



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



In the matter of:	)	
	)	
	)	ISCR Case No. 11-09493
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric H. Borgstrom, Esq., Department Counsel  
For Applicant: *Pro se*

10/31/2013

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant attended court-ordered outpatient alcohol treatment in 2008 after two underage drinking offenses. He was caught driving drunk in August 2008 and in October 2011. He abstained from alcohol after his October 2011 arrest, but he resumed drinking by July 2013. Applicant started individual counseling in September 2013, but it is too soon to conclude that his alcohol abuse is safely in the past, given he drank eight beers on an occasion in July 2013. Clearance denied.

**Statement of the Case**

On February 28, 2013, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline G, Alcohol Consumption, and explained why it was unable to find that it is clearly consistent with the national interest to grant him a security clearance. The DOD CAF took action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2,

1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant answered the SOR allegations on March 25, 2013, and he requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. On July 15, 2013, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On August 12, 2013, I scheduled a hearing for September 4, 2013.

I convened the hearing as scheduled. Three Government exhibits (GEs 1-3) were admitted into evidence without objection, and Applicant testified, as reflected in a transcript (Tr.) received on September 10, 2013. The record was held open initially for two weeks for Applicant to submit documentation. On September 17, 2013, Applicant submitted an alcohol evaluation from February 15, 2012, which was marked as Applicant exhibit (AE) A. Between September 18, 2013, and September 23, 2013, four additional exhibits, consisting of emails from Applicant (AE B) and from three employment references (AEs C-E), were submitted. On September 23, 2013, I extended the deadline for further evidence to September 27, 2013. Two additional documents, correspondence from an Employee Assistance Program (EAP) counselor and a character reference (AEs F-G), were submitted by the deadline. The Government filed no objections to the admission of AEs A-F by the deadlines for comment. The documents were admitted into evidence as full exhibits. Due to the partial government shutdown, the deadline for comment on AE G was extended from October 4, 2013, to October 21, 2013. Department Counsel filed no objection by the deadline, so AE G was also accepted into evidence. The record closed on October 21, 2013.

### **Findings of Fact**

The SOR alleged under Guideline G that Applicant was convicted of driving under the influence charges filed in October 2011 (SOR 1.a) and August 2008 (SOR 1.b), after he had attended outpatient alcohol counseling from April 2008 to December 2008 (SOR 1.c), and following convictions of underage possession of alcohol in September 2007 (SOR 1.d) and September 2006 (SOR 1.e.) In his Answer to the SOR allegations, Applicant admitted the alcohol charges and outpatient counseling. His admissions are accepted and incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 27-year-old, unmarried engineer, who was awarded his Bachelor of Science degree in mechanical engineering in December 2009. (Tr. 26-27.) He worked for his father's construction business in the summers while in high school. While in college and after he graduated, he held seasonal employment as a retail sales associate. He had a summer internship with a state highway department in 2008, and student employment as a math and engineering tutor during the spring semester of 2009. In January 2011, Applicant began his career as an engineering analyst with a private energy firm. He left the job in March 2011 for his present position. He was unemployed for three weeks before starting as

a test engineer with his defense contractor employer in April 2011. (GEs 1, 2; Tr. 27.) He seeks a DOD security clearance.<sup>1</sup> (GE 1.)

Applicant began drinking alcohol in 2004 when he was still in high school. About twice a month, while socializing with two friends and with his older brother, Applicant drank three or four beers. One of his friends procured the alcohol. After he started college in September 2005, his alcohol consumption increased. On his own and wanting to be social among his friends on the hockey team, Applicant consumed alcohol once or twice a week on the weekends. The alcohol was purchased by a friend with fake identification. Applicant contributed about \$5.00 toward a 30-pack, of which he consumed four to eight beers. About twice a month, Applicant drank eight or more beers to intoxication. (GE 2.) After he turned 21 and could legally purchase alcohol, he drank to blackout at least once a month. (AE A.)

In September 2006, Applicant was cited by local police for underage possession of alcohol and consumption of alcohol in public. He had consumed about four beers and had a beer in hand while walking between friends' homes. Within a month or two, Applicant appeared in court on the alcohol charges. He was found guilty and was awarded one year of probation before judgment. He paid court costs of \$200. (GE 2.)

