DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 09-03175
	)	
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Alison O'Connell, Esquire, Department Counsel
For Applicant: *Pro se*

June 16, 2011

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant abused marijuana to as recently as mid-January 2011, despite holding a security clearance. He concealed his marijuana involvement when he applied for his clearance in July 2000. Since about 1987 Applicant has also abused alcohol at times to intoxication, including after his 2008 drunk-driving conviction. Clearance denied.

Statement of the Case

On September 20, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline H (Drug Involvement), Guideline G (Alcohol Consumption), and Guideline E (Personal Conduct), which provided the basis for its preliminary decision to revoke his security clearance. DOHA took action 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 on September 1, 2006.

Applicant responded to the SOR allegations on October 7, 2010, and he requested a hearing. The case was assigned to me on December 21, 2010, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On January 6, 2011, I scheduled a hearing for January 25, 2011.

I convened the hearing as scheduled. Seven Government exhibits (Ex. 1-7) were admitted without objection. Applicant testified, as reflected in a transcript (Tr.) received on February 2, 2011.

Summary of SOR Allegations

The SOR alleged under Guideline H (Drug Involvement) that Applicant used marijuana with varying frequency from around the late 1980s to at least March 2009 (SOR 1.a), including after he had been granted a Department of Defense security clearance in about November 2001 (SOR 1.b); that Applicant had been arrested, in part, for possession of a Class D controlled substance in 2008, which was dismissed (SOR 1.c); that he had been fined for possession of marijuana in 2004 (SOR 1.d); and that he had been charged, in part, with two counts of violation of the controlled drug act in 2001, which were dismissed (SOR 1.e). Under Guideline G (Alcohol Consumption) Applicant was alleged to have consumed alcohol, at times to intoxication, from about 1984 to at least March 2009 (SOR 2.a); to have been convicted of operating under the influence (OUI) of liquor in 2008 (SOR 2.b); and to have been fined $600 for transporting alcoholic beverages in 2001 (SOR 2.c). The SOR alleged under Guideline E (Personal Conduct) that Applicant deliberately falsified a July 2000 security clearance application by responding negatively to whether he had illegally used any controlled substances since the age of 16 or in the last seven years (SOR 3.a).

Findings of Fact

In his Answer, Applicant denied that he had used any marijuana from 1991 to 1999, and that he had deliberately falsified his security clearance application. He admitted that he continued to use marijuana while he held a security clearance, that he abused alcohol as alleged, and that he had been arrested and convicted of the alcohol and drug charges as alleged. His admissions are incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is 42 years old, and he has been employed as a test technician by a defense contractor since November 1998. (Ex. 2.) He has never been married. (Tr. 23.) He seeks to retain the secret-level security clearance that he has held since about November 2001. (Ex. 1.)

Applicant began drinking alcohol at age 15. He had a part-time job in construction after school and on infrequent occasions, less than once a month, he drank two beers with his older coworkers. In high school, he drank two beers on a monthly basis. During his two years in college from 1987 to 1989 (Tr. 24.), his alcohol consumption increased to six

beers on average every other weekend at parties. On one occasion, after drinking a half liter of vodka to intoxication, he suffered a hangover that led him to abstain for one month only to return to his previous drinking level. Around 1987 he also began smoking marijuana occasionally. (Tr. 27.) He liked the drug's effects, and in 1988 or 1989 his abuse increased to "most days." (Ex. 3; Tr. 27-28.)

For two or three years after leaving college, Applicant drank at least six beers after work on a daily basis. On the weekends, he consumed up to 12 beers to intoxication. (Ex. 3; Tr. 45.) He also continued to smoke marijuana. In August 1991 he entered on active duty in the United States military. (Ex. 2; Tr. 24.) He held a confidential-level security clearance for his duties as an electronics technician. (Tr. 23-24.) He limited his drinking to off-duty hours, but he engaged in binge drinking at keg parties, clubs, and while in port, whenever he had the opportunity. (Ex. 3; Tr. 45.) In 1996 Applicant realized that he could not continue his binge drinking. In August 1997, he was granted an honorable discharge from the military. His drinking gradually decreased over the years, although it was still to abusive levels on occasion. (Ex. 3.)

The evidence is conflicting as to the extent of Applicant's marijuana use while he was in the military. In March 2009 he told an authorized investigator for the Office of Personnel Management (OPM) that he abused marijuana regularly, on a daily basis, since the late 1980s.[1] (Ex. 3.) Applicant now denies that he used any marijuana from 1991 to 1999, which includes the years of his active duty service. (Tr. 28-31.) Had Applicant smoked marijuana with such regularity while he was in the service, it is likely that his use would have been discovered. There is no evidence that he faced any disciplinary action. Nonetheless, it is also difficult to believe that he would completely give up a drug that he had enjoyed on a daily basis. It is more likely that he engaged in limited marijuana use. But even if he abstained for several years, the evidence shows that by July 1999 he was again abusing marijuana. (Ex. 1; Tr. 32-33.) Before long, he was smoking marijuana, at times daily. (Ex. 3; Tr. 32.)

