



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



In the matter of:)
)
) ISCR Case No. 07-17470
)
)
Applicant for Security Clearance)

Appearances

For Government: Fahryn E. Hoffffman, Esquire, Department Counsel
For Applicant: *Pro Se*

June 24, 2009

Decision

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the case file, pleadings, testimony, and exhibits, I conclude that Applicant mitigated security concerns under Guideline G, Alcohol Consumption, but she failed to mitigate the Government's security concerns under Guideline J, Criminal Conduct and Guideline E, Personal Conduct. Her eligibility for a security clearance is denied.

Applicant submitted an Electronic Questionnaire for Investigations Processing (EQIP) on November 18, 2005. On August 11, 2008, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline J, Criminal Conduct, Guideline E, Personal Conduct, and Guideline G, Alcohol Consumption. 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.

On September 17, 2008, Applicant answered the SOR in writing, provided additional information, and requested that her case be decided on the written record in lieu of a hearing before an administrative judge. Pursuant to ¶ E3.1.7., Enclosure 3, Additional Procedural Guidance, of the Directive, Department Counsel requested a hearing in the matter. The case was assigned to me on April 2, 2009. I convened a hearing on May 4, 2009, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government called no witnesses and introduced seven exhibits, which were marked Ex. 1 through 7 and admitted to the record without objection. Applicant testified on her own behalf, called no other witnesses, and offered no exhibits for admission to the record.

DOHA received the transcript (Tr.) of the hearing on May 18, 2009.

Findings of Fact

The SOR contains six allegations of disqualifying conduct under AG J, Criminal Conduct (SOR ¶¶ 1.a. through 1.f.), four allegations of disqualifying conduct under AG E, Personal Conduct (SOR ¶¶ 2.a. through 2.d.), and one allegation of disqualifying conduct under AG G, Alcohol Consumption (SOR ¶ 3.a.). In her Answer to the SOR, Applicant admitted all eleven allegations in the SOR and provided additional information. Applicant's admissions are admitted as findings of fact.

Applicant is 36 years old and divorced. In 1994, she earned a bachelor's degree in mass communications. From approximately February 2001 until December 2003, Applicant worked for a defense contractor as a software trainer specialist. From December 2003, until the present, she has been employed by a government contractor in a senior position. In her current duties as an information technology manager, she leads and manages a team of 18 junior-level staff in two geographical locations. The team is responsible for installing new software systems for U.S. government civilian and military clients. Every two months, Applicant travels to supervise and manage one of her units in another state. She seeks a security clearance for the first time. (Ex. 1; Tr. 32-35, 105-107.)

In January 2001, Applicant was arrested for Driving Under the Influence of Alcohol (DWI). She pled guilty to the charge and was convicted. The court sentenced her to 30 days confinement, which was suspended, and a \$300 fine, plus court costs. Additionally, she was required to attend a one-week alcohol safety awareness program and, over a period of three months, to attend nine meetings of Alcoholics Anonymous. Her driver's license was restricted for one year. (SOR ¶ 1.f.; Ex. 1; Ex. 6; Ex. 7; Tr. 42-49.)

Applicant completed the alcohol awareness program and attended the required Alcoholics Anonymous meetings. She stated that she did not consider herself to be in as much danger from the use of alcohol as others in the program. She learned that a person of her weight and body size could safely handle no more than two or three

drinks of alcohol at a time. She said that from the alcohol awareness program she learned “not to go overboard” in consuming alcohol. (Tr. 44-48.)

On October 26, 2002, Applicant was married for the first time. In December 2002, she and her husband were arrested for domestic violence after she called the police during a dispute with her husband. A magistrate ordered Applicant and her husband to remain apart for 24 hours. In January 2003, Applicant and her husband appeared in court and the charges against them were dismissed. They paid court costs of about \$100. (SOR ¶ 1.e.; Ex. 4; Ex. 5; Tr. 49-50.)

Later in January 2003, Applicant and her husband were again arrested for domestic violence. This arrest occurred after they had consumed alcohol in their home during a party. Applicant had consumed approximately six to seven mixed drinks and beer over a period of six to seven hours. The couple spent the night in jail and was released on bail. In February 2003, the court ordered Applicant and her husband to complete anger management counseling and to mark two years without another incident of domestic violence. Applicant and her husband attended the required eight-week courses in anger management and successfully complied with the court’s order. The charges against them were dismissed in February 2005. (SOR ¶ 1.d.; Ex. 2 at 11; Ex. 4; Ex. 5.)