Applicant abstained from alcohol for three weeks after the September 2006 incident, only to resume drinking at previous levels to be social with his friends. Once or twice a month on average, Applicant drove a motor vehicle after drinking. In September 2007, Applicant consumed at least 10 beers to intoxication at an off-campus party. While walking home with four friends, Applicant decided to hang from a tree branch, which broke from his weight. A local police officer arrested him for malicious destruction of property and consumption of alcoholic beverages to intoxication and to endanger. (GEs 2, 3; Tr. 28.) On January 3, 2008, Applicant was billed \$502.43 by the city to replace the tree, which he paid. Applicant was not ordered by the court to pay restitution, but both he and his lawyer felt that it was the right thing to do. In March 2008, a nolle prosequi was entered as to the malicious destruction of property charge. At that time, Applicant paid fines, costs, and fees totaling \$100, and he was ordered to complete an outpatient alcohol program offered by the local health department. (GE 2; Tr. 30.)

Final adjudication of the September 2007 alcohol intoxication charge was pending when Applicant began attending an outpatient alcohol program in April 2008. Applicant attended lectures and group discussions on a weekly basis initially. During the summer, sessions were monthly. Applicant continued to drink alcohol in the same pattern, despite a requirement to abstain during the program. He wanted to be social with his friends and did not think that he had a problem with alcohol. (GE 2; Tr. 30.) Applicant thought that he did not need counseling. (Tr. 23-24.)

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<sup>1</sup> Applicant testified that his work requires "access to classified or confidential material, and right now [he] can only look at confidential, not confidential restricted data." (Tr. 25.) A chief engineer at work indicated that Applicant's work has been "exemplary considering his lower level security clearance." Applicant may well have been granted interim clearance eligibility at the confidential level, although it is unclear.

In late August 2008, Applicant consumed 10 to 12 beers to intoxication at a friend's home. (GE 2; AE A.) En route home, he fell asleep at the wheel and flipped his truck. Applicant failed field sobriety tests at the scene. After a breathalyzer at the police station registered his blood alcohol content at .17%, Applicant was arrested for driving under the influence of alcohol (DUI). (Tr. 36.) After his arrest for drunk driving, Applicant realized that he had an alcohol problem. He complied with his outpatient program thereafter and abstained from alcohol for the remainder of his treatment. (GE 2; Tr. 24, 32.) On December 18, 2008, Applicant was successfully discharged from the outpatient alcohol program.<sup>2</sup> No recommendations for further treatment were made at that time (GE 2.), apart from attending an Alcoholics Anonymous (AA) meeting so that he could see what AA was about. (Tr. 32.) Applicant does not recall whether he was diagnosed with having an alcohol problem at that time (Tr. 31.), and the available record confirming his successful completion (GE 2.) does not include a diagnosis. He attended one AA meeting. (Tr. 32, 45.) Applicant did not share the religious views upon which he felt the program was based. (Tr. 45.)

On December 15, 2008, Applicant pleaded guilty to the August 2008 DUI charge. He was awarded probation before judgment, placed on probation for three years, and assessed fines, costs, and fees totaling \$300. In late March 2009, Applicant pleaded guilty to the September 2007 alcohol intoxication charge, and he was again awarded probation before judgment. He was placed on 18 months of unsupervised probation from March 2008 with conditions (fines, costs, and fees of \$100 paid in August 2008 and alcohol counseling completed December 2008). (GE 2.)

Sometime in early 2009, Applicant resumed drinking alcohol. He consumed two to four beers twice weekly, usually on the weekends, at dinner, after playing hockey, or while socializing with co-workers after work. He did not drink to intoxication or operate a vehicle under the influence of alcohol. (GE 2.)

In mid-April 2011, Applicant began working for his current employer. (GE 1; AE C.) On April 29, 2011, he completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP). In response to the police record inquiries, Applicant disclosed his August 2008 DUI, his September 2007 underage possession of alcohol and malicious destruction of property, and his September 2006 underage possession of alcohol charges and added the following:

Although all my offenses have happened in the past three years, I feel I have matured and learned from my mistakes. Alcohol has gotten me in trouble with the law, but I have never let it affect my work or school.

Applicant also reported his alcohol treatment from April 2008 to December 2008. (GE 1.)

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<sup>2</sup> The Notice of Discharge from the outpatient addictions program, dated March 24, 2009, discrepantly indicates that Applicant was successfully discharged as of "12/18/09" with no recommendations for additional treatment. Applicant indicates that attended the program from April 2008 to December 2008. (GE 2.) The reference to a discharge date in 2009 is likely a typographical error.

