



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



In the matter of:

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ISCR Case No. 15-05188

Applicant for Security Clearance

**Appearances**

For Government: Pamela Benson, Esq., Department Counsel

For Applicant: *Pro se*

07/24/2017

**Decision**

Harvey, Mark, Administrative Judge:

Applicant failed to mitigate alcohol consumption and personal conduct security concerns. Access to classified information is denied.

**Statement of the Case**

On May 24, 2010, and November 21, 2014, Applicant completed and signed Questionnaires for National Security Positions (SF 86) or security clearance applications (SCA). (Government Exhibit (GE) 1, GE 2) On March 9, 2016, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, which became effective on September 1, 2006 (Sept. 1, 2006 AGs).

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. (Hearing Exhibit (HE) 2) Specifically, the SOR set forth security concerns arising under Guidelines G (alcohol consumption) and E (personal conduct). (HE 2)

On April 18, 2016, Applicant responded to the SOR and requested a hearing. (HE 3) On January 27, 2017, Department Counsel was ready to proceed. On January 30, 2017, the case was assigned to me. On January 31, 2017, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for February 23, 2017. (HE 1) Applicant's hearing was held as scheduled.

During the hearing, Department Counsel offered eight exhibits; Applicant did not offer any exhibits; there were no objections; and all proffered exhibits were admitted into evidence. (Transcript (Tr.) 16-17; GE 1-8) On March 1, 2017, DOHA received a copy of the transcript of the hearing. After the hearing, Applicant provided 25 exhibits, and all exhibits were admitted without objection. (AE A-AE Y) On July 24, 2017, Applicant advised me that he had no additional evidence, and the record closed that same day. (Tr. 11-12, 71; AE Z)

While this case was pending a decision, the Director of National Intelligence issued Security Executive Agent Directive 4, establishing the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), which he made applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The new AGs supersede the Sept. 1, 2006 AGs and are effective "for all covered individuals" on or after June 8, 2017. Accordingly, I have evaluated Applicant's security clearance eligibility under the new AGs.<sup>1</sup>

### **Findings of Fact<sup>2</sup>**

In Applicant's SOR response, he admitted the SOR allegations in SOR ¶¶ 1.a through 1.d and 2.a. (HE 3) He denied the remainder of the SOR allegations. He also provided extenuating and mitigating information. His admissions are accepted as findings of fact.

Applicant is 43 years old, and he is seeking employment in a call center relating to personnel actions. (Tr. 6, 19) In 1992, he graduated from high school. (Tr. 6) He is a freshman in college. (Tr. 6) He served in the Army from 1993 to September 2014, and he honorably retired from active duty as a staff sergeant (E-6). (Tr. 7, 25-25; GE 2; AE D) His military occupational specialty (MOS) was financial specialist. (Tr. 12) He has been unemployed since November 2016. (Tr. 20) The Department of Veterans Affairs (VA) has rated him at 90 percent disability for sleep apnea and traumatic brain injury (TBI). (Tr. 21, 36) He also suffers from narcolepsy. (Tr. 21, 36)

In 1995, Applicant married, and in 2012, he divorced. (GE 1) In 2014, he married. (Tr. 23; GE 1) His four children are ages 7, 9, 17, and 19. (Tr. 23)

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<sup>1</sup> Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case. The new AGs are available at [http://ogc.osd.mil/doha/5220-6\\_R20170608.pdf](http://ogc.osd.mil/doha/5220-6_R20170608.pdf).

<sup>2</sup> The facts in this decision do not specifically describe employment, names of witnesses or locations in order to protect Applicant and his family's privacy. The cited sources contain more specific information.

