



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)	
)	
SSN:)	ISCR Case No. 07-07931
)	
Applicant for Security Clearance)	

Appearances

For Government: Caroline Jeffreys, Esquire, Department Counsel
For Applicant: Pro Se

March 6, 2008

Decision

HENRY, Mary E., Administrative Judge:

Applicant submitted his Security Clearance Application (SF 86), on April 11, 2006. On September 24, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the security concerns for Applicant under Guidelines H, E and F. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on October 1, 2007. He answered the SOR in an undated written response, and requested a hearing before an Administrative Judge. DOHA received the request in October 2007. Department Counsel was prepared to proceed on October 30, 2007. This case was initially assigned to another judge, but was reassigned to me on December 10, 2007. DOHA issued a notice of hearing on January 22, 2008, and I convened the hearing as scheduled on

February 13, 2008. The government offered Exhibits (GE) 1 through 4, which were received without objection. Applicant testified on his own behalf and submitted Exhibits (AE) A through D, without objection. DOHA received the transcript of the hearing (Tr.) on February 22, 2008. I held the record open until February 25, 2008, for the submission of additional matters. On February 18, 2008, Applicant submitted AE E, which was admitted without objection. The record closed on February 25, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

Procedural and Evidentiary Rulings

Notice

At the hearing, Applicant indicated he was not sure when he received the hearing notice. (Tr. at 8.) File correspondence indicates he received the hearing notice on January 31, 2008, less than 15 days before the hearing. I advised Applicant of his right under ¶ E3.1.8 of the Directive to receive notice of the hearing 15 days before the scheduled date. Applicant affirmatively waived his right to 15 days notice. (Tr. at 8-9)

Motion to Amend SOR

During the hearing and in light of Applicant's testimony, Department Counsel moved to amend sentence two of allegation 2.a of the SOR to correctly reflect Applicant's sentence by the court for his driving under the influence of alcohol (DUI) conviction. Applicant agreed to the amendment, which I granted. (Tr. at 36-37)

At the close of the testimony, Department Counsel moved to amend the SOR by adding either a new allegation under Guideline E regarding Applicant's alcohol consumption or a Guideline G allegation regarding alcohol consumption. Applicant opposed the motion. After discussion, the government withdrew its request to add a Guideline G allegation because of due process issues. I denied the government's request to amend Guideline E, indicating that Applicant's drinking patterns would be considered in the whole person analysis of my decision. (Tr. at 63-69)

Findings of Fact

In his undated Answer to the SOR, Applicant admitted all the factual allegations in the SOR, with explanations, except the factual allegation in ¶ 3.a of the SOR.

Applicant is 46 years old. He works as an aircraft helper for a Department of Defense contractor, a position he has held since January 2006. He completed his security clearance application (SF-86) in April 2006.¹

¹GE 1 (Applicant's Security Clearance Application, dated April 11, 2006) at 6, 12-13, 38.

Applicant and his wife divorced in 1990. The court awarded him physical custody of his young sons, whom he raised. His oldest son is 22 and lives independently. His younger son is 20 and lives with him. His younger son works and provides financial support to the household. A friend of his younger son also lives in the household and provides financial support.²

In 1989, during his divorce process, Applicant filed for bankruptcy under Chapter 7 of the Bankruptcy Code. He did so because of credit card debt. The court discharged his debts.³

Following his divorce, he started drinking more than he thought he should drink without elaborating on the quantity or frequency of his drinking at this time. He decided he needed to address his drinking and began attending alcoholics anonymous (AA). He attended AA for a year. Later in the 1990s, he again attended AA for several years. When participating in AA, he did not drink, as it is a requirement of AA. He attended AA again in 2004 and 2005. He likes the program. He denies that he is an alcoholic. He has never been in an alcohol treatment program and has never been diagnosed with alcohol abuse or alcohol dependence. He continues to drink at home on the weekends and occasionally to intoxication. He usually drinks 4 to 6 beers. He does not drink any hard liquor.⁴

