DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
----------	)	
SSN: ----------	)	ISCR Case No. 08-08695
	)	
	)	
Applicant for Security Clearance	)	

Appearances

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

April 2, 2010

Decision

MALONE, Matthew E., Administrative Judge:

Based upon a review of the pleadings, exhibits, and transcript, Applicant's request for a security clearance is denied.

On January 8, 2009, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for his job with a defense contractor. After reviewing the results of the ensuing background investigation, adjudicators for the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a set of interrogatories[1] to clarify or augment information about potentially disqualifying information in his background. After reviewing the results of the background investigation and Applicant's responses to the interrogatories, DOHA adjudicators were unable to make a preliminary affirmative finding[2] that it is clearly

[1] Authorized by DoD Directive 5220.6 (Directive), Section E3.1.2.2.

[2] Required by Executive Order 10865, as amended, and by DoD Directive 5220.6 (Directive), as amended.

consistent with the national interest to grant or continue Applicant's access to classified information. On May 28, 2009, DOHA issued to Applicant a Statement of Reasons (SOR) alleging facts which, if proven, raise security concerns addressed in the adjudicative guidelines (AG)[3] under Guideline G (alcohol consumption), Guideline J (criminal conduct), and Guideline E (personal conduct).

Applicant timely responded to the SOR, provided documents in support of his request for eligibility, and requested a hearing. The case was assigned to me on November 9, 2009, and I convened a hearing on December 16, 2009, at which the parties appeared as scheduled. The government presented 14 exhibits (Gx. 1 - 14), all of which I admitted. However, Gx. 4 - 13 were admitted over Applicant's objections (Tr. 32 - 46). Applicant testified on his own behalf. DOHA received the transcript of hearing (Tr.) on December 28, 2009.

Findings of Fact

Under Guideline J, the government alleged that, between 2000 and 2002, Applicant was arrested for, charged with, or convicted of a criminal offense ten times. (SOR ¶¶ 1.a - 1.j) Applicant admitted these allegations, six of which (SOR ¶¶ 1.b, 1.c, 1.e, 1.f, 1.g, and 1.j) were alcohol-related offenses, such as driving under the influence (DUI), driving while intoxicated (DWI), operating a motor vehicle while intoxicated (OWI), and having an open container of alcohol in the car.

Under Guideline G, the government alleged that Applicant has consumed alcohol, at times to excess, since he was 17 years old, with the last known incident of intoxication on November 6, 2008 (SOR ¶ 2.a); that in November 2007, he was fired as a result of his alcohol use (SOR ¶ 2.b); and that after his DUI convictions in January 2000 and April 2002 (see SOR ¶¶ 1.b and 1.j), he was ordered to attend alcohol related classes (SOR ¶ 2.d). The government also cross-alleged his alcohol-related arrests listed in SOR ¶¶ 1.b, 1.c, 1.e, 1.f, 1.g, and 1.j (SOR ¶ 2.c). Applicant admitted these allegations.

Under Guideline E, the government alleged that, when Applicant submitted his e-QIP[4] in January 2008, he deliberately falsified his answers to e-QIP questions 23.c (current criminal charges pending), 23.d (alcohol or drug-related charges), and 23.f (arrests or charges not addressed elsewhere in question 23) by omitting the arrests listed in SOR ¶¶ 1.a, 1.c - 1.g and 1.f (SOR ¶ 3.a). The government further alleged that Applicant falsified his e-QIP when he answered "no" to question 25 (alcohol-related counseling or treatment in the past seven years) (SOR ¶ 3.b); and that he deliberately falsified his e-QIP when he answered "no" to question 22 (job termination under adverse circumstances in the past seven years) (SOR ¶ 3.c). In his answer, Applicant admitted

[3] The adjudicative guidelines were approved by the President on December 29, 2005, and were implemented by the Department of Defense on September 1, 2006. Pending official revision of the Directive, they take precedence over the guidelines listed in Enclosure 2 to the Directive.

[4] The SOR ¶ 3 allegations erroneously stated that Applicant had falsified a "Questionnaire for National Security Positions" as opposed to an e-QIP; however, this appears to have been a typographical error.

these allegations, but at hearing he testified it was not his intent to lie or to mislead the government. In addition to the facts established through his admissions in response to the SOR, and after reviewing the pleadings, the transcript, and exhibits, I have made the following findings of relevant fact.

