



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



In the matter of:	)	
	)	
	)	ISCR Case: 08-01127
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Emilio Jaksetic, Esq., Department Counsel  
For Applicant: *Pro Se*

February 3, 2009

**Decision**

RICCIARDELLO, Carol G., Administrative Judge:

Applicant successfully mitigated the government’s security concerns under Guideline G, Alcohol Consumption. Applicant’s eligibility for a security clearance is granted.

On October 31, 2008, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline G. 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 answered the SOR in writing on November 13 2008, and requested a hearing before an administrative judge. The case was assigned to me on December 2, 2008. DOHA issued a notice of hearing on December 5, 2008, and I convened the hearing as scheduled on January 8, 2008. The government offered Exhibits (GE) 1

through 3. Applicant did not object and they were admitted. Applicant testified and two witnesses testified on her behalf. She offered Exhibits (AE) A-G. Department Counsel did not object and they were admitted. DOHA received the transcript of the hearing (Tr.) on January 26, 2009.

### **Findings of Fact**

Applicant admitted all the allegations in the SOR except 1.b, which she denied. The admissions are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 42 years old, married since 1991, and the mother of three children, twin 10-year-olds and a 12-year-old. She graduated from college with an electrical engineering degree in 1988.<sup>1</sup>

Applicant drank beer in college to the same degree as most other college students. After graduating from college she drank alcohol casually. After she married she and her husband enjoyed wine tastings and drank wine. Her husband later began drinking scotch. She drank some scotch, but it was not until after her mother-in-law moved in with their family and introduced her to vodka did she begin increasing her alcohol consumption.<sup>2</sup>

During 2001 Applicant had a series of stressful events take place in her life. She had previously had a wonderful relationship with her mother-in-law, but when she needed a place to live and came to live with Applicant and her family the relationship became strained. During this time Applicant's father was diagnosed with cancer and died nine months later. Applicant also had a long time beloved pet die. These events were in addition to the anxiety she felt after the September 11, 2001, terrorist bombings.<sup>3</sup>

Applicant, her mother-in-law, and husband would have a cocktail/vodka each evening after the children were put to bed. Her husband and mother-in-law would get tired after consuming the vodka and go to bed. The alcohol tended to energize Applicant. Applicant became concerned about her drinking during this time and asked her husband and mother-in-law if her drinking was becoming a concern. Both assured her she did not have a drinking problem.<sup>4</sup>

From 2001 to 2006, Applicant's drinking progressed and vodka was her drink of choice. By 2006 she found herself drinking vodka daily and she began hiding her

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<sup>1</sup> Tr. 23-24.

<sup>2</sup> Tr. 24-25.

<sup>3</sup> Tr. 25-26.

<sup>4</sup> Tr. 26-28.

drinking from her husband. Applicant had a great deal of anxiety in her life. She was active in her children's school and community. She was struggling with the possibility that she might be an alcoholic. She never drank at work or had any absences from work due to her alcohol consumption. She researched alcohol treatment facilities and programs during this time.<sup>5</sup>

In 2006 Applicant's daughter graduated from 5<sup>th</sup> grade and Applicant felt overwhelmed by her emotions and was worried that if she did not get a handle on her drinking she would be going down a "slippery slope." She and her husband discussed her drinking and the next day she made the decision that she had to take action immediately. On June 29, 2006, she told her husband about her daily alcohol consumption and she entered a treatment program the next day. Her husband fully supported her and went with her to the "intake" processing.<sup>6</sup>

Applicant selected an intensive outpatient program that requires abstinence. It is an eight-week program with 28 sessions spread out over the weeks with the sessions lasting three hours. After completion of the program, it is recommended that the patient attend at least 70 aftercare sessions to ensure long term recovery. Applicant attended more than 70 sessions. The sessions were once a week for two hours, meeting with 10 to 12 other people along with an addiction counselor. Also part of the aftercare treatment is to attend Alcoholics Anonymous (AA), which she did. Applicant consistently attended her group sessions that were located at a significant distance from her house. She liked the "home group" she participated in and was comfortable there. Applicant participated with her "home group" from June 2006 to July 2008.<sup>7</sup>