In 1999 at age 37, Applicant began smoking marijuana to relax. He smoked marijuana a couple of times a week, sometimes at home with friends and associates. He never smoked marijuana in the presence of his sons. He purchased marijuana about twice a month. He quit smoking marijuana in April 2003. He decided to stop smoking marijuana after losing three jobs because of his marijuana use and because he was going nowhere. Following this decision, he started attending narcotics anonymous (NA). He participated in this program for a year. He has not smoked marijuana since April 2003. He did not drink during this time.⁵

In 1999, Applicant worked at a refinery, a job he had held since 1986. While working with asphalt, he sustained an injury when a hose he was using to pump asphalt into a truck split in his hand and sprayed asphalt on his face. When he sought medical treatment for this injury, the physician performed a drug screen, in accordance with company policy. The test revealed his marijuana use. The refinery fired him.⁶

²Tr. at 21.

³*Id.* at 38-39, 58; GE 4.

⁴Tr. at 26, 37, 42-43, 49-57; GE 2 (Interrogatory answers) at 4. The last time he became intoxicated was in August 2007. *Id.*

⁵GE 1, *supra* note 1, at 36; GE 2, *supra* note 4, at 3; Tr. at 24-25, 27, 43-45, 48-51.

⁶Tr. at 27, 29-30.

From 1999 until September 2001, he worked in a manufacturing plant. He sustained another on-the-job injury when he fell off of scaffolding and injured his arm. The company sent him to a physician, who conducted a urinalysis test. This test indicated his marijuana use and the company fired him. He then worked for a furniture company in the warehouse and later as a driver. While delivering furniture in a home, he ran into a glass door, cutting himself. Again, his employer's physician conducted routine tests, which showed his marijuana use. The company fired him from this job in March 2003. At this point, he decided to change his life. These companies did not routinely test for drugs.⁷

Applicant enrolled in a truck driving school and obtained his trucker's license. He drove a truck over the road for a year. He voluntarily left this job as he did not like being away from home 26 days out of 30 days each month.⁸

In November 2004, he and his cousin drove to a country western bar. During the course of the evening, they danced and drank. He acknowledges he drank to excess that evening. He has little memory of what happened after he left the bar. From reading the police report, he understands that when he was driving home, he lost control of his car and hit a parked car, got out of his car, walked a very short distance, and collapsed on the side of the road. He woke up in jail. The police charged him with DUI, his first, hit and run and property damage. He pled guilty to DUI. The court sentenced him to 10 days in jail and alcohol school,⁹ directed he participate in a victim impact panel, and fined him \$1,690. He served his jail time over five weekends on work release. As a first offender, he attended the required alcohol program for the mandatory three months. He also complied with the other requirements of his sentence. Since this incident, he has not driven after drinking. He acknowledged drinking and driving on other occasions before the accident. He uses alcohol more responsibly now.¹⁰

In 2005, Applicant decided to relocate his home from State A to State B, many miles away, to be nearer his brother. He worked for a temporary agency until he started his present position. After work and on weekends, he spends time with his brother, working on cars and helping his brother remodel his house, or at home.¹¹

Although he obtained jobs after being fired from his job at the refinery, these jobs paid significantly lower wages than his job at the refinery. Over time, he got behind in his bills. In 2006, he filed for bankruptcy under Chapter 13 of the bankruptcy code. He

⁷*Id.* at 28-31.

⁸*Id.* at 31.

⁹The court ordered program is not an alcohol treatment program, but an alcohol education program. GE 2, *supra* note 4, at 23.

¹⁰*Id.* at 34-36, 55, 57; GE 3 (Federal Bureau of Investigation criminal records) at 2.

¹¹Tr. at 38, 45.

developed a monthly payment plan to pay his \$10,000 of debt with the bankruptcy trustee. He began making monthly payments of \$300 in November 2006. He has made each monthly payment since this date. His payments will end in November 2009.¹²

Applicant currently earns approximately \$3,130 a month in gross pay and \$2,254 a month in net pay. His monthly expenses total approximately \$1,600, including his payment to the bankruptcy trustee. His son and son's friend contribute to the rent and utilities in the house.¹³

Applicant no longer associates with the friends he had when he lived in State A. His new friends are not interested in drugs or drinking nights. He lives quietly. His supervisor and co-worker describe him as an ethical man, dependable, hardworking, a high contributor to the company's mission, and a valuable asset. His brother states that he has turned his life around.¹⁴

Applicant testified credibly at the hearing to the above facts. He revealed all his negative information in his SF-86. He has made no attempt to hide the negative factors in his life.