## **Alcohol Consumption**

On October 16, 1994, Applicant was arrested for driving under the influence of alcohol (DUI). (SOR ¶ 1.a) His blood alcohol content (BAC) was .11. (Tr. 25; GE 3) At the time of the DUI Applicant was 20 years old. (Tr. 25) He fell asleep in his vehicle with the motor running while he was in a parking lot. (Tr. 25-26) He received nonjudicial punishment; he was required to attend Track 2 of the Army's Alcohol and Substance Abuse Program (ASAP); and he lost his driving privileges for one year. (Tr. 26, 63) He successfully completed the ASAP program. (Tr. 27)

On February 25, 2000, Applicant's vehicle struck a gate. Applicant parked his car, and he attempted to return to the barracks. (Tr. 29) The military police apprehended him. (Tr. 29) His BAC was .16. (GE 4) On May 3, 2000, Applicant received a general officer level reprimand filed in the performance fiche of his Official Military Personnel File for DUI. (Tr. 29; GE 4; SOR ¶ 1.b) He also received nonjudicial punishment, and he lost his on-post driving privileges for one year. (Tr. 30, 63) He attended another ASAP program. (Tr. 30)

On June 14, 2012, Applicant was involved in a vehicular accident, and at the hospital his BAC was .271. (Tr. 33; SOR ¶ 1.c) Applicant fell asleep when he was driving home, and he was seriously injured in an accident. (Tr. 32) His vehicle was traveling at about 100 miles per hour when it hit a tree. (Tr. 33) Applicant acknowledged that his BAC result was .271; however, he believed it was not accurate. (Tr. 33) He did not believe he consumed sufficient alcohol for such a high result. (Tr. 34) Moreover, he slept for several hours after drinking and before driving his vehicle. (Tr. 34) He had severe brain trauma; he was in a coma for six weeks; and he was in the hospital for five months. (Tr. 35) He received a written reprimand on March 7, 2013. (Tr. 68; GE 6)

Applicant consumed alcohol from about 1994 to February 2015. (SOR ¶ 1.d) He began consuming alcohol during his first deployment to Korea around 1994. (Tr. 38-39) He was able to abstain from alcohol use from 2007 to 2009. (Tr. 47) He usually drinks beer about two days a week on weekends. (Tr. 41-42) About once a year, he drinks about six beers in the evening to intoxication. (Tr. 43-45) As for recency of alcohol consumption, four days before his hearing he drank two beers. (Tr. 48)

## **Personal Conduct**

SOR ¶ 2.a alleges that in 2008 Applicant was counseled for improper handling of government documents and violation of an order or regulation. Applicant was responsible for in-processing military students. (Tr. 53) When some of their mail arrived, he did not deliver it to them, and instead he put it in boxes in his garage. (Tr. 53-56, 65) When he moved, he left the boxes in the garage, and the new tenants put the boxes of documents into a dumpster. (Tr. 54) The documents included sensitive pay information and passwords. (Tr. 53-56) He said he was unsure of his punishment; however, he believed he received a written reprimand. (Tr. 57, 68)

SOR ¶ 2.b alleges the DOD CAF requested an alcohol evaluation, and Applicant failed to submit it. In October 2013, the DOD CAF asked for an evaluation of Applicant's alcohol consumption. (Tr. 48-49; GE 7) In 2013, he obtained an evaluation of his alcohol use from Army SARP, and he said the result was not alcohol abuse. (Tr. 46, 51; SOR response) He did not receive a copy of the evaluation. (Tr. 49) I asked him to obtain an updated evaluation of his alcohol consumption after his hearing; however, no evaluation was received. (Tr. 50-51)

SOR ¶¶ 2.c and 2.d allege Applicant's May 24, 2010, and November 21, 2014 SCAs asked whether he had ever been charged with any offense involving alcohol, and both times, Applicant responded, no. Applicant admitted he answered, no, and he explained he thought the SCA was seeking information about alcohol offenses in the previous 10 years. (Tr. 58-60; SOR response)

SOR ¶¶ 2.e and 2.f allege Applicant's May 24, 2010, and November 21, 2014 SCAs asked whether in the last seven years he had received a written warning been officially reprimanded, or received discipline for misconduct in the workplace, and both times, Applicant responded, no. During Applicant's January 30, 2015 Office of Personnel Management (OPM) personal subject interview (PSI) he volunteered information about his improper handling of the mail. (GE 5) Applicant admitted he answered, no, and he explained he forgot about the reprimand in 2008, and he was not "tracking" that the document he received in 2013 was a reprimand when he was completing his SCAs. (Tr. 60-61)

SOR ¶ 2.g alleges on November 21, 2014, Applicant's SCA asked whether he ever received alcohol consumption-related counseling or treatment, and Applicant responded, no. He said at the time he completed his SCA he thought the question was seeking information about alcohol counseling in the previous seven years. (Tr. 61)

## **Character Evidence**

Applicant provided 22 character statements. (AE C, AE E-AE Y) His character statements laud his diligence, professionalism, positive attitude, leadership, honesty, loyalty, trustworthiness, competence, dedication to mission accomplishment, and reliability. These statements support reinstatement of his security clearance.