After a year working as a test technician in the civilian sector, Applicant began his present employment in November 1998. (Ex. 2; Tr. 24.) On July 13, 2000, Applicant executed a security clearance application (SF 86) on which he responded "No" to question 27, "Since the age of 16 or in the last seven years, whichever is shorter, have you illegally used any controlled substance, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs?" (Ex. 2.) Applicant was granted a secret-level security clearance around November 2001. (Ex. 1.) Applicant continued to smoke marijuana despite knowing that it was illegal and inconsistent with his security clearance responsibilities. (Tr. 33-34.) He felt marijuana did not affect him as negatively as alcohol did. (Tr. 34.)

[1] In August 2009, Applicant was given the opportunity to review the investigator's report of his March 2009 interview, which included his admission to daily use of marijuana from the late 1980s. He made no changes other than to indicate that marijuana caused him no breathing difficulties and he did not need the drug to relax. (Ex. 4.) Nonetheless, it is difficult to believe that he could have hidden daily use of marijuana from the military.

In mid-July 2001 he smoked some marijuana and consumed about three shots of rum and "many" beers while socializing at a campground. (Tr. 37.) En route home, he pulled over into a parking lot because he felt too intoxicated to safely operate his vehicle. (Tr. 37-38.) A local police officer investigated because he had left his lights on. An open beer and a marijuana pipe with residue were found in his vehicle. Applicant was charged with two counts of violating the controlled drug act and with transporting alcoholic beverages. He was convicted of the alcohol charge and fined $600. The drug charges were filed without a finding. (Ex. 3, 6.)

In November 2004 Applicant was stopped for speeding. The officer smelled marijuana, and Applicant was arrested after a check of his license revealed that his right to operate a motor vehicle in the state had been suspended for failure to pay a ticket. About a quarter-ounce bag of marijuana was found in the vehicle, and Applicant was charged with possession of a Class D substance. He pleaded guilty and was fined $300. (Ex. 1, 3; Tr. 40-41.)

In early September 2008 Applicant drank about a half pint of liquor and three beers at his home. He then drove over to a friend's home, where he bought a quarter ounce of marijuana before proceeding on to a veterans' hall. Once there, he drank more beer to intoxication. He left just before "last call." He drove off the highway and rolled his truck. (Ex. 3; Tr. 41-43.) Responding police noted a strong odor of alcohol from inside his vehicle, and Applicant's speech was slurred. The police found marijuana in Applicant's pocket, and at the hospital, his blood alcohol level registered at .264%. Applicant was charged with OUI liquor, possession of a class D substance, and marked lanes violation. (Ex. 3, 5.) In December 2008 he admitted to sufficient facts to sustain a conviction for OUI. He was sentenced to an alcohol safety action program (ASAP), to 45 days loss of license, to one year of probation, and court costs and fines totaling $600 plus the costs of probation and the ASAP program. The drug offense was dismissed, although Applicant admits that he had marijuana in his possession. (Tr. 36.) He was found not responsible of the marked lanes violation. (Ex. 1, 3, 5, 7.) Applicant reported his arrest and conviction to his employer in a timely manner. (Ex. 7.)

On October 16, 2008, Applicant executed an Electronic Questionnaire for Investigations Processing (e-QIP). He listed his recent arrest for OUI and possession of marijuana as well as the November 2004 marijuana possession and July 2001 open container offenses. In response to question 24 concerning any illegal drug use in the last seven years, Applicant indicated that he had used marijuana on an occasional basis, "several times" from about July 1999 to September 2008. (Ex. 1.)

On March 18, 2009, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM) about his alcohol consumption, his illegal drug abuse, and his related arrests. By then, he had completed three weeks of the court-mandated 16 week drug and alcohol program, but he had yet to attend the two Alcoholics Anonymous (AA) meetings required. He was still drinking, about two or three beers one night a week and 12 beers over the weekends. He consumed two shots of liquor and "more than a handful" of beers to intoxication in February 2009. While he was making an effort to

avoid drinking bourbon, and he had not driven while intoxicated since September 2008, he did not intend to abstain completely from alcohol. As for his marijuana use, Applicant generalized that he has smoked marijuana for the most part daily since the late 1980s in a variety of settings, including at parties, with friends, or alone. Over the past two or three years, he had reduced his marijuana abuse to two or three days a week due to its expense. Applicant did not intend to reduce his marijuana use any further. During his interview, Applicant was asked why he had indicated on his e-QIP that he used marijuana only since July 1999. He explained that the directions on the form required him to only go back ten years. (Ex. 3.)