Policies

When evaluating an Applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on

¹²*Id.* at 39-40, GE 2, *supra*, at 7-9, 10-21; AE D (copies of bankruptcy payments).

¹³AE E (Earnings statements since December 7, 2007).

¹⁴AE A (Letter, dated January 31, 2008); AE B (Undated letter); AE C (Undated letter).

the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the 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.

Section 7 of Executive Order 10865 provides that 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.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline H, Drug Involvement

AG ¶ 24 expresses the security concern pertaining to drug involvement:

Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

(a) Drugs are defined as mood and behavior altering substances, and include:

(1) 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

(2) inhalants and other similar substances;

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

In addition, under Guideline H, AG ¶ 25 the following disqualifying conditions may raise a security concern in this case:

- (a) any drug abuse (see above definition);
- (b) testing positive for illegal drug use;
- (c) illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;

Applicant started smoking marijuana, an illegal substance, on a regular basis in 1999. He purchased some of the marijuana he smoked. Following routine medical testing, he lost three jobs because of his marijuana use. The above disqualifying conditions have been raised.

Under AG ¶ 26, the following conditions may mitigate security concerns:

- (a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) a demonstrated intent not to abuse any drugs in the future, such as:
 - (1) disassociation from drug-using associates and contacts;
 - (2) changing or avoiding the environment where drugs were used;
 - (3) an appropriate period of abstinence; and,
 - (4) a signed statement of intent with automatic revocation of clearance for any violation.

After he lost his third job in March 2003 because of his marijuana use, he took a hard look at his life and his conduct. He decided to cease smoking marijuana in April 2003. He sought the assistance of NA to keep this decision. Although he stopped attending NA after one year, he continues to abide by his decision five years ago not to smoke marijuana. Three years ago, he moved to a new location many miles from his former friends. His new friends and his brother are not drug users. Applicant has mitigated the government's concerns about his drug use because it has been nearly five years since he last smoked marijuana, and as a result of moving, he no longer has contact with his former drug-using associates and now lives in an environment which he keeps drug free. I conclude AG ¶ 26 (a) applies. AG ¶ 26 (b) partially applies as all conditions are met except for AG ¶ 26 (b)(4).

Guideline E, Personal Conduct

AG ¶ 15 sets forth the security concern under Guideline E, Personal Conduct as:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process."

In addition, under Guideline E, AG ¶ 16 the following disqualifying conditions may raise a security concern in this case:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of: . . .(3) a pattern of dishonesty or rule violations; . . .

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing.

The government alleges that a security concern has arisen because of Applicant's DUI charges in 2004, his first offense.¹⁵ In November 2004, Applicant decided to drive home after an evening of heavy drinking with his cousin, a decision which reflects poor judgment and violates state driving laws. His decision resulted in an accident, but no injuries. He also admitted that he drove after drinking on other occasions prior to November 2004. This conduct constitutes a pattern of rule violations and credible adverse information which may result in a negative whole-person assessment. Thus, this disqualifying condition is applies.

The government also alleges that Applicant's past marijuana use constitutes a pattern of rule violations under AG ¶ 16 (d)(3). This disqualifying condition concerns credible adverse information not explicitly covered under any other guideline. The government specifically and properly raised Applicant's past marijuana use under Guideline H. Thus, to raise it again under Guideline E gives the appearance that should

¹⁵Arguably, AG ¶ 16 (d)(3) does not apply to the DUI offense in SOR ¶ 2.a because the alcohol related driving offense could have been alleged under Guideline G or Guideline J.

the Applicant establish the existence of mitigating conditions under Guideline H, the government wants a second chance to deny an Applicant's security clearance for the same conduct.

