



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 08-09882  
SSN: )  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Paul Delaney, Esquire, Department Counsel  
For Applicant: *Pro se*

September 20, 2010

**Decision**

HOGAN, Erin C., Administrative Judge:

Applicant submitted a Questionnaire for National Security Positions (SF 86), on October 30, 2007. On December 23, 2009, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant, a Statement of Reasons (SOR) detailing the security concerns under Guideline G, Alcohol Consumption, and Guideline E, Personal Conduct. 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 adjudicative guidelines (AG) effective within the Department of Defense for SORs issued after September 1, 2006.

On February 17, 2010, Applicant answered the SOR and requested a hearing before an administrative judge. Department Counsel was ready to proceed on June 11, 2010. The case was assigned to me on June 24, 2010. On July 19, 2010, a Notice of Hearing was issued scheduling the hearing for August 10, 2010. The hearing was held, as scheduled. The Government offered nine exhibits which were admitted as Government Exhibits (Gov) 1 – 9 without objection. Applicant testified and called one witness. Applicant offered one exhibit which was admitted as Applicant Exhibit (AE) A without objection. The record was left open until September 1, 2010 to allow Applicant

to submit additional documents. He timely submitted a seven-page document which was marked and admitted as AE B. Department Counsel's response to AE B is marked as HE I. The transcript was received on August 20, 2010. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

### **Findings of Fact**

In his Answer to the SOR, Applicant admits to all of the allegations.

Applicant is a 47-year-old employee with a Department of Defense contractor seeking to maintain a security clearance. He is a test engineer and has worked for his current employer for 21 years. He has held a security clearance since 1991. In 2003, he was denied access to Sensitive Compartmented Information (SCI), but his security clearance was not revoked. He is divorced. He lives with and has been in a committed relationship with a woman for 14 years. His girlfriend has three adult children. He has a bachelor's degree and is currently studying for his masters in industrial engineering. (Tr. 4-7, 47-48, 72-73; Gov 1; Gov 6 at 2; AE B)

Applicant started drinking alcohol when he was twelve years old. His parents would occasionally give him an alcoholic beverage during special occasions. He first became intoxicated at age 16 while in high school. His alcohol use increased in college. He initially flunked out of college. (Tr. 26; Gov 3 at 12; Gov 4 at 6; Gov 5 at 13-14)

In December 1990, Applicant was arrested and charged with Operating While Intoxicated (OWI) and cited for Speeding. He received a deferred sentence, was ordered to pay a fine, complete community service and attend an alcohol awareness course. One of the terms of his probation included abstaining from alcohol. (Tr. 32; Gov 3 at 9; Gov 5 at 14-15, 141; Gov 6 at 3; Gov 7 at 4)

In June 1991, Applicant was arrested for Public Intoxication. He spent the night in jail and was fined. He did not report this offense to his probation officer. He was found to be in violation of his probation related to his prior arrest. The judge ordered his deferred judgment revoked and he was ordered to serve five days in the county jail. (Tr. 32-35; Gov 5 at 15, 130, 133-134)

In October 1991, Applicant was arrested and charged with OWI, Second Offense. He was found guilty. His sentence included a \$750 fine, two years probation, and he was ordered to attend alcohol evaluation and counseling. (Tr. 37-38; Gov 3 at 9-10; Gov 5 at 15, 124-126; Gov 6 at 3; Gov 7 at 4)

In July 1992, Applicant underwent a substance abuse evaluation. He was diagnosed as an alcohol abuser by a chemical dependency counselor. The chemical dependency counselor was not a licensed clinical social worker. (Gov 5 at 123)

On March 15, 1993, Applicant underwent a chemical dependency evaluation at a treatment center as one of the conditions of his supervised probation related to his second OWI conviction. The Clinical Supervisor determined that "alcohol abuse is certainly evident but presently there does not appear to be sufficient available data to substantiate a diagnostic impression of alcohol dependency." (Gov 5 at 194) Applicant was advised to abstain from alcohol and/any or all mood altering substances except as prescribed by a physician. (Tr. 93; Gov 5 at 190-196)