On September 17, 2007, Applicant was taking care of her neighbor's dog and was in their house. She noticed a bottle of vodka. She put some of the vodka in her soft drink and drank it. She felt so badly that she immediately contacted her AA sponsor and the alcohol treatment facility. She reenrolled for another ten sessions of the outpatient program for four weeks. Applicant admitted that prior to her relapse from about July 2007 to September 2007 she had lost regular contact with her AA sponsor. She felt her AA sponsor was too strict and demanding. On the day of her relapse she told her sponsor that she was ready to listen to her and asked her to take her back. Her sponsor told her she was glad to have her back.<sup>8</sup>

Applicant began attending AA in July 2006 as part of her intensive outpatient treatment requirement. She continued to attend through 2007 and after her relapse in September 2007 she increased her attendance to three times a week. In the middle of 2008, Applicant admitted although she still attended AA the frequency had diminished

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<sup>5</sup> Tr. 22-31, 57-62.

<sup>6</sup> *Id.*

<sup>7</sup> Tr. 31-35, 65-68.

<sup>8</sup> Tr. 35-45, 68-75.

due to complacency. On August 13, 2008, while cleaning the garage, Applicant found a bottle with a small amount of vodka in it. She drank it. She called her sponsor right away and told her of her relapse. She also contacted her treatment facility. She resumed attending AA three times a week.<sup>9</sup>

Applicant admitted that one of the difficulties she had was when she changed “home groups.” She was originally in a group that she felt very comfortable with and the members were all recovering alcoholics. She switched “home groups” to find one closer to her residence and was very unhappy. The group was transitory and had many members with other addictions. She struggled with participating in this group and was emotionally distraught about it. She eventually realized this “home group” was not working for her.<sup>10</sup>

Another part of the intensive outpatient treatment program was for the patient to take Antabuse. Applicant used it during her treatment and has it at home in her “tool box.” The last time she took it was August 2008 after her relapse. She said she took it “just in case” for a period of a few weeks.<sup>11</sup>

Since her August 2008 relapse she has found an AA “home group” and has made a “service commitment” to that group. This is a group that she meets with at least once a week and she is accountable to the members of this group. She is active in the group beyond showing up once a week. Making a “service commitment” to the group is a significant milestone in her recovery. She has taken on the responsibility for the set up of the meeting. She is accountable to each “home group” members for remaining sober. She attends her AA “home group” weekly. She also attends other AA meetings throughout the week. Her “home group” does not have a “check the box” sign in sheet, for those who need to show they are attending due to court orders. This group is committed to long term sobriety.<sup>12</sup>

Applicant stated she has been completely through the AA 12-step program twice and has started the program again. She is now on steps 6-7 for the third time. She stated her sobriety is a life-long commitment and she practices the AA principles in all of her affairs. Each time she goes through the 12-step program she learns something new.<sup>13</sup>

Applicant revealed that she comes from a family of alcoholics, which is what made her suspicious that she might be one too. She confirmed that many of her family

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<sup>9</sup> Tr. 35-45, 70-75.

<sup>10</sup> Tr. 41-45.

<sup>11</sup> Tr. 47, 81-84.

<sup>12</sup> Tr. 41-45.

<sup>13</sup> Tr. 68-79.

are dead and she believed that although their death certificates did not list alcoholism as the cause of death, she is convinced it was a significant contributing factor.<sup>14</sup>

Applicant has a strong relationship with her sponsor. Applicant and her sponsor email each other on a daily basis, they talk on the phone, and they have attended AA retreats. Applicant has attended four AA retreats.<sup>15</sup>

Applicant forcefully and credibly testified she would go to any lengths to protect her sobriety, including redefining her relationship with God, even if it meant doing things differently than how she was raised religiously. Applicant stated she is not ashamed of her alcoholism except if she did nothing about it.<sup>16</sup>