AG ¶ 17 provides conditions that could mitigate security concerns. The following mitigating conditions may apply:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Applicant's DUI is not a minor offense, particularly since he hit a parked car after losing consciousness either because he fell asleep, passed out or blacked out while at the wheel of his car. Thus, the first clause of AG ¶ 17 (c) is not raised. Applicant readily admitted to his DUI in his SF-86 and at his criminal trial, when he pled guilty to DUI. Subsequent to his arrest, he started attending AA meetings, which are not formal counseling programs, but are a means to attain support for behavior changes and modify alcohol usage. He attended AA for about one year. Since his accident, he obtained steady work and a good paying job in a new town. He has taken control of his finances and abstained from driving a car after drinking. He has new friends who are not interested in drinking at bars then driving. He limits his drinking to the weekends, and his alcoholic consumption to four to six beers over a weekend. His actions reflect the positive steps he has taken to reduce or eliminate his vulnerability to exploitation, manipulation or duress. His current alcohol consumption does not cast doubt on his reliability and trustworthiness now and in the future. Likewise, since he no longer uses marijuana, any security concerns about his past drug use have been mitigated by the passage of time. Mitigating conditions AG ¶¶ 17 (c), 17 (d) and 17 (e) listed above apply.

Guideline F, Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise

questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an "inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly under AG ¶ 19(c), "a history of not meeting financial obligations" may raise security concerns. During his marriage, Applicant accumulated unpaid credit card debt, which caused him to file for Chapter 7 bankruptcy. He started accumulating new unpaid debt after he lost his jobs in 1999, 2001, and 2003. The evidence of delinquent debt is sufficient to raise these potentially disqualifying conditions, requiring a closer examination of Applicant's financial circumstances.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where "the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment." Applicant's 1989 Chapter 7 bankruptcy discharge occurred more than 18 years ago. By itself, this event raises little concern about Applicant's judgment, reliability or trustworthiness today. Because the bankruptcy cannot be considered in isolation, and noting that since his 1989 bankruptcy does not raise concerns about his current reliability, trustworthiness, or good judgment, this mitigating condition has some applicability, but does not fully apply.

Under AG ¶ 20(b), it may be mitigating where "the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances." Applicant's financial problems arose from his loss of a well-paying job at the refinery, which resulted in his obtaining lower paying positions. However, as he lost this job and two other jobs because of his marijuana use, these job losses are not a result of factors beyond his control, but because of his own conduct. This mitigating condition does not apply.

Mitigating conditions AG ¶ 20(c) "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control", and AG ¶ 20(d) "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debt" apply. Although Applicant did not seek financial counseling, his financial problems are being resolved and his finances are under control. About two years ago, Applicant recognized that he needed to gain control over his finances, particularly his unpaid debt. He decided to file for bankruptcy protection under Chapter 13 of the bankruptcy code. With the assistance of the bankruptcy trustee, he developed a workable repayment plan for his debts. He began paying \$300 a month in November 2006. He has made his required monthly payments consistently for the last 16 months. He pays his other monthly expenses and lives within

his financial means. He is now financially sound. I conclude this potentially mitigating condition applies. The remaining mitigating conditions are not relevant in this case.

Whole Person Concept

Under the whole person concept, the Administrative Judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a): "(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) extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent 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." Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant decided to use marijuana to release his stress. This decision caused him more stress, because he lost three jobs because of his marijuana use. Following the loss of his third job, he took a hard look at his marijuana use and its impact on his life. He realized that his marijuana use was not helping him, but taking his life in a direction he did not want to go. He made a decision to give up smoking marijuana five years ago. He continues to abide by this decision. His 1989 bankruptcy is unrelated to his more recent financial problems. For at least 10 years, he managed his finances. After losing his job at the refinery, he obtained other work at a significantly lower salary. His financial problems began to develop and continued because of job loss and his marijuana use. Once he found a better paying job, he took control of his finances by filing for Chapter 13 bankruptcy protection. He is paying his old debts and his current bills.