In addition to the court-ordered anger management training, Applicant and her husband sought additional joint counseling to understand one another and to improve their marriage. Additionally, in 2002, Applicant suffered a miscarriage and lost twins. From January 2003 until October 2004, they consulted two therapists on a weekly or bi-weekly basis. Applicant was also diagnosed and treated for depression by an aunt, who is a medical doctor and a psychiatrist. The aunt prescribed the anti-depressant Wellbutrin for Applicant during 2003 and 2004. Applicant spoke on the telephone with her aunt approximately every two weeks from about 2002 to 2005 but did not receive any formal therapy from her. The aunt did not refer Applicant to another therapist for treatment. (Ex. 2 at 13-14; Tr. 84-91.)

Applicant also consulted with a third therapist in the period beginning January 2005 and continuing until the summer of 2005. She undertook this counseling because she was planning to testify in a criminal trial affecting one of her siblings. (Ex. 2 at 14; Tr. 93-95.)

In the summer of 2005, Applicant decided to end her marriage and file for divorce. Her parents learned of her plan, and they invited Applicant and her husband to their home to discuss their marriage and Applicant’s personal behavior. Applicant became angry during the discussion when her husband discussed private details of their marriage with her parents. She said to her husband: “I could kill you for opening your mouth.” She picked up a framed picture of her family and threw it. Applicant’s parents called the police, who came to the parents’ home and arrested Applicant. The police escorted her to a hospital, where she was interviewed by a social worker and admitted to a psychiatric ward, where she remained for 48 hours. She was

subsequently evaluated and released. This incident contributed to Applicant's alienation from her parents. She no longer has contact with them. (SOR ¶ 1.c.; Ex. 3 at 4: Tr. 61-69.)

In September 2005, Applicant returned home after an evening out with a female friend. She and the friend had been consuming alcohol, and the friend entered her home with her. Applicant and her husband quarreled, and Applicant's husband called the police, who subsequently issued Applicant a Warrant of Arrest for Misdemeanor Assault and Battery on a family member and granted Applicant's husband a Protective Order against her. Applicant appeared in domestic relations court to answer the charge. The case was dismissed when Applicant's husband refused to proceed. (SOR ¶¶ 1.a. and 1.b.; Tr. 69-72.)

Applicant filed for separation from her husband in September 2005. The Protective Order granted to Applicant's husband expired in November 2005. Applicant's divorce from her husband became final in March 2007. Applicant denies having an anger management problem. She believes her ex-husband drove her to bad behavior. DOHA alleged in SOR ¶ 2.a. that the criminal conduct recited at SOR ¶¶ 1.a. through 1.f. also constitutes, under AG ¶ 15, "conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations [that] can raise questions about an individual's reliability, trustworthiness and ability to protect classified information." (Tr. 71-79.)

On November 18, 2005, Applicant completed and certified her e-QIP. Section 23 on the e-QIP asks that an applicant answer questions about his or her police record, and report any required information. If an applicant answers "yes" to a question in Section 23, he or she must provide an explanation for the affirmative answer. Section 23(f) reads: "In the last 7 years, have you been arrested for, charged with, or convicted of any offense(s) not listed in response to a, b, c, d, or e above? (Leave out traffic fines of less than \$150 unless the violation was alcohol or drug related.)"

In response to Section 23(f), Applicant answered "yes" and reported she had been arrested for Domestic Assault and Battery in January 2003. She identified that action taken as: "Attended Anger Management class. Upon completion of class, as mandated by court, the charge was placed in "unknown" status. Both my husband and I are in good standing for two years with court/county." (Ex. 1 at 26.)