Applicant sees a counselor on a weekly basis to help her with dealing with overwhelming emotional issues and anxiety. She is on prescribed anti-anxiety and antidepressant medication. Applicant's mother-in-law no longer lives with her and her husband is very supportive of her sobriety. As a show of respect and solidarity her husband also refrains from alcohol consumption. There is no alcohol in the house and they do not serve it to guests. He attends a regular monthly poker game and brings ice tea to drink to show his support for his wife. Applicant's children know she is an alcoholic. Her husband has sat down with each child individually to discuss his wife's alcoholism and answered any questions or concerns they may have. Her family understands that sobriety is her first priority. Applicant's close friends know of her alcoholism and all of her family is aware of it. Applicant has an AA bumper sticker on her car.<sup>17</sup>

Applicant's sponsor testified on her behalf. She has participated as Applicant's sponsor since October 2006. She is not a therapist, but rather also a recovering alcoholic. She has been a sponsor to about 6-7 people in the past, but presently she is sponsoring only Applicant. She and Applicant have gone through the 12-step study. They have a close relationship, have gone on retreats together, meet once a week, and are in contact frequently. She confirmed that when Applicant relapsed she was contacted by Applicant immediately. She also testified that she believes Applicant will go to any lengths for her recovery and to stay sober. Her sponsor also confirmed that Applicant is totally willing and committed to her sobriety. She believes Applicant was struggling for a period with her identity as an alcoholic, but has since surrendered and accepted her alcoholism. She believes Applicant understands that her sobriety has to come first. She also confirmed that Applicant has strong family support and her husband is an advocate for her recovery.<sup>18</sup>

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<sup>14</sup> Tr. 51.

<sup>15</sup> Tr. 65-79.

<sup>16</sup> Tr. 44-45.

<sup>17</sup> Tr. 47-50, 79-81, 85-104.

<sup>18</sup> Tr. 50-79.

Another witness testified on behalf of Applicant. This witness is also a recovering alcoholic who met Applicant at one of the AA meetings. They shared a room on a 3-day AA retreat and got to know each other. She testified that they shared a great deal and part of the AA creed is to live an open and honest life, one of integrity and to examine one's motives. She believes Applicant is committed to her sobriety. They talk to each other frequently and support each other.<sup>19</sup>

Applicant provided a letter from her mental health counselor who stated she has been treating her since February 2007.<sup>20</sup> She meets with her approximately once a week. She confirmed that Applicant has shown good improvement in her coping skills and developed a better insight about her triggers for relapse on alcohol use. She has made significant progress toward improved self esteem, confidence and anxiety management. She confirmed that in addition to individual counseling, Applicant has been actively engaged in AA meetings and has developed healthy interpersonal relationships within the program which is a good prognostic indicator of commitment and success. Her counselor commented on Applicant's brief relapse in August 2008 and that she was quick to respond to it. She increased her frequency of AA meeting, established a service position at her regular meeting, and also requested Antabuse as an additional tool. The counselor also noted that Applicant has consistently shown a commitment to treating her dependence on alcohol through her actions and behavior. Specifically she stated:

She demonstrates a high motivation for exploring all necessary options including medication treatment. She is also open to therapeutic recommendations I suggest. Her actions demonstrate a dedication and a desire to protect her abstinence and have resulted in an established pattern of abstinence over the last three years. Based on her behavior, I believe [Applicant] to be reliable and trustworthy both personally and professionally.<sup>21</sup>

Applicant works about 30 hours a week. She is a committed volunteer at her children's schools and their athletic teams. She teaches religious education at her church. She has been a Girl Scout leader for eight years. She also serves as a foster care giver for a horse rescue organization and is presently caring for a horse. She also adopts feral cats and has then neutered or spayed. She volunteers with the Salvation Army through a "Dress for Success" service project. Applicant provided character letters from those serving with her in her volunteer projects. They are aware of her alcoholism and attest that she has not demonstrated irresponsible conduct, but rather to the

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<sup>19</sup> Tr. 105-112.

<sup>20</sup> AE D. Her mental health professional is a psychiatric nurse practitioner. She has conducted interviews to determine psychiatric diagnosis and makes recommendations for treatment. She is licensed to prescribe medication as well as offer counseling services. She also has extensive experience with the treatment of substance abuse disorders.