Applicant is 31 years old and employed by a defense contractor as a project support technician. He has worked for his current employer since January 2008. For most of that time, he has been assigned to an overseas job site in support of military operations. Applicant served in the United States Marine Corps from July 1996 until July 2001, but he was unable to find work after his discharge. In November 2001, he enlisted in the United States Army, where he served until he was honorably discharged in November 2006. Thereafter, he worked for two defense contractors, also overseas, before he was hired by his current employer. He has held a security clearance for about ten years. (Gx. 1; Gx. 14)

Applicant has never been married. He has three children (ages 10, 8 and 2) by two women to whom he pays child support. He either shares custody with them or has visitation privileges. (Gx. 1; Gx. 2)

Applicant's job performance since January 2008 has been very good. The performance appraisals and letters he forwarded with his response to the SOR show him to be an accomplished, valuable employee with potential for continued advancement. His co-workers, military customers, and supervisors support renewal of his security clearance based on his integrity, reliability, and trustworthiness.

Information obtained during Applicant's background investigation showed that he was, as alleged, arrested or charged with criminal offenses ten times between 2000 and 2006. While he was in the Marines, Applicant was arrested for DUI in January 2000. In March 2000, he was arrested and charged with failure to appear to answer the January 2000 DUI charge. For the DUI charge, he was placed on probation for 12 months, ordered to abstain from alcohol, and ordered to attend a civilian alcohol safety awareness class. Also, his driver's license was suspended for 12 months and he was ordered by the Marines to receive alcohol counseling at his duty station. (Gx. 2; Gx. 3; Gx. 10; Gx. 12) In July 2000, he was arrested for driving on the license that was suspended when he was convicted of the January 2000 DUI. (Gx. 2; Gx. 3; Gx. 10)

In September 2000, Applicant again was charged with driving under a suspended license, possession of an open container of alcohol, and failure to comply with part of the court's sentence from his January 2000 arrest. Attached to these charges was a charge of violating the terms of his probation. Applicant was fined but there is no information showing that his probation was extended or that he was incarcerated as a result of these offenses. Applicant stated in his response to interrogatories that his probation officer "only recommended fines."(Gx. 2; Gx. 3; Gx. 9)

In May 2001, Applicant was arrested and charged with OWI, resisting arrest, reckless driving, and speeding. He was originally stopped after police clocked him doing 70 mph in a 25 mph zone. On July 15, 2001, a bench warrant was issued for his arrest when he failed to appear to answer the May 2001 OWI charges. (Gx. 8)

In August 2001, Applicant was arrested and charged with speeding, operating a motor vehicle without a license, operating a vehicle without financial responsibility, and two other minor infractions. (Gx. 6) There is no information regarding the court disposition of these offenses.

On September 29, 2001, Applicant was arrested and charged with reckless driving, DWI, and resisting arrest. On June 20, 2002, a bench warrant for Applicant's arrest was issued after he failed to appear to respond to these charges. His license was suspended for 30 days, he was fined and assessed court costs, and he was sentenced to 190 days in jail, of which 175 days was suspended. (Gx. 2; Gx. 5)

In April 2002, after he had enlisted in the Army, he was arrested near his duty station and charged with speeding and DUI. He was convicted, placed on 12 months probation, and ordered to attend an alcohol safety awareness course. (Gx. 2; Gx. 3; Gx. 4)

In 2005, Applicant was given a speeding ticket. In the state where this occurred, because Applicant already had more than six points against his license for other violations, he was required, in addition to the speeding penalty, to pay $100 annually to the motor vehicle administration. Applicant did not receive notice of this assessment because it was sent to his home of record[5] in another state. Also, Applicant deployed to Iraq with the Army soon after he answered the speeding summons. In 2006, when he returned from Iraq, and prior to his November 2006 discharge, Applicant was again stopped on base for a traffic violation, and it was determined that his license had been suspended because he had not met the state requirement for additional payments. He was arrested and taken to jail until he was released to his superiors. (Answer to SOR; Gx. 2; Tr. 54 - 55, 63 - 64)

In November 2007, Applicant's civilian employer assigned him to a team of military and civilian personnel deploying overseas to conduct military air traffic control operations. En route to their destination, the team had an overnight layover. The team stayed at a hotel off base between flights. Applicant and other members of the team went out in town. However, Applicant returned late and with very little time left before the team left for the airport. He was also inebriated when he returned. The military team leader directed that Applicant be sent home. When he returned to the United States, he was fired. Applicant has averred that he should not have been fired because he was never told he could not drink, and because his drinking was only "a little bit of consumption." However, at hearing he acknowledged that he was drunk when he returned to the hotel. (Tr. 58 - 59, 79, 81 - 82, 90 - 96)

When Applicant submitted his e-QIP in January 2008 (Gx. 1), in response to questions 23.d (*Have you **ever** been charged with or convicted of any offense(s) related to alcohol or drugs?*) (emphasis added), he listed only his 2002 DUI arrest and conviction, but omitted his alcohol-related arrests or charges in September 2001, July 2001, May 2001, September 2000, and January 2000.