From April 15, 1994 to May 31, 1994, Applicant attended out-patient counseling at a Substance Abuse Council as part of his probation related to his October 1991 OWI conviction. (He chose to attend out-patient counseling here because it was less expensive than the two other facilities where he sought evaluations.) Applicant told the counselors that he remained totally abstinent from alcohol since his October 1991 arrest. He had no plans to use alcohol in the future. His score on the Michigan Alcoholism Screening Test (MAST) placed him in a category for moderate alcoholism. Upon completion of the program, Applicant was advised to remain abstinent from alcohol, to seek additional outpatient counseling on relapse issues, and to attend Alcoholic Anonymous (AA), Alanon, and Adult Children of Alcoholics meetings. (Tr. 39-40; Gov 5 at 71-72) It does not appear the counselors in this program were licensed clinical social workers. (See Gov 5 at 71-72)

On August 7, 1996, Applicant provided a signed, sworn statement to a Department of Defense investigator conducting his background investigation. Applicant discussed his past alcohol offenses and his alcohol counseling. Regarding his current level of use, Applicant stated the following:

I currently drink about two drinks, usually wine, every six months. I acknowledge that [the treatment facility] recommended that I abstain from alcohol completely and that I agreed to do so, but I feel I can control my drinking and subsequent actions. It is my intention to keep my consumption of alcohol at a moderate level.

(Gov 9 at 3)

The Department of Defense investigator subsequently interviewed several references who were on a bowling team with Applicant. Several of the references indicated Applicant drank beer on his bowling nights. The references indicated Applicant drank between three to six beers a week between August 1994 to April 1996. The investigator interviewed Applicant for a second time on August 8, 1996, to ask him about the conflicting information about his alcohol use. (See Gov 3 at 11)

On August 8, 1996, Applicant provided a signed, sworn statement to the investigator. Applicant stated:

In my previous statement I said that I currently drink about two glasses of wine every six months. This was a false statement. I have been

consuming about six beers or alcoholic drinks weekly, on average since AUG 94. Since then I have been intoxicated about three times, the last being around JUN or JUL 96. On that occasion I had about three to four beers. The prior two times were in the period from AUG 94 to APR 95 and again in the Summer of 95. The amount consumed was roughly the same as in JUN or JUL 95.

I now state that I intend to minimize my use of alcohol or stop it altogether.

I acknowledge lying to [the investigator] in my 16 JUL 96 and 06 AUG 96 interviews when I discussed my use of alcohol. I did this due to frustration on my part in my job. Without the security clearance I feel more pressure to do my work because of restrictions placed on my movements and access to materials necessary to do my job. Consequently, I lied so as to not complicate my investigation any more than it already was. This was a mistake. [The investigator] has pointed out that I now have to contend with the issue of my honesty as well as my use of alcohol. I want to state unequivocally and in full knowledge of punitive provisions of the United States Code Title 18, Section 1010 that I am being fully truthful in this statement. I admit lying under oath, for the reason set forth above, on my first statement.

[The investigator] has pointed out that the record from ASAC states that in MAR 94 I intended to stop drinking forever. He has also noted that I was drinking again in AUG of that year. He has asked if I lied to the counselor at ASAC in order to speed up the end of that program. I admit that this was my intention and that while I may have had no specific plans at that time to resume drinking, neither was it my intention to forever abstain from alcohol as I had told my counselor. By AUG 94 I thought I could handle the alcohol. It is in this context only that I have ever lied to any counselor or probation officer.

Gov 8 at 1.

