



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



In the matter of: )  
)  
) ISCR Case No. 11-14364  
)  
Applicant for Security Clearance )

**Appearances**

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

01/15/2014

**Decision**

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant continued to drink alcohol in moderate amounts on a weekly basis, and to intoxication on occasion, after two arrests for drunk driving. He has shown sufficient rehabilitation since his March 2009 driving under the influence (DUI) offense to where there is little risk of future problems related to drinking. Clearance granted.

**Statement of the Case**

On March 11, 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 April 18, 2013, and he requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. On September 20, 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 November 7, 2013, I scheduled a hearing for December 4, 2013.

I convened the hearing as scheduled. Five Government exhibits (GEs 1-5) and four Applicant exhibits (AEs A-D) were admitted into evidence. GE 2, Applicant's response to interrogatories, was admitted over his objection to a statement that he made previously. Applicant and his mother testified, as reflected in a transcript (Tr.) received on December 12, 2013.

I held the record open for three weeks for Applicant to submit an alcohol evaluation. On December 20, 2013, Applicant submitted a report from a licensed marriage and family therapist (LMFT). On December 27, 2013, I forwarded a copy to Department Counsel for review and comment by January 7, 2014. The Government filed no objections by the deadline, and the exhibit was accepted into the record as AE E. The record closed on January 7, 2014.

### **Findings of Fact**

The SOR alleged under Guideline G that Applicant consumed alcohol from about 1999 to the present, at times to excess and intoxication (SOR 1.a);<sup>1</sup> that he was convicted of a March 2009 DUI offense (SOR 1.b); that he attended alcohol counseling from September 2009 to January 2010, where he was diagnosed with alcohol dependence and recommended to abstain from alcohol (SOR 1.c); and that he was convicted of a chemical test refusal charge in August 2005 (SOR 1.d).

When he answered the SOR allegations, Applicant admitted that he was charged, convicted, and sentenced for the March 2009 DUI and the August 2005 chemical test refusal offenses, and that he continues to drink alcohol socially on occasion, although no longer to intoxication. He also admitted that he attended counseling between September 2009 and January 2010, but he disputed the diagnosis of alcohol dependence. To his recollection, he was not advised to abstain from alcohol. Instead, it was recommended that he seek treatment should he consider driving after drinking alcohol. His second arrest made him realize that he needed to take control of his life. Applicant cited his unblemished work record while pursuing his master's degree as evidence that alcohol does not disrupt his life.

Applicant's admissions to his alcohol-related convictions, to counseling, and to continuing to drink alcohol are accepted and incorporated as findings of fact. After

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<sup>1</sup> The allegation is considered to cover the period from 1999 to the date of the SOR, which was issued on March 11, 2013.

considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 29-year-old married mechanical engineer, who has worked for a small defense contractor since April 2008. (GEs 1, 2; AE B.) Applicant has been diligent and reliable in his work performance with the company. He is considered by the company's president to be an integral member of his design team. (AE B.)

Applicant first tried alcohol at age 15 (GE 2), but alcohol was not a large part of his social life in high school. Applicant played sports, took advanced math classes, and was involved in scouting. (AE C; Tr. 92.)

In the fall of 2002, Applicant began his undergraduate studies. Through his sophomore year, he was influenced by the party atmosphere, where alcohol was prevalent. He drank to feel socially less awkward (Tr. 49), and his grades suffered as a result. His cumulative grade point average (GPA) was 2.02 on a 4.0 scale. In the fall of 2004, he became serious about his academics, and he was named to the Dean's List for the fall 2004, spring 2005, fall 2006, and spring 2007 semesters. (AE A; Tr. 38-39.)

In April 2005, Applicant began working part-time in yard maintenance at a boat yard while attending college. During the summer months, he operated working vessels and rigged sailboats. He had no problems with alcohol on the job. (GEs 1, 2.)

In August 2005, Applicant had just left a party at the boatyard when he was stopped by the police for an equipment violation. He had been drinking, but thought he could make it home safely. (Tr. 45.) The officer smelled alcohol on Applicant's breath, and he administered field sobriety tests, which Applicant failed. Applicant refused to submit to a chemical test at the station because he did not believe he would pass it. Applicant was charged with chemical test refusal. He was fined and lost his driver's license for three months as a result. (GEs 1, 2.) He also attended some alcohol awareness classes. (Tr. 61.) Applicant understands that driving after drinking too much was "a very stupid thing to do." (Tr. 45.)