[5] Applicant was in the state where he was cited for speeding only because he was assigned there by the Army.

In response to e-QIP question 23.f (*In the last 7 years, have you been arrested for, charged with, or convicted of any offense(s) not listed in response to [e-QIP questions 23] a, b, c, d, or e, above?*), he answered "no," thereby omitting his 2006 arrest for driving under a suspended license, his August 2001 arrest for driving without a license, his July 2001 arrest for failure to appear, his July 2000 arrest for driving on a suspended license, and his March 2000 arrest for failure to appear.

In response to e-QIP question 25 (*In the last 7 years has your use of alcoholic beverages...resulted in any alcohol-related treatment or counseling (such as for alcohol abuse or alcoholism)?*), he answered "no," thereby omitting the fact that he had been ordered to complete alcohol awareness classes on at least three occasions. In response to e-QIP question 22 (*Has any of the following happened to you in the last 7 years? 1. Fired from a job; 2. Quit after being told you'd be fired; 3. Left a job by mutual agreement following allegations of misconduct; 4. Left a job by mutual agreement following allegations of unsatisfactory job performance; 5. Left a job for other reasons under unfavorable circumstances.*), he answered "no," thereby omitting the fact that he was fired from his previous job in November 2007.

In response to allegations that he intentionally omitted adverse information when he submitted his e-QIP, Applicant stated variously that he did not understand the questions, that he forgot about all of his arrests, or that he did not have enough information about the requested information. (Answer to SOR; Tr. 55 - 57, 82 - 83) As to his 2006 arrest, he did not think "it would be published." (Tr. 55) As to his answer to e-QIP question 23.d, he averred that he thought the question only required him to disclose arrests in the past seven years. However, Applicant also acknowledged that the e-QIP he submitted in January 2008 was at least the third such questionnaire he has submitted to obtain a clearance since 1996. (Tr. 62 - 63)

Applicant began drinking alcohol at about age 17. When he was at his first assignment with the Marines in 1997 and 1998, he drank to intoxication twice weekly. By January 2000, he drank to intoxication twice monthly. When he joined the Army in November 2001, his drinking increased to twice weekly intoxication, which continued, when he was not deployed overseas, until his April 2002 DUI arrest, after which he abstained from alcohol for an unspecified period. A counselor in his most recent court-ordered ASAP class advised him he thought Applicant had a drinking problem. (Gx. 2)

Applicant last consumed alcohol a few days before the hearing when he shared a six-pack of beer with his uncle. At the hearing, he said he planned to go out drinking with friends before he returned to his overseas job site in December 2009 or January 2010. He also allowed that he can drink as many as 12 beers in a day while at a barbeque with family and friends. Alcohol is prohibited at his job site by order of the military commanders there, so the only time Applicant drinks is when he comes back to the United States on leave. The last time he was intoxicated was in November 2008. (Gx. 2; Tr. 86 - 91)

Policies

A security clearance decision is intended to resolve whether it is clearly consistent with the national interest[6] for an applicant to either receive or continue to have access to classified information. Each decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,[7] and consideration of the pertinent criteria and adjudication policies in the adjudicative guidelines. Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the new guidelines. Commonly referred to as the "whole-person" concept, those factors are:

> (1) The nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the 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.

The presence or absence of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. In this case, the pleadings and the information presented by the parties require consideration of the security concerns and adjudicative factors addressed under AG ¶ 15 (Guideline E - Personal Conduct), AG ¶ 21 (Guideline G - Alcohol Consumption), and AG ¶ 30 (Guideline J - Criminal Conduct).

The government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the government must be able to prove controverted facts alleged in the SOR. If the government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the government's case. Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.[8] A person who has access to classified information enters into a fiduciary relationship with the government based on trust and confidence. Thus, the government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of one who will protect the national interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the government.[9]

---

[6] *See Department of the Navy v. Egan*, 484 U.S. 518 (1988).