Applicant also admits to giving conflicting information to an investigator conducting a background investigation for another government agency about his current use of alcohol during interviews on May 8, 2002, and January 28, 2003. (Answer to SOR) On May 8, 2002, Applicant told another government agency's security representative that he drinks a total of six beers sporadically throughout the month, drinking more in the summer months. On January 28, 2003, Applicant was interviewed by a representative of the other government agency's psychological services. During the interview, he told the representative that he currently drinks one or two beers approximately every other day. Applicant was advised by the psychological services representative to abstain from alcohol use, and that if his use of alcohol remains unchanged, he is at moderate risk for another alcohol-related incident. (Gov 3)

On July 17, 2003, the other government agency denied Applicant access to Sensitive Compartmented Information (SCI) because of his excessive alcohol consumption, and his false oral and written statements to government representatives during his prior and current background investigations in order to hide his alcohol consumption. The other government agency concluded:

[Applicant] has acknowledged that he deliberately lied to [security] representatives and provided false signed/sworn statements during his SSBI concerning his alcohol consumption. He has also intentionally lied to medical professionals, providing them information he knew they wanted to hear in order to end counseling and to satisfy the requirements of the court. In addition, he provided the other government agency's security and psychological services representatives with conflicting information concerning his current consumption of alcohol.

(Gov 3 at 11)

In February 2005, Applicant voluntarily sought alcohol counseling through his employer's Employee Assistance Program. (Tr. 50-52; Gov 4 at 10; Gov 6 at 8) Prior to his seeking assistance, his girlfriend expressed concern about his excessive drinking behavior. Applicant had several excessive drinking bouts. On two occasions, he experienced black outs. One time he fell off a bar stool. When he woke up, he was in an ambulance on the way to the hospital. On another occasion, Applicant was walking from his car to his house and fell on his face in the driveway. He suffered abrasions to his face. (Tr. 51-55; Gov 3 at 10-14)

From September 5, 2006, to November 11, 2006, Applicant attended an intensive outpatient program for alcohol treatment at a local hospital, after being referred by the Employee Assistance Program. The treatment notes indicate Appellant developed severe problems with his significant other and family members because of his drinking alcohol in binges and falling down while drunk. During his treatment, Applicant received an assessment of alcohol abuse; tobacco abuse; and hypertension. Upon his completion of the program, it was recommended that Applicant attend AA meetings, seek direction from an AA sponsor, attend aftercare, and continue to develop a chemically free lifestyle. (Tr. 56-59; Gov 4 at 3-8)

On November 7, 2007, Applicant was interviewed as part of his periodic background investigation. During the interview, Applicant discussed his alcohol background. He indicated that he intended to continue drinking alcohol, in moderation, only while socializing and only on special occasions. (Gov 6 at 7) On January 2, 2008, Applicant was re-interviewed as part of his periodic background investigation. During the interview, he indicated that he intended to abstain from alcohol use. (Gov 6 at 3) On December 23, 2008, Applicant answered interrogatories about his alcohol use. In response to the question, "On what date did you last consume alcohol?" he responded, "December 15, 2008." When asked about the frequency of his alcohol use, Applicant wrote, "Weekly to Monthly, 12-24 oz." (Gov 7 at 2)

On February 2, 2010, Applicant underwent a comprehensive evaluation by Dr. B., a licensed psychologist with substance abuse professional credentials. Dr. B. claims that his assessment was used to determine, "...whether there is a *maladaptive pattern* of alcohol use, *causing clinically significant impairment or distress...*" (AE 1 at 1) Dr. B. states that under the DSM-IV, Alcohol Abuse disorder has to be determined that in the *past 12 months* this individual's drinking has repeatedly caused or contributed to, risk of bodily harm, relationship trouble, role failure, or run-ins with the law. If one or more of these is "yes," then the individual is abusing alcohol. Testing found no problem in any category. (AE A)

Dr. B. states to determine Alcohol Dependence Disorder it has to be determined in the *past 12 months* that the individual has not been able to stick to drinking limits, not been able to cut down or stop, shown tolerance, shown signs of withdrawal, kept drinking despite physical and psychological problems, spent a lot of time anticipating or recovering from drinking, and spent less time on other activities that are important or pleasurable. If three or more of these answers answered "yes" then the individual has alcohol dependence. Testing confirmed no current diagnosis of dependence in the three or more categories for any given substance in the previous year. (AE A)