In December 2007, Applicant was awarded his bachelor's degree in mechanical engineering with a cumulative GPA of 2.9. (AE A; Tr. 56.) In April 2008, he began working for his current employer as a mechanical engineer. (GE 1.)

In March 2009, Applicant was arrested for misdemeanor DUI, 1<sup>st</sup> offense, and for chemical test refusal, 2<sup>nd</sup> offense. (GEs 1-5.) Applicant had consumed beer while setting up at a concert venue and then during the concert, which was held more than one hour's drive from his home. After he dropped off his companion, he was stopped near home for driving too close to a police car that was parked at the roadside. (Tr. 46-47, 62-65.) Applicant took a breath test at the site, which showed his blood alcohol content at .13% (Tr. 64), and he was placed in custody for DUI. A charge of chemical test refusal was added when he declined to submit to a breathalyzer at the station. (Tr. 45-46.) He pleaded not guilty in district court, and his case was transferred to superior court. Applicant

presented many positive character references on his behalf to the court from family, friends, and his employer, who attested to him being very generous with his time and respectful of others. (AE C.) In May 2009, Applicant pleaded nolo contendere to the DUI charge. He was fined, ordered to perform 10 hours of community service and to attend a DWI school, and he lost his driver's license for three months. The chemical test refusal charge was dismissed. (GEs 2, 4.)

Under the state's treatment alternative to street crime program (TASC), Applicant attended 15 half-hour sessions of individual outpatient alcohol counseling between September 2009 and January 2010. His counselor discharged him with a diagnosis of alcohol dependence, but with a good prognosis.<sup>2</sup> Applicant was required to abstain completely from alcohol during his counseling, and he completed all the requirements of the TASC program. Further treatment was recommended, if he "finds himself even considering driving after drinking." (AE D; Tr. 40-41, 59-60.)

In the fall of 2009, Applicant began taking some graduate-level classes, although he did not officially matriculate into a graduate program until the spring of 2011, when he began part-time graduate studies in mechanical engineering and applied mechanics. (AE A.) As of the fall semester 2013, his cumulative GPA was 3.3 for his graduate work. (AE A; Tr. 75.) He was on course to complete his graduate degree in December 2013. (Tr. 56.)

In November 2009, Applicant married his first wife. They met while working together in the summer of 2002 and dated throughout college. (GE 1; AE C.) They separated formally in October 2011 and were divorced in December 2012. (Tr. 48, 58.) Applicant retained the home that they bought together in 2008. (Tr. 73-74.) Applicant denies that alcohol played a role in the dissolution of his marriage. (Tr. 58.) Applicant's first wife supported his character, and she did not report any concerns about him abusing alcohol in a letter to the court after his March 2009 DUI. (AE C.)

On August 29, 2011, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP), on application for his first DOD security clearance. (Tr. 66.) He disclosed a July 2003 marijuana possession offense that was not alleged in the SOR,<sup>3</sup> his two alcohol-related offenses, and his alcohol counseling. (GE 1.)

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<sup>2</sup> To the extent that the counselor's credentials can be ascertained from the limited information available, it appears that the counselor has a master's degree and is licensed by the state to provide substance abuse counseling. The state provides for licensing of chemical dependency professionals (LCDPs) under § 5-69-8 of its General Laws. Certification as an advanced chemical dependency professional in accord with the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC/AODA) is a prerequisite for application for licensure as an LCDP.

<sup>3</sup> The DOHA Appeal Board has long held that the administrative judge may consider non-alleged conduct to assess an applicant's credibility, to evaluate an applicant's evidence of extenuation, mitigation or changed circumstances; to consider whether an applicant has demonstrated successful rehabilitation; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for a whole-person analysis under Directive Section 6.3. See, e.g., ISCR Case No. 02-07218 (App. Bd. Mar. 15, 2004); ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012).