[7] Directive. 6.3.

[8] *See Egan,* 484 U.S. at 528, 531.

[9] *See Egan;* Revised Adjudicative Guidelines, ¶ 2(b).

Analysis

Criminal Conduct

The government's information is sufficient to support the allegations in SOR ¶ 1.a - 1.j. Specifically, Applicant was arrested or charged with criminal offenses ten times between 2000 and 2006. On six occasions, Applicant was either driving while impaired by alcohol or had an open container of alcohol in his car while he was driving. On two occasions, he failed to appear in court to answer drunk driving charges. As to SOR ¶ 1.e, the record does not show that there is still an outstanding warrant, as alleged, for his arrest for failing to appear after his May 2001 DWI arrest. Nonetheless, the record shows that he did not appear as required but that he eventually was tried and convicted of the DWI offense. All of the information presented, including Applicant's admissions, raises a security concern that is expressed at AG ¶ 30 as follows:

> Criminal 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.

Further, available information requires application of the disqualifying conditions at AG ¶ 31(a) (*a single serious crime or multiple lesser offenses*), AG ¶ 31(c) (*allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted*), and AG ¶ 31(d) (*individual is currently on parole or probation*). Because he repeatedly drove on a driver's license that was suspended by different states for different alcohol-related driving offenses, I conclude that AG ¶ 31(e) (*violation of parole or probation, or failure to complete a court-mandated rehabilitation program*) applies as well.

I have also considered the potential applicability of the mitigating conditions listed under AG ¶ 32. Applicant testified that his arrests in 2001 were largely due to immaturity and having little direction when he left the Marine Corps. However, he has not explained his continued criminal conduct after he joined the Army and through at least 2002, when he was 24 years old. He also insists that, because he now has children and better understands his responsibilities, he has changed and will not engage in criminal conduct in the future. However, most of Applicant's criminal conduct arose from his use of alcohol, after his older two children were born. As discussed under Guideline G, below, he still drinks, at times to excess. Thus, it is likely that he will put himself at risk of future adverse conduct similar to that alleged in the SOR. Accordingly, the record does not support application of any of the mitigating conditions listed at AG ¶ 32. I specifically conclude that the mitigating conditions at AG ¶ 32(a) (*so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's reliability, trustworthiness, or good judgment*) or AG ¶ 32(d) (*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 community involvement*) do not apply and that the Applicant has not mitigated the security concerns about his criminal conduct.

Alcohol Consumption

Available information is sufficient to support the allegations in SOR ¶¶ 2.a - 2.c. Specifically, Applicant has abused alcohol since he was 17 years old. He was arrested numerous times in the past 10 years for drunk driving, and he lost his job in November 2007 as a direct result of excess drinking. Recent periods of abstinence are more accurately attributable to his work-related deployments to areas where alcohol is not present by order of the military commands he supports. His testimony supports a conclusion that he still drinks to excess at times and that he has no insight, despite repeated court-ordered referrals to alcohol awareness and counseling classes, into the difficulties continued excess drinking has caused and will likely continue to cause. All of the information presented, including Applicant's admissions, raises a security concern that is expressed at AG ¶ 21 as follows:

> 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.

Available information specifically requires application of the disqualifying conditions at AG ¶ 22(a) (*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(b) (*alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, or drinking on the job, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent*); and AG ¶ 22(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*).

Having reviewed the mitigating conditions listed at AG ¶ 23, I conclude that none apply. Applicant testified that he would continue to drink when it is not prohibited and acknowledged that he might drink as many as 12 beers in a day. He has not, despite being told by one counselor in an ASAP class that he has a drinking problem, indicated any intent to modify his drinking, abstain from drinking of his own volition, or seek any form of clinical assistance to address his use of alcohol. Thus, the mitigating conditions at AG ¶ 23(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*); and AG ¶ 23(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)*) do not apply.

Further, Applicant is not now in counseling or treatment, nor has he completed any treatment for his drinking or established that he is changing his circumstances to support a more sober lifestyle. Accordingly, the mitigating conditions at AG ¶ 23(c) (*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) and AG ¶ 23(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 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*) do not apply. Applicant has not presented sufficient information to refute, mitigate or extenuate the government's security concerns about his alcohol consumption.