In answering Section 23(f), Applicant failed to identify and discuss the fact that in September 2005, she was issued a Warrant of Arrest for Misdemeanor Assault and Battery on a family member. This charge was alleged in SOR ¶ 1.a. and admitted by Applicant in her Answer to the SOR and at her hearing. Applicant also failed to list her arrest in July 2005 and subsequent incarceration in a hospital psychiatric ward for 48 hours, as alleged in SOR ¶ 1.c. and her arrest in December 2002 for domestic violence, as alleged in SOR ¶ 1.e. DOHA alleged at SOR ¶ 2.b. that Applicant's failure to provide this information was a deliberate falsification of her e-QIP. (Ex. 1; Answer to SOR; Tr. 75-83.)

Section 21 on the e-QIP reads: "In the last 7 years, have you consulted with a mental health professional (Psychiatrist, psychologist, counselor, etc.) or have you consulted with another health care provider about a mental health related condition?"

Applicant responded "yes" to the question at Section 21. She listed her marriage counseling therapy with two therapists in 2003 and 2004. She failed to list her incarceration in a psychiatric ward and consultations there with mental health professionals, which was alleged at SOR ¶ 1.c. In SOR ¶ 2.c., DOHA alleged that this omission constituted deliberate falsification of Applicant's e-QIP. (Ex. 1; Answer to SOR; Tr. 82-84.)

Applicant also failed to disclose that, from 2002 to about 2005, she consulted with her aunt, who is a medical doctor and psychiatrist, and the aunt concluded she was suffering from depression and prescribed the anti-depressant drug Wellbutrin, which Applicant took from 2003 to 2004. In SOR ¶ 2.d., DOHA alleged that Applicant's failure to disclose this information constituted deliberate falsification of her E-QIP. Applicant said she did not list the treatment from her aunt because she communicated with her aunt mainly by telephone, and she considered the consultations to be informal. She stated that she was also prescribed Wellbutrin between 2006 and 2007 by her gynecologist. (Tr. 95-96.)

DOHA alleged under SOR ¶ 3.a. that the criminal conduct alleged in SOR ¶¶ 1.a., 1.d., and 1.f. also constituted disqualifying conduct under Guideline G, Alcohol Consumption.

When the conduct alleged at SOR ¶¶ 1.a. and 1.c. occurred, Applicant was working for her current employer. She did not tell her facility security officer about these events, nor did she inform her supervisor. She does not believe that anyone in her workplace knows of the SOR allegations. She did not reveal or acknowledge the conduct alleged in the SOR until she met with an authorized investigator for a personal subject interview on May 31, 2007. Her direct supervisor was not aware that she was appearing at her DOHA hearing. None of her supervisors have asked her if she had issues that could make her vulnerable as a leader in the organization. (Tr. 80-83,104, 107.)

Since separating from her husband in September 2005, Applicant has not had any arrests for criminal conduct or alcohol-related conduct. She is in a relationship with a man with whom she hopes to have children. He does not drink alcohol at all. She is undergoing hormone treatments in anticipation of pregnancy. She has not taken Wellbutrin since 2007. (Tr. 27-29, 109, 115-120.)

Applicant stated that her most recent use of alcohol occurred one month ago when she had one glass of wine. The last time she was drunk was in December 2008. She does not believe that she has a problem with alcohol. (Tr. 40-41.)

During the hearing, Department Counsel asked Applicant this question: “If you started to feel like you were losing control again, would you want to check with the doctor and get back on the anti-depressant?”

Applicant responded: “I don’t know. I don’t know.”

(Tr. 99.)

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, the administrative judge applies these guidelines 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 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 J, Criminal Conduct

Under the Criminal Conduct guideline “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules and regulations.” AG ¶30.

Applicant admits a criminal history that that includes a DWI in 2001 and arrests for domestic violence and assault in 2002, 2003, and 2005. In 2005, after threatening to kill her husband, she was arrested and incarcerated in a hospital psychiatric ward for 48 hours. She has not been arrested for any criminal behavior since her separation from her husband in September 2005.

In addition to her criminal history, Applicant admits deliberately falsifying her e-QIP in November 2005 by concealing her criminal conduct and mental health treatment history. Applicant’s criminal history and her deliberate falsification of that history on her security clearance application raise concerns under AG ¶ 31(a) and AG ¶ 31(c). AG ¶ 31(a) reads: “a single serious crime or multiple lesser offenses.” AG ¶ 31(c) reads: “allegation or admission or criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted.”