On June 16, 2011, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM), partially about his alcohol use and alcohol-related offenses. Applicant provided details about the offenses and his drinking patterns since high school. He indicated that since early 2009, he has consumed alcohol in moderation, in quantity of two to four beers. He expressed his intent to continue to drink alcohol responsibly in the future because he likes the taste and to be social with his friends and co-workers. Applicant denied any intent to abuse alcohol or to drive a vehicle under the influence. He averred that he had learned from his mistakes and did not want alcohol to ruin his career. (GE 2.)

In October 2011, Applicant consumed eight 16-ounce beers over three or four hours when out with friends. They went to a casino and then a local bar. Although he was not sober, he thought he could drive safely (“I wasn’t completely intoxicated.”). Applicant was pulled over by the police after he crossed his lane while turning his vehicle near his residence. Applicant’s eyes were glazed, and he smelled of alcohol. He admitted to the police that he had been drinking. (Tr. 33-35.) He was arrested for operating a motor vehicle under the influence (DUI) and for failure to drive in the right lane. In late November 2011, Applicant pleaded guilty to DUI. He was sentenced to six months in jail (execution suspended), placed on probation for one year, ordered to perform 100 hours of community service, and assessed fines and fees totaling \$783, which he immediately paid. Applicant completed his community service requirement by April 17, 2012. As a condition of his probation, he was also ordered to undergo an alcohol screening and to refrain from operating a motor vehicle without a valid license. (GE 2.) Applicant had regained his operating privileges by his September 2013 security clearance hearing after a period of suspension not specified in the available information. (Tr. 35-36.)

Applicant stopped drinking after his October 2011 arrest for DUI. (GE 2.) In February 2012, at the referral of adult probation, Applicant was evaluated for an alcohol problem by a certified alcohol and drug counselor (CADC). Applicant presented a positive attitude and admitted that he had “drank too much in a short period of time on an empty stomach” when out with his hockey teammates in October 2011. Applicant indicated that before his October 2011 DUI, he drank once to twice a month, on average four beers per occasion. The CADC opined that the “DSM CK list supports a diagnosis of abuse.”<sup>3</sup> She did not refer Applicant for outpatient services because he appeared to be committed to an alcohol-free lifestyle and had been abstinent from alcohol since October 2011. The CADC encouraged Applicant to explore AA for some positive community support and to maintain compliance with his probation. (AE A; Tr. 24.)

On October 3, 2012, Applicant responded to DOD alcohol and criminal conduct interrogatories. He denied any consumption of alcohol since October 23, 2011, when he consumed eight beers when out with friends, and any intent to drink alcohol in the future. Applicant listed his alcohol offenses, including his October 2011 DUI. Concerning any

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<sup>3</sup> The “DSM CK list” is likely the Diagnostic and Statistical Manual for Mental Disorders criteria, although the CADC did not specifically reference a diagnostic code or explain which criteria were met.

additional circumstances or facts that he believed might assist the DOD in its assessment of his security suitability, Applicant stated, in part:

In my life I have been arrested, all of which are alcohol related. There are no excuses for the mistakes I have committed. I accept & admit full responsibility of [sic] all my actions. It was not until my most recent arrest that I realized the hole I was digging myself. I have re-evaluated my life, health, and career . . . change was necessary, & the pattern was consistent. When I become intoxicated I end up in trouble with law enforcement. That [is] why I plan to never become intoxicated again, & have ceased drinking. I would never do anything to compromise our country's national security. There is nothing that I want more in the world than to be granted my secret clearance so I can continue to provide my knowledge to the defense industry for years to come.

Applicant indicated that he was in compliance with his probation for his latest DUI and was scheduled to be released on November 28, 2012. He had completed his community service and required alcohol evaluation, which determined that he did not need alcohol counseling because he had stopped drinking. (GE 2.)

In February 2013, Applicant began dating his current girlfriend, whom he has known since age 10 or so. (Tr. 41.) She routinely consumes a couple of drinks on the weekends. (Tr. 46-47.) In late July 2013, Applicant and his girlfriend went to a music festival in another state. During the course of their first evening there, Applicant drank "probably about eight beers" to intoxication. He was not concerned because they were camping on the grounds, and he would not be driving. (Tr. 37-38.)

Applicant continued to consume alcohol to as recently as the weekend before his September 4, 2013 hearing. He drank two beers around a bonfire. (Tr. 36.) Since resuming his alcohol consumption, Applicant has driven after having had no more than two drinks. (Tr. 46.) He described his current drinking pattern, as follows:

At this point, on—if I were to drink on a weekend, consume two to four beers. If I was to drive, it would only be two. If I was staying in my house or something and there are people before, four to six. At the music festival, I had eight because I knew I did not have to drive anywhere.