Applicant served in Afghanistan from April 1, 2002, to October 8, 2002, and in Iraq from January 4, 2009, to December 19, 2009. (AE D) He has received the following military awards and badges: Afghanistan Campaign Medal with Campaign Star; Army Commendation Medal (5<sup>th</sup> Award); Army Achievement Medal (2<sup>nd</sup> Award); Joint Service Achievement Medal (2<sup>nd</sup> Award); Meritorious Unit Award; Army Good Conduct Medal (7<sup>th</sup> Award); National Defense Service Medal (2<sup>nd</sup> Award); War on Terrorism Service Medal; Korean Defense Service Medal; Iraq Campaign with Campaign Star; Noncommissioned Officer Professional Development Ribbon (2<sup>nd</sup> Award); Army Service Ribbon; Overseas Service Ribbon (3<sup>rd</sup> Award); Air Assault Badge; Army Recruiter Badge; and Combat Life Savers Course.

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk 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. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it

is clearly consistent with the national interest to grant or continue his or her security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Alcohol Consumption**

AG ¶ 21 articulates the Government’s concern about alcohol consumption, “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.”

AG ¶ 22 lists two conditions that could raise a security concern and may be disqualifying in this case including:

(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 the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder; and

(c) habitual or binge consumption of alcohol<sup>3</sup> to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

An Administrative “Judge must consider pertinent evidence regarding the applicant’s self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant’s security eligibility.” ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted).

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<sup>3</sup> Although the term “binge” drinking is not defined in the Adjudicative Guidelines, the generally accepted definition of binge drinking for males is the consumption of five or more drinks in about two hours. The 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>. “Binge drinking is the most common pattern of excessive alcohol use in the United States.” See the Center for Disease Control website, (stating “The National Institute on Alcohol Abuse and Alcoholism defines binge drinking as a pattern of drinking that brings a person’s blood alcohol concentration (BAC) to 0.08 grams percent or above. This typically happens when men consume 5 or more drinks, and when women consume 4 or more drinks, in about 2 hours.”), <https://www.cdc.gov/alcohol/fact-sheets/binge-drinking.htm>.

AG ¶¶ 22(a) and 22(c) apply. Applicant was arrested or apprehended for three DUIs. For the two most recent DUIs, his BAC exceeded .15, establishing that he engaged in binge alcohol consumption to the extent of impaired judgment.

AG ¶ 23 details conditions that could mitigate security concerns including:

(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 judgment;

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;

(c) the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and

(d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

Security clearance cases are difficult to compare, especially under Guideline G, because the facts, degree, and timing of the alcohol abuse and rehabilitation show many different permutations. The DOHA 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).

I have carefully considered the Appeal Board's jurisprudence on alcohol consumption and Applicant's history of alcohol consumption. He did not provide evidence of successful completion of an alcohol counseling or treatment program after his June 14, 2012, accident in which his BAC was .271. He did not provide corroboration that he is in a sustained period of responsible alcohol consumption or abstinence. He is not in a current alcohol counseling or treatment program. He continues to consume alcohol. He consumed alcohol within a week of his hearing. More time without an alcohol-related incident or binge-alcohol consumption is necessary to resolve my lingering doubts about Applicant's current reliability, trustworthiness, and good judgment. Alcohol consumption security concerns are not mitigated.

### **Personal Conduct**

AG ¶ 15 expresses the security concern pertaining to criminal conduct, "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 or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes."

AG ¶ 16 lists three conditions that could raise a security concern and may be disqualifying in this case including:

- (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 national security eligibility or trustworthiness, or award fiduciary responsibilities;<sup>4</sup>
- (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse

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<sup>4</sup> The Appeal Board has cogently explained the process for analyzing falsification cases, stating:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant's intent or state of mind at the time the omission occurred. [Moreover], it was legally permissible for the Judge to conclude Department Counsel had established a prima facie case under Guideline E and the burden of persuasion had shifted to the applicant to present evidence to explain the omission.