Applicant continued to smoke marijuana on a regular basis, up to daily at times, to as recently as January 14, 2011. He smokes marijuana while playing cards with friends. In 2010 he smoked marijuana every other weekend to every weekend. (Tr. 53-54.) He purchased marijuana to as recently as November 2010. (Tr. 55.) Applicant is subject to being called for a random drug screen by his employer although he has never taken a drug test for his employer. (Tr. 35.) Applicant does not see marijuana use as "that big of a problem as long as [he's] not hurting somebody else or endangering someone else." (Tr. 34.) Concerning his future intent, Applicant does not want to use marijuana regularly like he did in the past, but he cannot promise that he will not abuse marijuana in the future ("I'm not going to sit here and say that I probably will never smoke again."). (Tr. 36.) He is "sure" that he would smoke marijuana if offered some by his friends while playing cards. He is personally more concerned about alcohol. He has blacked out from drinking in the past, most recently on the occasion of his accident in September 2008. (Tr. 57.)

As of January 2011 Applicant had completed the requirements for his September 2008 OUI. (Tr. 47.) Applicant consumed alcohol "over the limit" (i.e., above .08% blood alcohol content) more than twice since his accident (Tr. 44.), although he did not drive on those occasions. At a bowling banquet in the spring of 2009, he consumed more than six mixed drinks. (Tr. 51-52.) On December 31, 2010, Applicant drank to intoxication at home. (Tr. 52-53.) He believes he can control his drinking and avoids putting himself in situations where he might drive drunk. (Tr. 46.) Applicant consumes two beers on Wednesday nights while bowling in his league. On Friday and Saturday nights and sometimes on Sundays, he drinks "maybe four to six" beers. (Tr. 48-49.) He has never been diagnosed as having an alcohol problem. (Tr. 47.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered 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 overall 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 to obtain 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 that the applicant may deliberately or inadvertently fail to 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

Drug Involvement

The security concern for drug involvement is set out in AG ¶ 24: "Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations."

Under AG ¶ 24(a), drugs are defined as "mood and behavior altering substances," and include:

> (1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens),[2] and

[2]Schedules I, II, III, IV, and V, as referred to in the Controlled Substances Act, are contained in 21 U.S.C. §

(2) inhalants and other similar substances.

Under AG ¶ 24(b), drug abuse is defined as "the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction." Several disqualifying conditions under AG ¶ 25 are implicated.

AG ¶ 25(a), "any drug abuse," applies because of Applicant's long history of marijuana abuse since 1987. Even if I accept that he abstained from marijuana use while he was on active duty from August 1991 to August 1997, he admitted on his October 2008 e-QIP that he was abusing marijuana as of July 1999. His abuse of marijuana continued, at times daily, to as recently as January 14, 2011. AG ¶ 25(c), "illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia," is established by Applicant's years of purchasing the drug. He bought marijuana for his own consumption as recently as November 2010. AG ¶ 25(g), "any illegal drug use after being granted a security clearance," is also implicated because Applicant continued to abuse marijuana while he held a security clearance, knowing that it was inconsistent with his obligations of that clearance. Furthermore, AG ¶ 25(h), "expressed intent to continue illegal drug use, or failure to clearly and convincingly commit to discontinue drug use," also applies. He admitted at his hearing that he was "sure" that he would smoke marijuana if it was offered to him by his friends.

Applicant satisfies none of the mitigating conditions under Guideline H AG ¶ 26. His abuse of marijuana as recent as January 14, 2011, certainly did not happen "so long ago." Nor was his use infrequent. AG ¶ 26(a), "the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment," does not apply. In addition, he has not demonstrated the intent not to abuse any drugs in the future. *See* AG ¶ 26(b). To the contrary, not only does he continue to socialize with the friends with whom he smoked marijuana in January 2011, but he also admits that he will smoke the drug again if it is offered to him. Moreover, under 50 U.S.C. § 435c, "the head of a Federal agency may not grant or renew a security clearance for a covered person who is an unlawful user of a controlled substance or an addict." This statute is applicable only if the person is currently an unlawful user or addict. (*See* ISCR Case No. 03-25009 (App. Bd. Jun. 28, 2005)). Absent a clinical diagnosis, I do not conclude Applicant is addicted to marijuana. However, the evidence establishes that he is a current user of marijuana. Although he had not smoked marijuana in the week preceding his security clearance hearing, he did not intend to stop using it. Applicant is statutorily prohibited from having his security clearance renewed.

812(c). Marijuana is a Schedule I controlled substance.