In September 2011, Applicant began counseling with a LMFT to cope with the breakup of his first marriage. He and the therapist discussed his legal issues related to alcohol use and driving, showing good insight into his behavior. At no time during their treatment sessions did the LMFT consider a diagnosis of alcohol dependence for Applicant. Applicant continued in counseling for a few months after his first divorce, partially to work on eliminating the alcohol consumption that might impair his ability to operate a motor vehicle. (AE E; Tr. 49.)

On October 7, 2011, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM), partially about his alcohol-related offenses and his drinking habits. Applicant indicated that he was embarrassed by his arrests, which were known to his parents, spouse, and a few friends. Applicant denied ever being diagnosed with alcohol dependence or alcohol abuse. He described his current drinking pattern as about two beers a week, becoming intoxicated (“feeling abnormal”) once every two months after consuming about four beers. Applicant asserted that he no longer drove after drinking any alcohol. (GE 2.)

In response to DOD interrogatories, Applicant reported that as of January 22, 2013, he was drinking two or three eight-ounce beers a week on average. About once a month, he drank two to four glasses of wine or two to four ounces of liquor. He reported consuming alcohol to intoxication about two to three times a year after having four alcoholic beverages. Most recently, he consumed four mixed drinks to impairment on December 31, 2012, while celebrating the New Year 2013 and his engagement to his current spouse. (GE 2.) Applicant and his then fiancée were at a resort, and he did not drive on that occasion. (Tr. 53.)

Applicant subsequently researched alcohol and intoxication levels. Given what he now knows about drinking, including that the amount of time over which one consumes alcohol affects blood alcohol levels, he denies consuming any alcohol to legal intoxication (.08% blood alcohol level) in 2013. (Tr. 20, 53.) Applicant disputes the diagnosis of alcohol dependence in that he was never psychologically or physically dependent on alcohol, although he realizes that he abused alcohol at one point in his life. He recognizes that he “was intoxicated doing bad decisions” when arrested for DUI. (Tr. 41-43, 69.)

Applicant married his current spouse in mid-June 2013. (Tr. 49.) He consumed four to five drinks over the course of his wedding day and did not drive a vehicle. (Tr. 44, 52.) Applicant’s spouse has known him for over two years, and she has not seen him drink to excess. Applicant has been responsible about his drinking in social situations. (AE B.)

Applicant resumed counseling with the LMFT by mid-December 2013.<sup>4</sup> In the LMFT’s opinion, Applicant is aware of the “signs and symptoms should his drinking habits

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<sup>4</sup> The LMFT indicates that as a state-licensed LMFT, she is “able to diagnose and treat all DSM mental health conditions.” (AE E.) Under § 5-63.2-10 of the state’s General Laws, an applicant for licensure as a marriage and family therapist is required to have completed a graduate degree program specializing in marital and family therapy from an accredited college or university; 60 semester hours or 90 quarter hours within their graduate program in marital and family therapy; a minimum of 12 semester hours or 18 quarter hours of

escalate in the future.” He developed a plan to deal with any increased drinking and agreed to continue in counseling with her to maintain safety around his alcohol use. With this plan in place, the LMFT considers Applicant’s prognosis to be good for a future without problems associated with drinking. (AE E.)

Applicant continues to consume alcohol with varying frequency, usually at home or when out with friends. He had two beers during Thanksgiving dinner in November 2013 and two drinks at a bar the following Saturday. In early December 2013, he had a friend over his house. They each consumed two beers. (Tr. 72.)

Applicant’s mother has seen Applicant mature, especially in the last few years. She “definitely” does not think that Applicant has an alcohol problem or that he ever drank too much on a regular basis. He was not intoxicated at his recent wedding. She was upset at him, but also surprised by his alcohol arrests. They helped him realize the potential serious consequences of drinking alcohol, especially driving a vehicle after drinking. (Tr. 86-93.)

Applicant is highly regarded at work for his professionalism, his reliability, and his trustworthiness. He has been willing to work late hours and on weekends with little oversight when required. Applicant’s work colleagues, some of whom have had the opportunity to observe him in social settings, and at least three of whom are aware of his DUI,<sup>5</sup> consider him to be worthy of holding a security clearance. They regard his past problems with alcohol to be uncharacteristic of his character. (AE B.) Applicant has never had an alcohol-related incident at work. (Tr. 67.)