<sup>21</sup> AE D.

contrary she is a committed and responsible volunteer who they respect and admire.<sup>22</sup> Applicant also provided copies of her performance appraisals from her employer which reflects her consistently outstanding performance.<sup>23</sup>

## 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 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

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<sup>22</sup> AE A, B, C, and G.

<sup>23</sup> Tr. 113-117; AE E and F.

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 G, Alcohol Consumption**

AG ¶ 21 expresses the security concern pertaining to alcohol consumption:

Excessive 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 and trustworthiness.

I have considered all of the disqualifying conditions under AG ¶ 22 including:

(c) 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; and

(d) diagnosis by a duly qualified medical professional (e.g. physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence; and

(f) relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program.

Applicant was drinking everyday and hiding it from her husband. Due to her own concern for her welfare Applicant referred herself for treatment to an alcohol treatment program. She admitted she was diagnosed by a qualified medical professional as alcohol dependent. She successfully completed the program, but had a relapse when she consumed a small amount of alcohol in August 2008. I find all of the above disqualifying conditions apply.

I have considered all of the mitigating conditions under AG ¶ 23 including:

(a) 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;



(b) 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”); and

(d) 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 a treatment recommendation, such as participation in meeting of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical profession or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant referred herself for alcohol treatment because she was concerned about her alcohol consumption due to her family history. Applicant acknowledges she is an alcoholic. She has not had any alcohol-related incidents. She successfully completed the extensive program, completed after-care beyond what was required or recommended. She participates in AA beyond just attending meetings, but rather has made a service commitment to her “home group” to which she is accountable. She has a sponsor that she is committed to and who is committed to her. She attends AA retreats. She has strong family support. Her family and friends know she is an alcoholic. She readily admitted she had a relapse and immediately took control of the situation by going back to her treatment facility and attending a refresher, reengaging her sponsor, and renewing her commitment to AA.

Applicant has not had any alcohol-related incidents that have prompted her to seek treatment. Rather she recognized she had an alcohol problem and committed her life to on-going treatment of that problem, through her commitment to abstinence, her constant reflection through repeatedly working through the 12-step AA program, her daily contact with her sponsor, and her weekly treatment with her counselor. Applicant’s commitment to an alcohol-free life is impressive. She does not just say the right words she follows through with her commitment with action. Applicant did not enroll in a treatment program because she had trouble at work or she had an alcohol-related offense, but rather she did it for herself and her family. Her testimony was completely honest, including her comments about her mistakes. She made no attempt to minimize or justify her actions. She is completely devoted to her sobriety and recognizes when she needs help from others.

I find mitigating condition (a) applies because Applicant confronted her alcoholism and has taking profound and monumental steps to ensure it does not become an adverse issue in her life. I find because of her actions, it does not cast doubt on her reliability, trustworthiness, or good judgment. I also find (b) applies because of her acknowledged alcoholism and the steps she has taken to remain abstinent. I find (d) applies because of her treatment she has completed and her commitment to AA. Although Applicant’s mental health professional does not appear part of a recognized

alcohol treatment program, I find her credentials comply with the spirit, if not the letter of the mitigating condition.

### **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 common sense 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 is a 42-year-old acknowledged alcoholic. She referred herself for treatment before her alcoholism took over her life. She completed treatment and aftercare and regularly attends AA. She is totally committed to her sobriety, despite having short relapses. Applicant is aware of the importance of her sobriety for her self preservation and for her family. She has the active support of her family, friends, and sponsors. She never once wavered in taking responsibility for sobriety and has a committed awareness of all that she must do to stay sober. Applicant is an alcoholic, but is also a committed mother, wife, employee, friend, and perennial volunteer. Overall, the record evidence leaves me with no questions about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has successfully mitigated the security concerns arising under the guideline for Alcohol Consumption.

### **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 G:	For Applicant
Subparagraphs 1.a-1.d:	For Applicant

## **Conclusion**

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

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Carol G. Ricciardello  
Administrative Judge