Alcohol Consumption

The concern 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." Applicant's underage drinking is clearly an abusive use of the substance, although there is no indication that he drank in excessive amounts before college. During the late 1980s he drank on average six beers on a daily basis to as many as 12 beers on the weekends. Also, while in the military, he engaged in binge drinking to high levels of intoxication whenever he had the opportunity. Around 1996 he realized that his drinking was becoming a problem, so he made an effort to reduce his consumption. Yet at times he continued to drink to intoxication, including in mid-July 2001 when he was fined for transporting an open container of alcohol. In September 2008, he blacked out from drinking and rolled his truck. His blood alcohol content on the occasion of his OUI tested at .264%. Two disqualifying conditions under AG ¶ 22 are established: 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," 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."

Even though the September 2008 incident scared Applicant so that he no longer drives a vehicle when he is intoxicated, he continues to engage in binge drinking on occasion. At a bowling banquet in the spring of 2009, he consumed more than six mixed drinks. On December 31, 2010, Applicant drank to intoxication in his home. By then, he had completed the alcohol counseling program required by the court for his OUI. Given the his many years of heavy drinking, and his high blood alcohol content on the occasion of his OUI in September 2008, I cannot apply 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." He has also failed to establish a sufficient pattern of modified consumption to implicate AG ¶ 23(b), "the individual acknowledges his or her alcoholism or issues of 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)," or AG ¶ 23(d), which provides as follows:

> (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.

He has made a commitment not to drink and drive but not to avoid episodes of intoxication. The Alcohol Consumption concerns are not sufficiently mitigated.

Personal Conduct

The security concern for personal conduct is set out in Guideline E, 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.

Applicant did not disclose that he had abused marijuana when he completed his SF 86 on July 13, 2000. The Government alleged that Applicant should have indicated that he used marijuana from 1993 to 2000, apparently based on his admission to the OPM investigator in March 2009 that he had smoked marijuana on a daily basis since the late 1980s. (Ex. 3.) Applicant denies any intentional falsification, so the burden is on the Government establishing the applicability of AG ¶ 16(a):

> (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.

A finding of intentional falsification can be inferred from omission of information that on its face should have been reported. In his Answer to the SOR and at his hearing, Applicant asserted that he did not use any marijuana between 1991 and 1999. He testified that to the best of his knowledge, he was in the military during that time and did not smoke marijuana. (Tr. 22.) His recall about the dates of his military service has been inaccurate in that he served from August 1991 to August 1997. He now claims to remember that he did not resume his marijuana use before he completed his July 2000 SF 86, although when initially asked about the date, Applicant indicated he "can't say for sure if it was '99 or 2000." (Tr. 33.) Applicant previously indicated on his e-QIP completed in October 2008 that he smoked marijuana from about July 1999 to September 2008. (Ex. 1) He told the OPM investigator in March 2009 that he had smoked marijuana regularly since the late 1980s. Even assuming he abstained from marijuana use while he was in the military and that July 1999 was an estimated date, he has not given me a good reason why I should believe that he did not resume his marijuana use before his SF 86 in light of his e-QIP and interview disclosures. AG ¶ 16(a) applies.

Applicant's October 2008 admission of marijuana abuse is too belated to consider mitigating condition 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," applies in that the false response to the drug inquiry on his July 2000 SF 86 is more than ten years in the past. However, it is difficult to fully mitigate the Personal Conduct concerns in light of the inconsistencies in the record concerning the duration and frequency of his marijuana abuse. It was not until Applicant answered the SOR that he denied any marijuana abuse while he was in the military. If Applicant had abstained for several years, as he now claims, it is likely that he would have told the OPM investigator that he had not used marijuana during those years, and that he would have at least taken the opportunity to correct the investigator's report that he has "smoked marijuana regularly since the late 1980's, smoking daily," if it was indeed inaccurate. Applicant made only the following changes: "I didn't have trouble breathing from smoking marijuana, but I can breathe better without it. I don't need marijuana to relax, it is only one of the side effects." (Ex. 4.) So, while Applicant's October 2008 and March 2009 disclosures of his marijuana use and arrest record implicate AG ¶ 17(e), "the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress," reform considerations addressed in 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," are not firmly established.

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 his conduct and all relevant circumstances in light of 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.

Applicant has a long history of abusive drinking which has not stopped even after a very serious OUI offense. For many of those years, he also abused marijuana, in knowing disregard of his security responsibilities and of the laws prohibiting such involvement. Applicant candidly acknowledged that if he is offered marijuana in the future, he will use it.

Given his unwillingness to conform his behavior to DoD requirements, I cannot conclude that it is clearly consistent with the national interest to renew his security clearance.

Formal Findings

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

Paragraph 1, Guideline H:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	Against Applicant
Subparagraph 2.c:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	Against 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.

_____
Elizabeth M. Matchinski
Administrative Judge