DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 10-05120
	)	
	)	
Applicant for Security Clearance	)	

Appearances

For Government: David F. Hayes, Esq., Department Counsel
For Applicant: *Pro se*

09/26/2012

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant is a diagnosed alcohol abuser convicted of an April 2009 driving while intoxicated (DWI) offense, his fourth alcohol-related driving incident. Despite months of counseling, he resumed drinking in situations conducive to his excessive consumption in the past. In late August 2012, he began new counseling for the education and support needed to help him make the changes necessary to prevent recurrence. The alcohol consumption concerns are not fully mitigated, but personal conduct concerns were not established because Applicant did not deliberately falsify his response to interrogatories. Clearance denied.

Statement of the Case

On April 17, 2012, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline G, Alcohol Consumption, and Guideline E, Personal Conduct, explaining why it could not find that it is clearly consistent with the national interest to continue Applicant's security clearance eligibility. 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 submitted an undated answer, in which he responded to the SOR allegations and requested a hearing. On July 13, 2012, the case was assigned to me to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for him. On July 20, 2012, I scheduled a hearing for August 15, 2012. On August 7, 2012, I issued an amended notice moving the hearing to August 16, 2012, to accommodate the Government's travel schedule, with no objection from Applicant.

The hearing was convened as rescheduled. Three Government exhibits (GEs 1-3) and four Applicant exhibits (AEs A-D) were admitted into evidence without objection. Applicant also testified, as reflected in a transcript (Tr.) received by DOHA on August 28, 2012.

I held the record open after the hearing until August 30, 2012, for Applicant to submit additional documents. On August 29, 2012, Applicant submitted a letter from a licensed alcohol counselor, which was entered as AE E without objection.

Summary of SOR Allegations

The SOR alleged under Guideline G that Applicant was convicted of an April 2009 driving while intoxicated (DWI) offense (SOR 1.a); that as a result of that conviction, he attended a multiple offender program in September 2009, received counseling with a licensed alcohol and drug counselor (LADC) from October 2009 to May 2010, and attended Alcoholics Anonymous (AA) meetings starting in December 2009 (SOR 1.b); that he was drinking alcohol as of June 2011 and intended to continue to do so in the future (SOR 1.c); that he was diagnosed with alcohol abuse in September 2011 and recommended to attend counseling with an LADC, abstain from alcohol and drugs, attend AA, and be evaluated by an LADC after completing treatment; and that he attended weekly substance abuse group treatment from September 22, 2011, through January 12, 2012 (SOR 1.e). Under Guideline E, Applicant allegedly falsified his June 1, 2011, response to interrogatories when he denied ever receiving medical treatment, counseling, or supportive treatment because of the use of alcohol (SOR 2.a).

Applicant admitted the Guideline G allegations without explanation. As for the Guideline E allegation, he admitted that he had responded negatively to whether he had ever received treatment or counseling due to the use of alcohol. However, he denied any intentional falsification in that he had indicated that he attended a multiple offender program in September 2009, LADC counseling from October 2009 to May 2010, and AA.

Findings of Fact

Applicant's admissions to the alcohol consumption allegations are incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 45-year-old maintenance mechanic, who has worked for the same defense contractor since September 2001. (GEs 1, 3; Tr. 27.) He has held a secret clearance for most of his employment. (GE 1.) Applicant is in charge of handling chemicals and hazardous materials (GE 2), and he needs his clearance to access secured areas at work. (Tr. 33.) Applicant completed two years of junior college and 2.5 years of university study, but he did not complete his degree. (Tr. 30.) Although he has never married, Applicant has been in a relationship for the past nine years. He has an 18-year-old son, who lives with him. (GE 3; Tr. 29.) Applicant and his son have a close relationship. (Tr. 29.)