Dr. B. indicated, "[Applicant] reports he has resolved the issue of being able to enjoy even a lone social beverage. This creates all kinds of problems for treatment counselors and others who have insisted on complete abstinence. It is a hot wire [Applicant] no longer wishes to assume he can touch. He doesn't need it or want it." (AE A at 3) The report does not indicate whether Applicant provided information on his current consumption of alcohol or whether he told Dr. B. that he was no longer drinking. The report concludes, "[Applicant] will continue his affiliation with Alcoholics Anonymous. There are no further recommendations for clinical addiction treatment services." (AE A)

In his response to the SOR, dated February 17, 2010, Applicant made the following comments about his alcohol use:

I have been abstaining from alcohol consumption for almost two months as I write this and I plan to continue. I have been living with the same person now for 14 years and have helped raise her family. They are all grown now and have been successful in their endeavors. Since my outpatient program completion until nearly two months ago I had only consumed alcohol on occasion, eating out somewhere or when a friend has come over, but not to the point of intoxication. I had planned on abstaining as I stated in the previous interrogatory but I wasn't having any problem with an occasional drink. I now feel that it is pointless to even have an occasional drink and so I am now not using alcohol at all.

I entered outpatient treatment under my own volition and have been attending Alcoholics Anonymous on a regular basis. My drinking in the past has never affected my ability to do my job or impaired my abilities to

make decisions concerning my job or security matters. In fact, I have helped others when questions have arose as to how to handle certain security situations and I have always been thorough to follow guidelines and proper procedures when handling security situations.

Response to SOR, dated February 17, 2010, at 2.

During the hearing, Applicant admitted that prior to his outpatient treatment in 2006, he had an attitude of “wanting to party until he dies.” Since his treatment, Applicant believes he has grown up and has not had any issues with alcohol. He admits to drinking occasionally but not to intoxication. When he drinks alcohol, he has a couple drinks when he goes out to dinner. The last time he drank alcohol was a couple of weeks ago. He considers himself to have an alcohol problem, but believes his drinking is under control. He occasionally attends AA meetings. He has never attended AA on a regular basis and has never obtained a sponsor. He is not working a 12-step program. (Tr. 25-26, 68-70)

Upon further questioning, Applicant described his current level of alcohol use as:

Applicant: Currently, I had a period of abstinence from January until like the end of April and have consumed since then a couple times when going out for dinner and occasionally on the weekend when we go to our cabin.”

Judge: And how much do you drink, beer, wine—

Applicant: I just drink beer.

Judge: And how many beers would you drink?

Applicant: On a weekend from like Friday through Saturday or whatever, I'd have five or six over the course of the day.

(Tr. 71)

Applicant admits that his girlfriend still occasionally gets upset with him when he is drinking alcohol. She got upset a couple of weeks prior to the hearing about his alcohol use. She told him to quit drinking. (Tr. 72)

### **Whole-Person Factors**

A security specialist/facility security officer from Applicant's company testified on Applicant's behalf. She indicated Applicant's behavior at work is good and he has no security violations. She is aware of the allegations in the SOR. Based on her interaction with Applicant, she does not see him as a security risk. She does not socialize with Applicant outside of work. (Tr. 77-80; AE B at 7)

Applicant's mid-term review was favorable. He maintains a positive attitude and handles issues in a positive manner. He works well with other team members and seeks challenging work. He has excellent technical abilities. (AE B at 5-6) His mid-term review for 2009 was also favorable. (Gov 5 at 4-5)

Applicant provided copies of his transcripts related to his studies for his masters in industrial engineering for the Fall semester 2009, Spring semester 2010, and Summer semester 2010. He has been successful in his studies. (AE B at 2-4)

### **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 overarching adjudicative goal is a fair, impartial and commonsense 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.