Applicant first sought AA assistance shortly after his divorce in 1990, a traumatic event, because he recognized he was drinking too much. Through his one-year participation in AA, he received emotional support in managing his life and his use of alcohol. As the stresses of working and raising children as a single parent increased, he again sought the emotional assistance AA offered to help him with his use of alcohol and his personal issues. By 1999, he had stopped drinking to relieve stress. He, however, started smoking marijuana as a stress reliever. He eventually realized that this decision was a poor decision and stopped his marijuana use.

In 2003, Applicant understood he needed to make changes in his life style as he was "going no where". He stopped his drug use totally, initially with the help of NA and later on his own. He, however, continued to drink alcohol at times. His DUI charges in 2004, his first and only alcohol-related incident, acted as a wake up call about his

drinking. Shortly after this incident, he moved to a new location and changed his behavior. He limits his drinking to weekends and he restricts the amount of alcohol he consumes. He took control of his finances and complies with his bankruptcy repayment plan. He no longer associates with drug users.

In his divorce, the court found him a fit parent and awarded him custody of his two sons. He raised his sons alone. Both are grown and working. There is no evidence that either son has problems functioning in society. These factors are a positive reflection of how he raised his sons. His supervisor praises him as an employee, finding him reliable, energetic and hardworking. While he has participated in AA off and on over the years, no medical professional has ever diagnosed him as alcohol dependent or as an alcohol abuser. Although he continues to drink alcohol, he does so in a responsible manner by limiting both the quantity of his consumption and the times he drinks. His decision to not drink and drive reflects a responsible attitude. His current alcohol use is not an automatic prohibition against him holding a security clearance. Because no professional has ever diagnosed him as alcohol dependent or as an alcohol abuser, and since I am not a licensed medical professional, I cannot make a finding that he is an alcoholic based on his voluntary participation in AA. I, however, find that his attendance at AA is evidence that he felt he needed help, at times, with his use of alcohol.

For many years, Applicant appears to have used either alcohol or marijuana as a stress reducer. Five years ago, he recognized that his marijuana use was creating more problems and stress, not reducing his stress levels, so he quit. His only DUI triggered additional recognition that he needed to change his alcohol consumption patterns and he did. To assist himself in these decisions, he changed his social environment by moving to another state, developing new friends who are not interested in drugs or constant drinking, and being closer to family who can provide a support system. He likes his job and does very well at work. His only alcohol-related offense occurred more than three years ago. Since this incident, he consumes alcohol in a responsible manner by drinking only on the weekends, by limiting the quantity of his use and by not driving if he has been drinking.¹⁶

Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I

¹⁶In a number of recent cases, the Appeal Board has reversed decisions of administrative judges granting security clearances to Applicant's who continue to use alcohol. In ISCR Case No. 06-17541 (App. Bd. Jan. 14, 2008) the Applicant had three alcohol related incidents in a relatively short period of time and failed to keep his promise to abstain from drinking. In ISCR Case No. 06-08708 (App. Bd. Dec. 17, 2007), Applicant had three alcohol-related incidents, had relapsed after completing an alcohol treatment program, and had been diagnosed as alcohol dependent. In ISCR Case No. 06-12901 (App. Bd. Jul. 31, 2007), the Applicant had several significant alcohol related incidents, had been diagnosed as an alcohol abuser, had relapsed after his treatment and diagnosis, had his driver's license suspended for driving after consuming alcohol, and had attended at least two substance abuse treatment programs. In ISCR Case No. 04-10799 (App. Bd. Nov. 9, 2007), the Appeal Board found the evidence insufficient to establish a "tangible track record" of responsible use of alcohol following three DUI convictions and participation in two alcohol-related treatment programs. These cases are distinguishable from this case in that each case involves several alcohol-related incidents, not one, diagnoses of alcohol abuse or alcohol dependent, and relapse after treatment.

conclude Applicant mitigated the security concerns arising from his financial considerations, drug involvement and personal conduct.

Formal Findings

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

Paragraph 1, Guideline H:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant
Paragraph 3, Guideline F:	FOR APPLICANT
Subparagraph 3.a:	For Applicant
Subparagraph 3.b:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

MARY E. HENRY
Administrative Judge