About the circumstances under which he would drink as many as six beers, Applicant indicated that it would be during the night, i.e., over the course of six or seven hours at a cookout over a friend's house. (Tr. 47-48.) Applicant does not believe he has an alcohol problem. (Tr. 38.) He drinks only socially and does not go home after work and "crush four, five beers and go driving around town." (Tr. 38-39.) Applicant does not intend to drive under the influence, or to binge drink, which he defined as ten or more beers at a sitting. (Tr. 39, 48.)

After his security clearance hearing, Applicant sought individual counseling with an alcohol and drug addictions counselor through his EAP. (AE B.) On September 18, 2013, an EAP counselor confirmed only that Applicant attended a counseling session on September 12, 2013. (AE F.) She provided no detail about what was discussed in Applicant's session. Applicant believes that he will benefit from individual counseling. (AE B.)

Applicant has never consumed alcohol before reporting to work. Nor has he reported to work under the influence of alcohol. (Tr. 40.) Applicant has had the same direct supervisor since he started with the company. This supervisor attests to Applicant's punctuality and reliability, his desire to complete his work to the best of his ability, his willingness to accept any task without hesitation, and his ability to work independently with a minimum of supervisory involvement. Also, Applicant has had no incidents of required disciplinary action during his employment. (AE C.) A chief test engineer with 28 years at the company opined that it would be "a travesty" to deny Applicant the security clearance needed to perform the job for which he was hired. Applicant has shown him that he can be trusted. This chief engineer has neither observed nor heard of any character flaws that he believes should disqualify Applicant for higher level clearance. He is unaware of the reasons why Applicant's security clearance eligibility is being questioned. (AE D.) The head of Applicant's department also endorses Applicant's clearance eligibility. He indicates that the lack of security clearance has limited Applicant's ability to progress at work. While his security clearance has been under review, Applicant has been "eager and upbeat, taking ownership of the jobs for which he has been assigned." (AE E.)

A technical director, who holds a DOD security clearance for his position with a different defense contractor, had frequent and continuous contact with Applicant and his family throughout Applicant's youth, until Applicant moved away for his present job. He is aware of the alcohol-related incidents of Applicant's college years. He does not believe that the incidents are indicative of Applicant as a young adult and that Applicant has learned from his mistakes. He endorses Applicant for a security clearance without reservation. (AE G.)

## **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 about 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 underage alcohol possession offense in September 2006, his alcohol intoxication offense committed while underage in September 2007, and his DUIs committed August 2008 and October 2011. 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,” applies. 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,” is also established. Applicant drank 10 beers to intoxication on the occasion of his 2007 arrest, 10 to 12 beers to intoxication before his first DUI, and eight 16-ounce beers before his October 2011 DUI. Applicant binge drank in college and to blackout at least once a month after he turned 21.<sup>4</sup>

Applicant was required by the court to successfully complete an outpatient alcohol program following the 2007 alcohol-related offense. From the start of the program in April 2008 until his August 2008 DUI, Applicant consumed alcohol, with little to no change in his drinking pattern from pre-program levels, despite knowing that he was required to abstain from alcohol. AG ¶ 22(g), “failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence,” applies. After his August 2008 DUI, Applicant stopped drinking for the remainder of the program, and he was successfully discharged in December 2008. However, his October 2011 DUI, committed when he was on probation for the August 2008 DUI, calls into question his ability or willingness to comply with court orders concerning his reform.

Applicant had resumed drinking in early 2009, two to four beers twice weekly in various social settings. Six months into his present employment, Applicant drove a vehicle after consuming eight 16-ounce beers to intoxication over a span of three to four hours. A CADC, who evaluated Applicant at the request of adult probation in February 2012, indicated that the DSM supports a diagnosis of abuse. This counselor is certified by the state and affiliated with an alcohol and drug treatment center recognized by the state.<sup>5</sup> However, there is no indication that she possesses the qualifications of a licensed clinical social worker required under 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.” AG ¶ 22(f), “relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program,” is also not firmly established without a clear diagnosis of alcohol abuse or dependence by a qualified

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<sup>4</sup>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>.