Applicant had his first drink of alcohol at age 15. At age 18, around 1985, he began drinking socially once a month, two to three beers per occasion. Alcohol led him to feel more relaxed and outgoing. He worked for one year after high school, at a pizza place, to save money for college. (Tr. 35.) In college, Applicant consumed five to six beers at a sitting on the weekends.[1] Occasionally, he drank as many as 12 to 15 beers with no adverse consequences. At age 23, Applicant reduced his use of alcohol to every other weekend, four to six beers each time. (GE 3.) However, on at least one occasion in 1990, he consumed about 10 to 12 beers at a barbecue and then attempted to drive home. Applicant failed to negotiate a curve due to excessive speed, and he crashed into a ditch. Applicant admitted to responding police that he had been drinking. He was arrested for driving under the influence (DUI). He pleaded guilty to a reduced charge of reckless driving, lost his license for 90 days, and had to pay court fees of $475. (GE 2; Tr. 37.) Applicant testified that he also attended AA for 15 weeks, where he learned that drinking and driving was a "very serious issue." (Tr. 37.)

En route home after drinking 8 to 10 beers at a bar in 1997, Applicant was pulled over for driving the wrong way down a one-way street. Following the administration of field sobriety tests, the police arrested him for DUI. Applicant pleaded guilty, again to a reduced charge of reckless driving. He lost his license for about six months, and he was required to attend a weekend alcohol education class that cost him $800. Applicant attended recommended AA meetings twice weekly for one month. (GE 2; Tr. 38.)

In early April 2000, Applicant drank eight beers at a pizza place. He struck a tree on the way home, totaling his car. Since he was only two blocks from his residence, he walked home and called the police. After field sobriety testing, he was arrested for DUI. He pled

[1]Applicant indicated during his September 2011 substance use evaluation that he began drinking every weekend in college, five to six beers at a sitting and occasionally as many as 12 to 15 beers. (GE 3.) He testified discrepantly at his August 16, 2012, security clearance hearing that he attended college in a predominantly dry state, so his drinking was "very limited." (Tr. 35.)

guilty to the charge, and was ordered to pay $460 restitution for property damage. Also, he lost his operating privileges for 90 days.[2] (GE 2; Tr. 39-40.)

Applicant's pattern of drinking four to six beers per occasion every other weekend eventually became three to eight beers at bars with friends twice a week by 2009. About once a month, he drank more than eight beers to intoxication. After work on April 25, 2009, Applicant stopped off at a local fraternal club, where he consumed alcohol with some regularity on Friday nights. He drank around ten 12-ounce beers while socializing with a friend. Applicant decided to drive home, even though he felt very tired and had been drinking. He was pulled over for failure to stay in marked lanes and arrested for DWI after failing field sobriety tests. At the police station, his blood alcohol level registered at .10%. (GE 2; Tr. 43-46.) Around early May 2009, Applicant reported his DWI arrest to his facility security officer (FSO) as required by employees holding a security clearance. (AE B; Tr. 31.)

In July 2009, Applicant pled guilty to DWI and was ordered to attend a multiple offender program, which cost him $1,875. He was fined $500 plus fees, and his license was revoked for 320 days. Applicant attended a week-long residential multiple offender program in September 2009, where it was recommended that he obtain ten months of alcohol counseling. (GE 2; AE A; Tr. 46-47.)

Applicant attended 15 to 21 sessions of outpatient alcohol counseling with a LADC (LADC #1) for about six months starting in October 2009. (Tr. 49.) On the advice of the LADC, he also went to one AA meeting a week starting December 2009. (GEs 2, 3; Tr. 49.) According to Applicant, she diagnosed him as being "addicted to alcohol" and advised him to abstain. (Tr. 49.)

On November 16, 2009, Applicant completed an Electronic Questionnaire for Investigations Processing (e-QIP) to renew his security clearance. He listed his April 2009 DUI and then current counseling with LADC #1. (GE 1.)

On March 22, 2010, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant provided details about his four alcohol-related driving incidents, which he characterized as isolated events. He also denied ever

[2]The SOR does not allege the alcohol-related incidents that occurred in 1990, 1997, and 2000, presumably because they had been adjudicated favorably. Applicant was granted his secret clearance around 2001. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered:

> (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for the whole-person analysis under Directive Section 6.3.

(citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004) and ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). I have considered the non-SOR misconduct for the five above purposes, and not for any other purpose.

being diagnosed as an alcohol abuser or as alcohol dependent, including by his current counselor, whom he was seeing once every other week since October 2009. Applicant added that he was attending AA once weekly on the advice of his LADC. He indicated that after his April 2009 DUI, he reduced his alcohol consumption to three beers at a sitting twice a month when out at bars with friends. He denied drinking to intoxication since then, and he expressed his intent to maintain his current level of alcohol use. (GE 2.)

Between March 2010 and September 2010, Applicant attended about eight AA meetings. He "thought [he] got a better understanding of how alcohol controls people's lives and how it controlled [his]." (Tr. 67-68.)

On June 1, 2011, Applicant responded to DOHA interrogatories about his alcohol consumption. He indicated that he was still drinking, around 24 to 26 ounces of beer once or twice a week, although not to intoxication or to ever reporting to work under the influence.[3] He expressed his intent to continue to drink alcoholic beverages. Applicant responded negatively to whether he had ever received "any medical treatment, counseling, or supportive treatment from a drug or alcoholic rehabilitation center or other organization due to the use of alcohol," as well as to whether he was participating in AA. (GE 2.) Applicant answered no because had already provided the information, as outlined in the report of subject interview sent to him with the interrogatories. (Tr. 58-60.) In response to any arrests or charges, Applicant indicated that he had been charged with reckless driving in 1990 and 1997 and with DUI on April 5, 2000, and April 25, 2009. (GE 2.)

On September 20, 2011, Applicant was evaluated for substance use by a LADC (LADC #2) for his clearance renewal. In test scores and based on information self-reported, Applicant exhibited some minimization about his substance abuse. He initially reported consuming one or two beers twice weekly since his April 2009 DUI, although occasionally, he consumed three or four beers on a daily basis. He later revealed that that "the four or five beers at times became five or six," but he denied any daily drinking. Applicant indicated that he last drank on September 9, 2011, when he decided to stop "because nothing good has come out of drinking." The LADC diagnosed Applicant with "alcohol abuse, rule out alcohol dependence." Applicant matched two criteria associated with alcohol dependence, with three needed for the diagnosis, although in her clinical opinion, Applicant "may have under-reported his use and/or consequences of his use of alcohol." The LADC recommended that Applicant participate in six to eight counseling sessions with a LADC, to further his understanding of the disease concept of addiction and his insight into his relationship with alcohol. She advised Applicant to abstain completely from all mood-altering substances, including alcohol, and to attend AA until he began counseling. His treating clinician would then determine the need for additional abstinence and AA. LADC #2 recommended that Applicant undergo another substance abuse evaluation after he completed counseling to rule out alcohol dependence. (GE 3.)

[3] Applicant testified that he drank "one or two beers twice a week, three beers at the most." Yet, when asked whether he consumed alcohol in greater quantity before he began counseling in September 2011, Applicant responded, "I might have, but I'm not sure." (Tr. 68.)

From September 22, 2011, to January 12, 2012, Applicant attended weekly substance abuse group treatment sessions under the therapeutic guidance of a LADC (LADC #3) and the supervision of a licensed clinic social worker at a local mental health center. In the opinion of the substance abuse clinicians, Applicant achieved his treatment goals, and he was at low risk for recidivism. In addition to abstaining since September 9, 2011, he showed improved insight and more accurate assessment into his relationship with alcohol. He also had in place a "believable plan for continued sobriety through identifying triggers, establishing a relapse prevention plan and adhering to it." Applicant also attended weekly self-help meetings regularly, as required. (Tr. 79.) He expressed his intent to continue with AA. (AE D.) After counseling ended, Applicant attended only two or three more AA meetings and none after February 2012. (Tr. 69.)