Two Criminal Conduct mitigating conditions might apply to Applicant’s case. If “so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment,” AG ¶ 32(a) might apply. If “there is evidence of successful rehabilitation, including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive involvement,” then AG ¶ 32(d) might apply.

The record demonstrates that Applicant’s criminal behavior between 2001 and 2005 was serious and substantial. She had serious problems with controlling her anger. She has not been arrested or charged with criminal behavior since separating from her husband in September 2005. Applicant’s managers and supervisors have entrusted her with leading and managing the work of approximately eighteen junior-level staff members working in two geographical locations. None of Applicant’s direct supervisors and managers knows of her history of criminal conduct. She has not reported this

conduct to her facility security officer. Her direct supervisor is unaware of the allegations in the SOR.

In November 2005, Applicant deliberately falsified her e-QIP by concealing and failing to report her criminal behavior which occurred in 2002 and 2005, her incarceration in a psychiatric ward for a mental health evaluation in 2005, and the mental health treatment she received from her aunt, who is a psychiatrist. Her unwillingness or inability to inform the government of her past criminal behavior and mental health treatment raises concerns about her reliability, trustworthiness, and good judgment. Additionally, her deliberate falsifications and her unwillingness to be candid about her past behavior with her managers and supervisors suggest a failure in rehabilitation. I conclude that while AG ¶ 32(a) and AG ¶ 32(d) apply in part to mitigate Applicant's criminal conduct occurring between 2001 and 2005, they do not apply to the deliberate falsification of her November 2005 e-QIP and her concealment of her criminal behavior and mental health treatment until confronted by an authorized investigator in May 2007.

Guideline E, Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern:

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.

When Applicant completed and certified her e-QIP in 2005, she deliberately failed to report her past criminal behavior involving assault and battery of a family member, threatening to kill her husband in 2005, and domestic violence in 2003. Additionally, she failed report her incarceration in a psychiatric ward for threatening to kill her husband in September 2005 and her mental health treatment by a family member who was a psychiatrist. That treatment included a diagnosis of depression and the prescription of an anti-depressant drug. In her answer to the SOR, she admitted that her failure to disclose this information was deliberate falsification of material facts. At her hearing, she denied a current problem with anger management. Applicant's failure to inform her facility security officer and her managers of her criminal history suggests she wanted to hide her conduct from them and from the government.

The allegations in the SOR raise security concerns under AG ¶ 16(a) and AG ¶ 16(e)(1). AG ¶ 16(a) reads: "deliberate omission, concealment, or falsification of relevant 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." AG ¶ 16(e)(1) reads: "personal conduct, or concealment of

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

Several Guideline mitigating conditions might apply to the facts of this case. Applicant's disqualifying personal conduct might be mitigated under AG ¶ 17(a) if “the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” If “the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security process” and “[u]pon being made aware of the requirement to cooperate or provide information, the individual cooperated fully and completely,” then AG ¶ 17(b) might apply. If “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 case doubt on the individual's reliability, trustworthiness, or good judgment,” then AG ¶ 17(c) might apply.

AG ¶ 17(d) might apply if “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.” AG ¶ 17(e) might apply if “the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.”

Applicant deliberately falsified material facts on the e-QIP she signed and certified in November 2005. Nothing in the record suggests that she took prompt good faith action to correct the omissions, concealments or falsifications before she was confronted with the facts and addressed them in her personal subject interview in May 2007. (AG ¶ 17(a).) Nothing in the record suggests that her failure to report her criminal behavior and relevant psychiatric treatment was caused or significantly contributed to by improper or inadequate advice specifically about the security clearance process from authorized individuals or legal counsel. (AG ¶ 17(b).) When she executed her security clearance application, Applicant knew she had a record of criminal behavior and failure to control and manage her anger. She also had reason to know that this behavior was not minor, so remote in time, so infrequent, or had occurred under such unique circumstances that it would not seriously raise concerns about her reliability, trustworthiness, and good judgment and perhaps impact her eligibility for a security clearance. (AG 17(c).) Applicant failed to provide documentation that she had taken positive steps that might alleviate the circumstances that caused her unreliable conduct and, as a result, such behavior was unlikely to recur. (AG ¶ 17(d).) Nothing in the record suggests that Applicant took positive steps to reduce or eliminate the vulnerability to exploitation, manipulation, or duress that her behavior caused. (AG ¶ 17(e).) I conclude, therefore, that none of the applicable personal conduct mitigating conditions applies to the facts of Applicant's case.