ISCR Case No. 03-10380 at 5 (App. Bd. Jan. 6, 2006) (citing ISCR Case No. 02-23133 (App. Bd. June 9, 2004)).



determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of: (1) untrustworthy or unreliable behavior . . . ; and (3) a pattern of dishonesty or rule violations; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

AG ¶¶ 16(a) applies. In Applicant's May 24, 2010, and November 21, 2014, SCAs he falsely denied that he had ever been charged with any offense involving alcohol. Applicant's statement that on both occasions he thought the SCA was seeking information about offenses in the previous 10 years is not credible. In these same SCAs, he falsely denied that he had received a written warning or official reprimand. His statement that he forgot about the reprimand in 2008, and he was not "tracking" that the document he received in 2013 relating to a DUI in 2012 was a reprimand, is not credible. In his November 21, 2014 SCA, he falsely denied that he had ever received alcohol consumption-related counseling or treatment. His statement that he thought the question was seeking information about alcohol counseling in the previous seven years is not credible.

AG ¶¶ 16(d) and 16(e) apply. In 2008, Applicant failed to deliver mail intended for military students. He chose to mishandle the mail on multiple occasions. He put the mail into boxes that were placed in his garage. Someone put the boxes into a dumpster.

AG ¶ 17 describes conditions that could mitigate security concerns including:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

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

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

None of the mitigating conditions fully apply to the SOR allegations. Applicant deliberately and improperly failed to disclose his three DUIs, alcohol counseling, and reprimands on his May 24, 2010, and November 21, 2014 SCAs. His claim that he misread the questions or forgot about the reprimands on both SCAs is not credible. His improper handling of the mail was serious and involved multiple occasions of not delivering the mail. His placement of the mail in boxes in his garage showed poor judgment and risked the compromise of sensitive personal information. His failure to provide an alcohol evaluation, as alleged in SOR ¶ 2.b, is mitigated because there is insufficient information to substantiate the allegation that it was Applicant's fault that the DOD CAF did not receive the evaluation. His falsifications of his SCAs were serious, improper, and raised an unresolved security concern. No mitigating conditions apply. Personal conduct security concerns are not 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 the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall commonsense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guidelines G and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is 43 years old, and he is seeking employment in a call center relating to personnel actions. He is a freshman in college. He served in the Army from 1993 to September 2014, and he honorably retired from active duty as a staff sergeant. He served in Afghanistan from April 1, 2002, to October 8, 2002, and in Iraq from January 4, 2009, to December 19, 2009. He received numerous Army awards for his service. His MOS was financial specialist. The VA rated him at 90 percent disability for sleep apnea and TBI. He also suffers from narcolepsy. Applicant provided 22 character statements that laud his diligence, professionalism, positive attitude, leadership, honesty, loyalty, trustworthiness, competence, dedication to mission accomplishment, and reliability. These statements support reinstatement of his security clearance.

The factors weighing against continuation of his security clearance are more substantial than the mitigating circumstances. Applicant committed three alcohol-related misdemeanor-level DUI offenses. He did not provide evidence of completion of any alcohol counseling program after his most recent DUI. He did not disclose his DUIs, alcohol counseling, and written reprimands on his 2010 and 2014 SCAs. He did not provide a SARP evaluation of his alcohol consumption after his most recent DUI. His falsifications in a security context raise a particularly serious security concern. See AG ¶ 15. The protection of national security relies on applicants to self-report conduct that jeopardizes security, even when that disclosure might damage the applicant’s career. Applicant cannot be trusted to disclose potentially derogatory information, and his reliability, trustworthiness and ability to protect classified information is not established.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Alcohol consumption and personal conduct security concerns are not mitigated.

### **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
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Subparagraphs 1.a through 1.d:	Against Applicant
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Paragraph 2, Guideline E:	AGAINST APPLICANT
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Subparagraph 2.a:	Against Applicant
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Subparagraph 2.b:	For Applicant
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Subparagraphs 2.c through 2.g:	Against Applicant
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## **Conclusion**

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

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Mark Harvey  
Administrative Judge