Thinking he was "cured" of his drinking problem because he had abstained from alcohol while in counseling (Tr. 55), Applicant resumed drinking in March 2012, on "just a normal day." He "probably had two or three" beers at home on a weekend. (Tr. 70-71.) He also drank once a week at the fraternal club, to as recently as August 8, 2012, although he took taxis home. (Tr. 55-56, 77.) Applicant admitted that he stayed at the club longer than he intended on occasion, depending on who was there (Tr. 78), although he denied consuming more than three drinks at a sitting since February 2012. (Tr. 71.)

After receiving the SOR in May 2012, he considered returning to AA or counseling to show the Government that he was serious about dealing with his alcohol abuse problem, but in the end, he did not think his problem was severe. (Tr. 72.) At his August 16, 2012 hearing, he expressed remorse for his past drunk driving and expressed a need for additional counseling, as he now believes alcohol should not be part of his life. (Tr. 28, 57.) He expressed his intent to abstain completely from alcohol ("I have to abstain from alcohol due to the fact that this overwhelming evidence is against me and there is no way that even if I try to have a few drinks and then get a ride, that it's not going to trigger another incident or episode, so I just have to quit."). (Tr. 61, 73.) As for his plan, he indicated he would attend AA and contact LADC #3 for additional counseling. (Tr. 81.)

As of mid-August 2012, Applicant was still associating on a regular basis with friends who consume alcohol, and he identified being out at a club with friends as a trigger for him drinking more than two beers. (Tr. 76.) He maintains that his job is more important to him than drinking beer with his friends. (Tr. 74.) On August 28, 2012, Applicant had the first of 12 weekly counseling sessions with a LADC (LADC #4) to "help him establish recovery supports and help understand his addiction." Applicant displayed a very positive and motivated attitude in his first session. (AE E.)

Annual reviews of Applicant's performance for the defense contractor confirm he has been a valuable contributor from the start of his employment. He has consistently displayed dedication, reliability, and competence in carrying out his duties. Applicant took it upon himself to learn hazardous waste and chemical management so as to improve his value to the team. For the rating periods 2008 and 2009, he was considered to be a high contributor, exceeding key objectives and expectations. In 2010 and 2011, he earned the highest rating, exceptional contributor, for completing job objectives far in excess of his

employer's expectations and demonstrating outstanding commitment. (AE C.) Applicant has been involved in no security incidents at work. (AE B.)

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

Guideline G—Alcohol Consumption

The security 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 abused alcohol to the point of negative impact on his judgment, as evidenced by his drunk driving. Applicant's April 2009 DWI implicates disqualifying condition 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." This DWI is the fourth alcohol-related offense on his record, which includes three previous arrests for DUI. Although Applicant pled down to reckless driving in the first two incidents, he drank enough to become intoxicated (10-12 beers at a barbecue in 1990 and 8-10 beers at a bar in 1997) on those occasions. He drank eight beers at a pizza place before his April 2000 DUI. Applicant's April 2009 DWI must be evaluated in light of these previous failures to control impulses due to alcohol.

Applicant's pattern of drinking four to six beers per occasion every other weekend after his April 2000 DUI eventually became three to eight beers at bars with friends twice a week by 2009. About once a month, he drank more than eight beers to intoxication. Before his arrest for DWI in April 2009, he drank ten 12-ounce beers while socializing with a friend at the fraternal club that he was still frequenting as of August 2012. 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," also applies because of his episodes of binge drinking.[4]

AG ¶ 22(e), "evaluation if alcohol abuse or dependence by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program," is implicated with regard to a diagnosis of alcohol abuse. After his April 2009 DWI, Applicant completed a court-mandated, week-long residential multiple offender program. Ten months of counseling was recommended, and Applicant attended 15 to 21 sessions with LADC #1 starting in October 2009. Applicant testified at his hearing that this LADC indicated he was addicted to alcohol, and she advised him to abstain completely. Yet, the file does not include any progress notes or summary from LADC #1 about her sessions with Applicant. LADC #2, who evaluated Applicant for substance use in September 2011, diagnosed him with alcohol abuse. (GE 3.) In her professional opinion, Applicant fell just short of meeting the criteria for alcohol dependence, although she could not completely rule it out. LADC #3, who counseled Applicant from September 22, 2011, to January 12, 2012, discussed Applicant's recovery in terms of his "plan for continued sobriety." This LADC and his