## **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,

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supervised practicum and a year of a supervised internship in marriage and family therapy; a minimum of two years of relevant post-graduate experience, including at least 2,000 hours of direct client contact offering clinical or counseling or therapy services with an emphasis in marital and family therapy; a minimum of 100 hours of post-degree supervised case work spread over two years; and to have passed the requisite examination.

<sup>5</sup> When he answered the SOR, Applicant indicated that after his March 2009 DUI, he quickly informed his employer about the matter. Applicant testified at his December 2013 security clearance hearing that everyone at work was aware of his two alcohol-related arrests. (Tr. 66.) He submitted several character references from his co-workers. Three of Applicant’s professional colleagues report some awareness of incidents in his background. They variously reference Applicant’s “previous discretions [sic],” his “past DUI charges,” and “DUI conviction on his record.” (AE B.)

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 consumed alcohol to the point of serious impairment of his judgment and reliability when he drove a vehicle while impaired by alcohol in August 2005 and in March 2009. While he was convicted of a chemical test refusal charge in 2005, he admits that he had operated a motor vehicle under the influence of alcohol and did not believe that he would pass the test. He failed field sobriety tests at the scene. In the March 2009 incident, his blood alcohol level tested at .13% more than one hour after drinking. 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.

Applicant attended 15 half-hour sessions of outpatient alcohol counseling at a substance abuse treatment center after his 2009 DUI conviction as required under the state’s TASC program. The discharge record (AE D) shows that Applicant was diagnosed on admission in September 2009 and discharge in January 2010 with alcohol dependence by a licensed staff therapist with a master’s degree. The evidence does not indicate that the counselor’s master’s degree is in social work or that he is a licensed clinical social worker. However, the DOHA Appeal Board has stated that an administrative judge should take an expansive view of what constitutes a licensed clinical social worker within the context of evaluating alcohol consumption concerns 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.” See ISCR Case No. 07-00558 (App. Bd. Apr. 7, 2008.) By virtue of his position and credentials as they can be gleaned from the discharge summary, the counselor has the qualifications that could implicate AG ¶ 22(e).

Applicant submitted evidence from a LMFT contradicting the substance abuse counselor’s diagnosis of alcohol dependency. The LMFT counseled Applicant for several months around the dissolution of his first marriage in the fall of 2011 and more recently after his hearing in December 2013. She assessed Applicant’s alcohol use during her sessions, knowing of his legal issues with alcohol and driving. At no time during their treatment did she consider diagnosing Applicant with alcohol dependence.

The credibility of a diagnosis depends on the qualifications of the clinician rendering the diagnosis, but also on the extent to which the clinician’s conclusions are well-reasoned and supported by diagnostic criteria. While presumably an alcohol counselor would have more experience in diagnosing and treating substance abuse problems than a LMFT, not enough is known about the education and experience of either therapist for me to conclude that one opinion is entitled to more weight on the basis of clinical qualifications. The alcohol counselor did not explain his diagnosis. In summarizing Applicant’s presenting problem, he stated only, “Patient referred himself for treatment in order to complete his TASC requirement for his 2<sup>nd</sup> DUI.” He summarized Applicant’s condition at discharge as follows: “Patient was able to obtain and maintain sobriety and completed all the requirements required by the TASC program.” The LMFT’s report is contrasted in that she provided some detail about her sessions with Applicant and his progress (“[Applicant] has good insight into his behaviors and we have worked together to eliminate any alcohol consumption that may impair his ability to operate a motor vehicle.”), although she did not explain why, in her professional opinion, Applicant did not satisfy the diagnostic criteria for alcohol dependence.

The absence of any alcohol-related incidents since March 2009, of any problems at work, or of concerns from family members that Applicant may have a drinking problem, tend to undermine the validity of the alcohol dependency diagnosis. The weight of the



evidence does not support that Applicant has an alcohol dependency problem, at least not as of December 2013. Although Applicant resumed drinking after his TASC counseling, at times to intoxication, AG ¶ 22(f), “relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program,” does not apply in the absence of proof that he was advised to completely abstain from drinking in the future.