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 G, Alcohol Consumption**

The security concern relating to the guideline for Alcohol Consumption is set out in AG ¶ 21:

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.

The guideline notes several disqualifying conditions that could raise security concerns. The following Alcohol Consumption Disqualifying Conditions are relevant to Applicant’s case:

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) applies with respect to Applicant’s three alcohol-related arrests in December 1990, June 1991, and October 1991.

AG ¶ 22(c) (habitual or binge consumption to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent) applies with respect to Applicant’s drinking history. Applicant’s excessive alcohol use resulted in the three arrests during his younger years in the early 1990. In 2005, Applicant experienced blackouts as a result of consuming too much alcohol. Applicant’s pattern of alcohol use is a concern. From time to time, he abstains from drinking alcohol. He eventually resumes drinking claiming that he occasionally has one or two drinks on a special occasion. During the hearing, Applicant testified that he currently consumes 5-6 six beers on a weekend day. His level of alcohol use is increasing.

AG ¶ 22(d) (diagnosis by a duly qualified medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence) and AG ¶ 22(e) (evaluation of alcohol abuse or alcohol dependence by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program) do not apply. Although Applicant has gone through alcohol treatment on several occasions and received a diagnosis of alcohol abuse, the record is not clear that the

individual/counselor making the diagnosis was a duly qualified medical professional or a licensed clinical social worker.

AG ¶ 22(f) (relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program) applies. Applicant has received a diagnosis of alcohol abuse on several occasions. After completion of outpatient treatment on several occasions, Applicant expressed an intent to abstain from drinking alcohol, but eventually resumed drinking alcohol.

AG ¶ 22(g) (failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence) applies with respect to Applicant's June 1991 arrest for Public Intoxication. Applicant was serving probation at the time and was required to maintain abstinence as a term of his probation.

The guideline also includes examples of conditions that could mitigate security concerns arising from alcohol consumption. The following Alcohol Consumption Mitigating Conditions are relevant to Applicant's case:

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 and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment) does not apply. Applicant has a long history of alcohol abuse. He attempts to remain abstinent after each incident only to resume drinking alcohol to excess. Considering Applicant's past history of relapses and his past minimization of his drinking patterns, questions remain about his current reliability, trustworthiness, and good judgment. Considering his past unsuccessful attempts to abstain from alcohol, a concern remains about his alcohol use as well his lack of participation in a program that would help him remain sober and prevent relapse.

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 had established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser) does not apply. While Applicant admits that he has an alcohol problem, he continues to drink alcohol even though his past alcohol use has caused problems with his family and with his security clearance. He attends AA occasionally but not on a regular basis. He has lied to investigators and medical providers on several occasions about his level of alcohol use in past security clearance investigations. Applicant's current claims of controlled alcohol consumption are not credible.

AG ¶ 23(d) (the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with 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 similar organizations 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) does not apply. About a month and half after Applicant was

served his SOR, he underwent a comprehensive alcohol evaluation by Dr. B, a licensed psychologist. While Dr. B's evaluation was favorable, he did not testify during the hearing and was not subject to cross examination. It cannot be determined from the record what Applicant told Dr. B. about his alcohol consumption and the extent of his participation in AA. Would Dr. B's favorable evaluation change if he knew Applicant's current level of alcohol consumption was approximately 5-6 beers on a weekend day? Would Dr. B's favorable evaluation change if he knew Applicant admitted in the past to telling his counselors what they wanted to hear in order to successfully complete the program? While it does not appear that Applicant has encountered recent legal problems with his alcohol use, concerns remain because of his pattern of returning to alcohol use after several periods of trying to abstain, his current increased level of consumption, and his long history of alcohol problems.

Applicant did not mitigate the security concerns raised under Guideline G.

### **Personal Conduct**

The security concern relating to the guideline for Personal Conduct is set out in AG ¶15:

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.