[4]Although the term "binge" drinking is not defined in the Directive, the generally accepted definition of binge drinking for males is the consumption of five or more drinks in about two hours. This definition of binge drinking was approved by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) National Advisory Council in February 2004. *See* U.S. Dept. of Health and Human Services, NIAAA Newsletter 3 (Winter 2004 No. 3), http://www.pubs.niaaa.nih.gov/publications/Newsletter/ winter2004/NewsletterNumber3.pdf.

supervisor, a LCSW, referred to alcohol as being "problematic" in Applicant's life (AE D), but did not elaborate about the nature of the problem. Applicant entered counseling with LADC #4, reportedly to help him "establish recovery supports and help understand his addiction." This therapist may well be of the opinion that Applicant is addicted to alcohol. However, this opinion is insufficient to support a formal diagnosis of alcohol dependency without some discussion of the diagnostic criteria pertinent to substance abuse.

That being said, Applicant clearly has an abusive relationship with alcohol. He resumed drinking after 15 to 21 counseling sessions with LADC #1. What began as three beers twice a month eventually became 24-36 ounces twice a week. By September 2011, he was drinking up to five or six beers at times. This drinking was against LADC #1's therapeutic advice, whether or not it triggers AG ¶ 22(f), "relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program." LADC #2 diagnosed Applicant with alcohol abuse in September 2011. He stopped drinking and maintained abstinence while pursuing recommended counseling with LADC #3 from September 2011 to January 2012. Yet, Applicant stopped going to AA in February 2012, and he resumed drinking shortly thereafter, in March 2012.[5] Abstinence and AA during his counseling with LADC #3 was required ["He maintained his abstinence during treatment and has a believable plan for continued sobriety through identifying triggers, establishing a relapse prevention plan and adhering to it."]. It is less clear whether LADC #3 advised Applicant to continue abstinence after his counseling ended.

Even so, it is difficult to fully mitigate his drinking history under the adjudicative guidelines. 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," cannot reasonably apply. His April 2009 DWI was not an aberration, but rather another incident in a pattern of irresponsible drinking.

Concerning AG ¶ 23(b), "the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome the problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser)," Applicant successfully completed his counseling with LADC #3 with a favorable prognosis.[6] Yet, this prognosis of a low risk for recidivism was on information that Applicant planned to continue attending self-help meetings. Applicant attended only two or three AA meetings thereafter. (Tr. 69.) Furthermore, Applicant's plan for continued sobriety after this counseling included "identifying triggers, establishing a relapse prevention plan, and adhering to it." Applicant resumed drinking around March 2012 not only at home, but also

[5] LADC #2 left it up to Applicant's treating LADC to determine whether Applicant needed to abstain completely from alcohol.

[6] Applicant testified that he did not believe LADC #3 recommended that he continue with AA. (Tr. 79.) LADC #3's summary of Applicant's progress (AE D) was not specific about aftercare plans. That being said, the Appeal Board has determined in cases of substantial alcohol abuse that AG ¶ 23(b) did not mitigate security concerns unless there was a fairly lengthy period of abstaining from alcohol consumption. *See* ISCR Case No. 06-17541 at 3-5 (App. Bd. Jan. 14, 2008); ISCR Case No. 06-08708 at 5-7 (App. Bd. Dec. 17, 2007); ISCR Case No. 04-10799 at 2-4 (App. Bd. Nov. 9, 2007).

