing individuals to dictate the timing and extent of disclosure. The repeated and recent intentional misrepresentations are not excused by the fact that Applicant was motivated by a desire to obtain the security clearance requested. Applicant's belated candor is to her credit, but it is not enough to overcome the very serious doubts for her judgment, reliability and trustworthiness caused by her criterion E conduct. Therefore, subparagraphs 3.a., 3.b. and 3.c. are concluded against Applicant.

Inasmuch as Applicant's knowing and willful false denials of drug use on her security clearance application and during her March 10, 1997 DIS interview as well as her active concealment of material information concerning her alcohol abuse history in a sworn statement executed during that DIS interview constitute felony violations under Title 18, Section 1001 of the United States Code,<sup>(4)</sup> DC 1. under the criminal conduct guidelines is potentially security disqualifying in this case. Criminal conduct is subject to mitigation provided it was not recent (MC 1), was isolated (MC 2.), the act was not voluntary or the factors which led to the violation are not likely to recur (MC 4.), or there is clear evidence of successful rehabilitation (MC 5.). Applicant has never been charged with the federal offense of making a false statement to the Federal Government, yet that conduct is viewed as serious. Her intentional misrepresentations reflect an unacceptable tendency to place her personal interest in keeping her employment above her obligation to be completely frank with the Government. Applicant's candor during her subsequent interview and at the hearing is evidence in reform, but it is not enough to overcome her repeated felonious conduct. An adverse finding is thus also

warranted with respect to subparagraph 4.a. of the SOR.

### **FORMAL FINDINGS**

Formal Findings as required by Section 3. Paragraph 7 of Enclosure 1 of the Directive are hereby rendered as follows:

#### 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

#### Paragraph 2. Criterion H: AGAINST THE APPLICANT

Subparagraph 2.a.: Against the Applicant

Subparagraph 2.b.: For the Applicant

Subparagraph 2.c.: For the Applicant

Subparagraph 2.d.: For the Applicant

Subparagraph 2.e.: For the Applicant

Subparagraph 2.f.: For the Applicant

#### Paragraph 3. Criterion E: AGAINST THE APPLICANT

Subparagraph 3.a.: Against the Applicant

Subparagraph 3.b.: Against the Applicant

Subparagraph 3.c.: Against the Applicant

#### Paragraph 4. Criterion J: AGAINST THE APPLICANT

Subparagraph 4.a.: 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.

**Elizabeth M. Matchinski**

**Administrative Judge**

1. At her hearing, Applicant admits she lied to the Special Agent about her marijuana use to save her job but she denies any intentional falsification of her alcohol consumption levels during the year before her last detox in February 1996: "I

know that it fluctuated during that time period and I'm sure I probably was drinking 12 beers by the time I got into detox, but maybe not all year long. It probably fluctuated daily." (Tr. 47). However, in her signed, sworn statement of April 7, 1997, Applicant admitted that she understated the quantity and frequency as it "tended to make [her] alcohol consumption look worse than it was." (Exhibit 3).

2. The clinical records admitted into evidence indicate Applicant was treated in an outpatient program sometime in 1986 and that it was another detoxification effort. Moreover, the medical records from treatment facility B (Exhibit 4) indicate the prior admissions to intervention program A were for detoxification.

3. Whether or not an applicant has reformed depends on recognition and acknowledgment of her alcohol problem and demonstration by conduct over a measurable period of time that she is committed to her recovery.

4. 18 U.S.C. § 1001 of the United States Code provides in pertinent part: "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."