<sup>5</sup>Under § 20-74s of the pertinent state law, certified alcohol and drug counselors are required to have completed 300 hours of supervised practice training in alcohol and drug counseling acceptable to the commissioner of public health; completed three years of supervised paid work experience or unpaid internship acceptable to the commissioner that entailed working directly with alcohol and drug counselors (a master’s degree may be substituted for one year of that experience); completed 360 hours of commissioner-approved education, of which at least 240 hours must be related to alcohol and drug counseling; and have successfully passed the examination for certification. By virtue of her certification, the CADC is approved by the state as someone who “by virtue of special knowledge, training and experience, is uniquely able to inform, motivate, guide and assist alcoholics or drug dependent persons, or both, and those persons affected to problems related to the abuse of alcohol or drugs or both.” See § 20-74o. Even so, there is no indication that the CADC, who evaluated Applicant in February 2012, is qualified as a licensed clinical social worker. Under § 20-195n relating to the licensure of clinical social workers, an applicant for licensure as a clinical social worker is required to hold a doctorate or master’s degree in social work.

clinician, which under AG ¶ 22 is either a duly qualified medical professional<sup>6</sup> or a licensed clinical social worker.

Mitigating condition 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. Applicant committed four alcohol-related offenses between September 2006 and October 2011. His October 2011 DUI offense occurred after he began working for his defense contractor employer, after he had completed an outpatient alcohol program, and after he told an OPM investigator in June 2011 that he had “learned his lesson” and did not intend to abuse alcohol or drive under the influence in the future.

As of February 2012, Applicant had reportedly been abstinent from alcohol since his October 2011 arrest. The CADC did not refer him for outpatient services because of his abstinence and apparent commitment to an alcohol-free lifestyle. On October 3, 2012, Applicant told the DOD that he had not consumed any alcohol since his October 23, 2011 DUI, and that he did not intend to drink alcoholic beverages in the future. By late July 2013, if not before then, he had resumed drinking. He drank “probably about eight beers” to intoxication at a music festival in late July 2013. Applicant’s consumption to intoxication in late July 2013 appears to be an exception to his current drinking habit of two to four beers on a weekend; no more than two beers if he is driving. Yet, it is difficult to fully apply AG ¶ 23(b), “the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser) or AG ¶ 23(d), which requires, in part, “a clear and established pattern of modified consumption.” AG ¶ 23(d) provides for mitigation 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.

Applicant’s present drinking pattern does not guarantee against future abuse, given he drank in similar fashion, two to four beers twice a week, for over two years before his October 2011 DUI. At his September 4, 2013 hearing, he testified that going forward, he would not consume more than two beers if he was driving, but he may consume four to six drinks if socializing at home or at friends’ homes. He did not consider that drinking problematic because he would not be driving. Alcohol has long been a part of Applicant’s socialization. His current girlfriend drinks alcohol on the weekends, and she was involved in

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<sup>6</sup> See AG ¶ 22(d), “diagnosis by a duly qualified medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence.”

his episode of intoxication in July 2013. Applicant is credited with pursuing individual EAP alcohol counseling starting September 12, 2013, but he has not shown that he can abide by his promise not to abuse alcohol in the future. The security concerns raised by his episodic abuse of alcohol are not fully mitigated.

### **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).<sup>7</sup> Immaturity and social pressure were significant factors in Applicant's underage drinking and the alcohol possession offenses in September 2006 and September 2007. He was still in college when he committed his first DUI in August 2008, but that offense cannot reasonably be excused by youthful indiscretion. Applicant was involved in a court-ordered outpatient program at the time. His October 2011 DUI is especially serious because it occurred after he had completed the outpatient program, and while he was still on probation for the August 2008 DUI. He was several months into his employment as a test engineer with his defense contractor employer, had applied for a security clearance, and had told an OPM investigator that he did not intend to consume alcohol to intoxication in the future.

Applicant candidly disclosed his October 2011 DUI in response to DOD interrogatories in October 2012. Applicant's reliability and dedication to his work for his defense contractor employer also weigh in his favor. He has given his supervisors no reason to question his security clearance eligibility. That being said, it is unclear what they know, if anything, about Applicant's alcohol-related offenses, including the October 2011 DUI. One co-worker indicated that his knowledge of Applicant was limited to their professional interactions, and that he was unaware of the reasons why Applicant's security clearance eligibility was under review. Concerns linger about Applicant's reform, given his recent abuse of alcohol in July 2013, and his ongoing consumption of alcohol in similar pattern to that which preceded his October 2011. He has yet to demonstrate the insight and behavioral changes needed to guarantee against future incidents of alcohol abuse. Based on all the facts and circumstances, I conclude that it is not clearly consistent with the national interest to grant Applicant a security clearance at this time.

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<sup>7</sup>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.

## 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:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Elizabeth M. Matchinski  
Administrative Judge