Concerning the mitigating conditions, Applicant’s March 2009 DUI is viewed as especially serious in that it occurred despite his completion of an alcohol awareness program for his chemical test refusal offense in 2005. His blood alcohol level in March 2009 tested at .13% after more than an hour’s drive from the concert venue. Applicant partially satisfies 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,” because it has been more than four years since his last alcohol offense. Yet the recidivism shown by a second offense in less than four years’ time precludes me from concluding that his drunk driving happened under “such unusual circumstances.” Although Applicant had not yet applied for a security clearance, the DUI was clearly incompatible with the good judgment expected of a defense contractor employee.

With the diagnosis of alcohol dependence in reasonable dispute, Applicant is not required to establish a pattern of abstinence from alcohol to satisfy mitigating condition AG ¶ 23(b), which provides as follows:

(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).

Even so, Applicant admitted to drinking to impairment on occasion to as recently as December 31, 2012. Yet, in his favor, he did not drive after drinking on that occasion or at his wedding six months later, when he consumed four to five alcoholic beverages. His mother attended his wedding, and she did not consider him intoxicated on that day. AG ¶ 23(b) applies in that Applicant acknowledges that he exercised bad judgment when he drove a vehicle after drinking to excess before his arrests. With the benefit of counseling from the LMFT, Applicant reduced the frequency of him drinking as many as four or five drinks at a sitting from six times a year to two or three times a year. He denies any excessive consumption in 2013, and his references confirm that he drinks socially and responsibly.

AG ¶ 23(c), “the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, and is making satisfactory progress,” applies in that Applicant has not had a relapse of drunk driving since his TASC counseling, and he moderated his drinking after he began a therapeutic relationship with a LMFT in September 2011. He recently resumed counseling with the LMFT, apparently at her suggestion, to maintain safety around his use of alcohol. He has a good prognosis for a future without problems associated with drinking, provided he follows

his plan. While it is too soon to term his progress in this latest counseling as satisfactory, he worked together with the therapist in the past to gain insight into his behavior and to eliminate alcohol consumption that might impair his ability to drive safely.

Applicant's counseling and moderation of his alcohol consumption also satisfy AG ¶ 23(d), which 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 fulfilled the counseling requirement of his TASC program without incident in January 2010, and he received a routine discharge with a good prognosis. The SOR alleges that he was advised to abstain from alcohol, but the only recommendation on discharge was for him to seek treatment if he "finds himself even considering driving after drinking." The counseling is considered to have been successful in that there has been no recurrence of drunk driving. The moderation of his alcohol consumption levels since September 2011 has been sustained for long enough to qualify as a "clear and established pattern." While he is not involved in Alcoholics Anonymous (AA), he has agreed to continue in counseling with the LMFT to preclude an escalation in his drinking habits. His prognosis is favorable for a future without alcohol problems, although it appears to be contingent on him continuing with this plan. Based on his past progress in treatment with the LMFT, he is likely to comply with her recommendations. The risk of future problem drinking is minimized in light of this therapeutic relationship and his supportive family and professional colleagues. The alcohol consumption concerns are mitigated for the reasons noted above.

### **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>6</sup> Applicant smoked marijuana, and he drank to feel socially less awkward in college. While he left his illegal drug use behind him after graduation, he allowed his alcohol use to

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<sup>6</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.

adversely affect his judgment on the occasion of his March 2009 DUI, as shown by his .13% blood alcohol content more than an hour after he had left the concert venue. Immaturity was clearly still a factor in that he was 24 years old at the time, but he had also been working for his employer for about 11 months and had been in a dating relationship with his first wife for about six years. These responsibilities did not prevent a recurrence of drunk driving.

However, there is credible evidence of Applicant's rehabilitation over the last four plus years. In addition to the maturation that comes with aging, he has had alcohol counseling. While his counseling through the TASC was required for the DUI, his sessions with the LMFT were voluntary. Applicant has demonstrated professionalism and diligence in his work for a defense contractor, while also pursuing a graduate degree. He owns his home and is now happily married to a supportive spouse. His family and co-workers, who see him regularly, if not daily, have no concerns about his trustworthiness or reliability. Applicant's willingness to resume counseling with the LMFT, more than four years after his last offense, is evidence of his commitment to prevent a recurrence of the alcohol use that could lead to significant impairment of his judgment. After considering all the facts and circumstances, I conclude that it is clearly consistent with the national interest to grant Applicant 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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Elizabeth M. Matchinski  
Administrative Judge