Personal Conduct

The government's information is also sufficient to support the allegations in SOR ¶¶ 3.a, 3.b, and 3.c that he deliberately falsified his answers to several questions in his January 2008 e-QIP. Although Applicant admitted these allegations in response to the SOR, it was clear in an accompanying letter and through his testimony that he denied any intent to falsify his answers or to mislead the government. If Applicant's position is interpreted as denying the SOR allegations, the government would have the burden of "presenting witnesses and other information to establish facts that have been controverted." (Directive, E3.1.14)

The e-QIP (Gx. 1) shows he only listed one of his arrests, did not disclose he had been fired in November 2007, did not disclose any other arrests or charges as required, or that he had been ordered to counseling after his alcohol-related arrests. However, there is no information that directly shows he intentionally provided false answers as alleged. Nonetheless, the totality of available information supports a conclusion that he intended to limit the amount of adverse information he disclosed to the government. He has held a clearance for at least 10 years, and he had submitted at least two similar applications for clearance before January 2008. He knew or should have known what information had to be disclosed. As for his failure to disclose his firing, that event occurred less than three months before he submitted his e-QIP. Combined with his equivocal testimony[10] about why he was fired, his claim he did not intentionally withhold this information is untenable. Additionally, Applicant's experience in the clearance application process undermines his claims he did not understand any of the questions put to him. Even had there been a seven-year limit on question 23.c, he had no reason not to disclose his arrest in 2006.

All of the information presented, including Applicant's testimony, raises a security concern that is expressed at AG ¶ 15 as follows:

> 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.

[10] I found Applicant's testimony on this point and other issues difficult to believe.

Available information about his answers to his e-QIP specifically requires consideration of the disqualifying condition at AG ¶ 16(a) (*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*). Additionally, because Applicant repeatedly drove on a suspended license after convictions for drunk driving, and because he twice failed to appear to answer criminal charges, the record requires application of AG ¶ 16(c) (*credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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*).

Of the relevant mitigating conditions listed at AG ¶ 17, none apply. Applicant made no effort to correct his e-QIP omissions. To the contrary, he compounded the concerns about his honesty through his evasive and conflicting testimony about his answers. Nor did he establish that he received bad advice that caused him to answer the questions as he did. Thus, the mitigating conditions at AG ¶ 17(a) (*the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts*) and AG ¶ 17(b) (*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 clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully*) do not apply.

Applicant's false statements in his e-QIP were made recently and constitute a significant offense in terms of the government's ability to manage its personnel security program. As to his alcohol-related misconduct and his willingness to disregard the terms of his various sentences for drunk driving, Applicant has not established that he is correcting these matters, and he has not presented sufficient information to show that he is trying to resolve his drinking, the common denominator throughout his record of adverse conduct since January 2000. Accordingly, the mitigating conditions at AG ¶ 17(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*) and AG ¶ 17(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*) do not apply.[11] He has not refuted, mitigated, or extenuated the government's information about his personal conduct.

[11] The mitigating conditions at AG ¶ 17(e) (*the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress*) and AG ¶ 17(f) (*association with persons involved in criminal activities has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations*) are inapposite here.

Whole Person Concept

I have evaluated the facts presented and have applied the appropriate adjudicative factors under Guidelines E, G, and J. I have also reviewed the record before me in the context of the whole person factors listed in AG ¶ 2(a). Applicant is 31 years old and presumed to be a mature adult. He served his country honorably in the Marines and the Army, and his recent job performance has been commendable. Applicant's co-workers, military customers, and supervisors feel he has the requisite integrity, trustworthiness and reliability for continued access to classified information. However, it is not apparent that those observers are aware of any of the adverse information in Applicant's current background investigation. Applicant has himself undermined the value of the positive information in the record through his inconsistent responses to the SOR and at his hearing regarding the allegations that he deliberately falsified his e-QIP. Finally, he has not accepted responsibility for or acknowledged the seriousness of his drinking and the consequences thereof. A fair and commonsense assessment[12] of all available information bearing on Applicant's past conduct and current circumstances shows he has failed to address satisfactorily the government's doubts about his ability or willingness to protect the government's interests as his own. Because protection of the national interest is paramount in these determinations, such doubts must be resolved in favor of the government.[13]

Formal Findings

Formal findings 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
Subparagraphs 1.a - 1.j:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a - 2.d:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a - 3.c:	Against Applicant

[12] *See* footnote 7, *supra*.

[13] *See* footnote 9, *supra*.

Conclusion

In light of all of the foregoing, it is not clearly consistent with the national interest to continue Applicant's access to classified information. Request for security clearance is denied.

MATTHEW E. MALONE
Administrative Judge