at the fraternal club with friends. When asked about the triggers that could lead him to consume alcohol to intoxication, Applicant admitted that being with friends at the fraternal club is "definitely a trigger." He drank alcohol at the club once a week, to as recently as August 8, 2012. After months of counseling with LADC #1 and LADC #3, and reportedly having shown "improved insight and more accurate assessment to his relationship with alcohol" (AE D), Applicant testified that even if he tried to have a few drinks, there was no way that it was not going to trigger another incident or episode of abusive drinking. He began counseling with LADC #4 after his hearing because he hadn't figured out his alcohol problem. (Tr. 74.) In the context of AG ¶ 23(b), responsible use must be for a sufficient period of time to establish that Applicant's trustworthiness and reliability are not subject to question. Despite the absence of intoxication, the circumstances of his drinking since February 2012 raise considerable doubts about his reform.

For the same reasons, I also cannot give full mitigating weight to AG ¶ 23(d), which provides as follows:

> 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 licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

There is no evidence to contradict Applicant's testimony that he is no longer driving after drinking. He expressed a desire not to drink alcohol in the future. However, as of his hearing on August 16, 2012, Applicant had not otherwise shown that he was adhering to a credible relapse prevention plan.

Applicant is credited with starting counseling on August 28, 2012, in a program designed for the client that needs education and support to make the changes necessary to maintain recovery. Treatment goals include helping Applicant understand his "addiction" and establishing supports for his recovery. (AE E.) Applicant was apparently motivated during his first counseling session with LADC #4. Yet, in September 2011, he acknowledged to LADC #2 that it would be best for him to give up drinking. After 16 group counseling sessions under the guidance of LADC #3 and six months of abstinence, he resumed drinking beer on "just a normal day," under no special circumstances, when he knew or should have known that his abusive relationship with alcohol was of concern to the Department of Defense. It is too soon to conclude that his alcohol abuse is safely behind him.

Guideline E, Personal Conduct

The security concerns about personal conduct are 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.

The Government alleged that Applicant falsified his June 2011 response to interrogatories by responding negatively to whether he had "**ever** received any medical treatment, counseling or supportive treatment from a drug or alcoholic rehabilitation center or other organization due to the use of alcohol." The undisputed evidence is that Applicant responded "No" to the inquiry. However, he denies deliberate falsification. While the question is unambiguous, Applicant credibly explained at his hearing that he answered no because he had already given the information in previous statements. (Tr. 58.) The documentary evidence confirms that Applicant disclosed his April 2009 DWI and his counseling with LADC #1 on his e-QIP. During his interview with the OPM investigator, Applicant discussed his alcohol-related arrests, his participation in the court-ordered multiple offender program, and his then ongoing counseling with LADC #1. Applicant completed his interrogatory response before his evaluation with LADC #2 and his subsequent counseling with LADC #3. Applicant's denial of intentional falsification is accepted. The evidence does not establish any of the Guideline E disqualifying conditions, including 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.

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).[7] In making the overall commonsense determination required under AG ¶ 2(c), I cannot ignore that the April 2009 DWI is Applicant's fourth alcohol-related offense, even though it is the only one alleged. There is no evidence to indicate that Applicant is currently drinking to intoxication. He also showed some reform by no longer driving after drinking.

[7]The factors under AG ¶ 2(a) are as follows:

> (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 issue is whether this is enough to avoid a recurrence of alcohol abuse. Applicant recognizes that socializing at the fraternal club is definitely a trigger for him. As of August 2012, he asserted that his job was more important to him than drinking with his friends. At the same time, he admitted that there was a risk of alcohol abuse as long as he continued this socialization. His new counselor is going to work with him to establish necessary supports, but it is too soon to conclude that his alcohol abuse is safely behind him. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990.). Based on the facts before me and the adjudicative guidelines that I am bound to consider, for the aforesaid reasons, I am unable to conclude that it is clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance at this time.

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:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant[8]
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	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.

_____
Elizabeth M. Matchinski
Administrative Judge

[8] Treatment is viewed favorably provided Applicant achieves compliance and successful completion. SOR 1.d is resolved against Applicant because of the abusive drinking that led to a diagnosis of alcohol abuse.