Guideline G, Alcohol Consumption

Guideline G, Alcohol Consumption, applies in this case to a determination of eligibility for access to classified information. Under Guideline G, “[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability.”

I have considered all of the Alcohol Consumption Disqualifying Conditions. I have especially considered AG ¶¶ 22(a) and 22(c). AG ¶ 22(a) reads: “alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent.” AG ¶ 22(c) reads: “habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent.”

Applicant admitted alcohol consumption that led to a DWI in 2001. Additionally, Applicant’s consumption of alcohol resulted in domestic violence between her and her husband in 2003 and 2005. These facts raise security concerns under AG ¶¶ 22(a) and 22(c).

The Guideline G disqualifying conduct could be mitigated under AG ¶ 23(a) if “so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment.” The disqualifying conduct could also be mitigated under AG ¶ 23(b) if “the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser).” If “the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, and is making satisfactory progress,” then AG ¶ 23(c) might apply. Finally, mitigation might be possible under AG ¶ 23 (d) if “the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.”

Applicant’s alcohol-related conduct occurred in her adult years, when she was in her late 20s and early 30s. Her alcohol use with her former husband triggered anger she was not able to control and resulted in domestic violence. Since separating from her husband in 2005, Applicant drinks alcohol in moderation, although she admitted drinking to intoxication once in December 2008. Since her separation and divorce from her husband, she has not been cited for alcohol offenses. The man with whom she is

currently involved in a domestic relationship does not drink alcohol, and alcohol does not appear to play a significant part in her current domestic relationship. She has not been diagnosed as alcohol dependent or as an abuser of alcohol. I conclude that AG ¶ 23(a) applies in mitigation to the facts of Applicant's case and that AG ¶¶ 23(b), 23(c), and 23(d) do not apply.

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) the 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.

During her marriage, Applicant's use of alcohol with her husband fueled anger that erupted into domestic violence. Since her separation and divorce, she has moderated her use of alcohol and now uses it responsibly. She has not been diagnosed as an alcohol abuser or as alcohol dependent, nor has she been arrested for alcohol-related behavior since her separation from her husband in September 2005. After applying the Guideline G disqualifying and mitigating conditions, and after weighing Applicant's past and current use of alcohol in light of the whole person concept, I conclude that she has mitigated security concerns deriving from the alcohol consumption adjudicative guideline.

Applicant is a mature adult who has been entrusted with management and leadership responsibilities by her supervisors. For her part, however, she has not shared with them or with her security officer events in her life which could make her vulnerable to pressure and which could impact her capacity to lead others and to protect classified information.

In 2005, Applicant completed an e-QIP and deliberately failed to report past criminal behavior and incarceration for violent behavior, thereby creating a situation that could seriously mislead the government when it seeks to evaluate her honesty, reliability, and trustworthiness. Her falsifications were not minor: they went to the heart of her capacity for truthfulness, a critical qualification for one who would hold a security clearance. Applicant's failure to be truthful was deliberate. She made no effort to correct her falsifications between November 2005 and May 2007, when the government confronted her with her lack of candor. Her deliberate falsifications are recent. I conclude that Applicant failed to mitigate security concerns under the criminal conduct and personal conduct adjudicative guidelines.

Overall, the record evidence leaves me with questions and doubts at the present time as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant failed to mitigate the security concerns arising from her criminal conduct 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 J:	AGAINST APPLICANT
Subparagraph 1.a.:	Against Applicant
Subparagraph 1.b.:	Against Applicant
Subparagraph 1.c.:	Against Applicant
Subparagraph 1.d.:	Against Applicant
Subparagraph 1.e.:	Against Applicant
Subparagraph 1.f.:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a.:	Against Applicant
Subparagraph 2.b.:	Against Applicant
Subparagraph 2.c.:	Against Applicant
Subparagraph 2.d.:	Against Applicant

Paragraph 3, Guideline G:

FOR APPLICANT

Subparagraph 3.a.:

For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Joan Caton Anthony
Administrative Judge