There is sufficient evidence to conclude Applicant deliberately provided false information about the level of his alcohol use in a signed, sworn statement provided to an investigator conducting his background investigation on August 6, 1996. Applicant deliberately provided false information during interviews with security investigators of another government agency on May 8, 2002, and January 28, 2003. Personal Conduct Disqualifying Condition AG 16(b) (deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative) applies.

AG ¶ 16(e) (personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing, or (2) while in another country, engaging in any activity that is illegal in that country or that is legal in that country but illegal in the United States and may serve as a basis for exploitation or pressure by the foreign security or intelligence service or other group) also applies. Applicant is vulnerable to exploitation, manipulation, or duress as a result of his alcohol use. His misleading statements about past alcohol use reveals Applicant is aware of this vulnerability and the potential that his security clearance may be in jeopardy as a result of his drinking.

Several personal conduct mitigating conditions potentially apply. They include:

AG ¶ 17(a) (the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts)

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

I find none of the above mitigating factors apply. Applicant admits to deliberately providing false information during a 1996 security clearance background investigation and a 2002/2003 investigation regarding SCI access. While a significant amount of time has passed, in each falsification, Applicant did not admit to being untruthful until he was confronted about conflicting information uncovered during each investigation. While there is no proof Applicant deliberately falsified the extent of his alcohol use in the current investigation, there is evidence that he has changed his mind on several occasions as to whether he intends to abstain from alcohol use. In 2003, he admitted to telling medical personnel and investigators what he thought they wanted to hear pertaining to his alcohol use. I am not fully convinced that he is being entirely truthful about his alcohol use in the current investigation based upon his past history of untruthfulness. As a result, he remains vulnerable to exploitation, manipulation, or duress. He has not come to terms with his alcohol issues based on his continued consumption of alcohol and his lack of regular attendance at AA. In sum, Applicant continues to minimize and deny the true scope of his alcohol consumption.

With respect to SOR ¶ 2.c, which alleges Applicant was denied SCI access by another government agency on July 17, 2003, I find it is the consequence of Applicant's admitted deliberate falsifications alleged in SOR ¶ 2.b. I find for Applicant with respect to the allegation in SOR ¶ 2.c.

With respect to SOR ¶ 2.d. which alleges Applicant told an investigator on January 2, 2008 that he intended to abstain from alcohol use but admitted to drinking alcohol in December 2008, I find no falsification. These statements, although conflicting, are more relevant to Applicant's denial of his alcohol problem as opposed to a deliberate falsification. SOR ¶ 2.d is found for Applicant.

Applicant did not meet his ultimate burden of persuasion to mitigate concerns under personal conduct. Concerns about Applicant's judgment, trustworthiness, and reliability remain.

## 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. I considered Applicant's favorable duty performance and his success so far while studying for his master's degree. While Applicant received a favorable evaluation from a licensed psychologist in February 2010, his Answer to the SOR indicates that he was apparently abstaining from alcohol during the evaluation. He resumed drinking alcohol two months later. His current level of use is occasionally five to six beers on a weekend day. Considering Applicant's lack of truthfulness about his alcohol consumption in past security investigations, it is likely Applicant is minimizing his alcohol use during this investigation. He continues to use alcohol even though his past use of alcohol has caused problems with his family members, threatened his security clearance, and resulted in denial of SCI access in 2003. Doubts remain about Applicant's trustworthiness, reliability, and judgment. Guideline G, Alcohol Consumption, and Guideline E, Personal Conduct, are found against Applicant.

### 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:	AGAINST APPLICANT
Subparagraph 1.a – 1.I:	Against Applicant

Paragraph 2, Guideline E:

AGAINST APPLICANT

Subparagraph 2.a – 2.b:

Against Applicant

Subparagraph 2.c – 2.d:

For Applicant

### **Conclusion**

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

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ERIN C. HOGAN  
Administrative Judge